

To: **EXECUTIVE**  
**1 JUNE 2021**

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**Support to Enable the Recovery of Leisure Activities**  
**Executive Director of Delivery**

**1 Purpose of Report**

- 1.1 To outline the support proposed by Bracknell Forest Council to Everyone Active (EA) to enable its recovery from the impact of the Covid-19 pandemic and to ask for Executive approval for that support.

**2 Recommendations**

**That the Executive:**

- 2.1 **Agree to consider further financial support for Everyone Active if required for the period Q2 21/22 dependant on usage and based on actuals through the quarter. A decision in relation to this would be taken at the end of the quarter.**
- 2.2 **That this principle for support is applied to the rest of the financial year 21/22**

**3 Reasons for Recommendations**

- 3.1 The Executive has previously agreed three financial support packages for EA in April and July 2020 and March 2021. As stated in the Q1 Executive paper any further requests for financial support would be brought to the Executive for a further decision.
- 3.2 EA operate Bracknell Leisure Centre, Coral Reef and Downshire Golf Course on behalf of Bracknell Forest Council. EA's income is solely dependent on customer membership fees, cash sales and ancillary sales activities, such as catering. This income underpins a "management fee" arrangement with the Council, through which Bracknell Forest receives an annual income of £1.3m per year from EA, a significant sum which helps fund council services. The remaining income from customers covers EA's staffing costs, premises costs and operating profit.
- 3.3 At the time of writing this report Downshire Golf Complex, Bracknell Leisure Centre and Coral Reef are open and trading. DGC reopened on the 29<sup>th</sup> March, BLC on the 12<sup>th</sup> April and Coral Reef on the 19<sup>th</sup> May in line with Government legislation. As such, by the time quarter 2 21/22 starts on the 1<sup>st</sup> July all sites should be open.

**4 Alternative Options Considered**

- 4.1 The Executive could determine not to support EA's cashflow position if it is required. The consequence of this would be that EA would need to take a commercial view on whether to re-open the facilities or not. If they remain closed due to trading uncertainties, the costs for hibernating buildings will continue and increase over time, with the council having to meet these costs, with no likely prospect of recovering them. This option may result in contractual issues against the Council.

- 4.2 Should the Council and EA not be able to reach a position where EA feels able to re-open the facilities, the contract would need to be terminated and an alternative operator sought. In the short-term, the only financially viable option would be for the Council to set up a Teckal exempt company specifically to run and manage the Leisure sites until a further procurement exercise could take place. This would inevitably result in delays in re-opening as it would take time to establish such a company and undertake the necessary consultation with staff prior to a TUPE transfer, a process that cannot happen while staff are furloughed. There would be significant initial costs associated with such a process and previous experience showed that the Council is unable to run leisure facilities as profitably as a specialist operator such as EA. The loss of customers arising from a delay in re-opening would further exacerbate this position.
- 4.3 Alternatively the Council could stop providing leisure services in the Borough, recognising these are not statutory services, although they are popular local facilities with over 1 million visitors in 2019/20.

## **5 Supporting Information**

- 5.1 The decision in relation to the management fee / costs & losses will be taken at the end of Q2 based on the performance of the centres during the quarter. This will be based on the successful open book approach as per 20/21 and Q1 21/22. The total received by the Council in 'usual' times would be £330k per quarter.
- 5.2 The Governments Income Support scheme is currently due to close at the end of Q1 so will not cover any Q2 (or Q3 & Q4) management fee losses unless it is extended.
- 5.3 The Council applied for funding in January 2021 from the governments National Leisure recovery Fund (NLRFF) and was successful in securing £235k. 30% of this total (£70.5k) was available to be used in 20/21 with the remainder (£164.5k) for 21/22 to enable leisure sites to reopen following the gradual lifting of restrictions. Whilst this funding has to be paid through the Council to EA it will reduce the overall financial burden on the Council.

### **Risks**

- 5.4 Clearly there are a number of risks to the Council in relation to this decision. A more detailed risk matrix and current mitigation actions is shown in appendix 1 but the major risks are –
- Failure of EA as a company and loss of potential repayment of agreed financial support from the Council – current credit check has returned a green score of 86/100.
  - Contractual dispute if agreement not reached with EA
  - Insourcing risks would include TUPE, cost, time, management capacity, legal issues, PR,

### **Other Councils**

- 5.5 The picture across the UK is very similar to the recommendations in this report. All Councils that have outsourced contracts are in the process of negotiating with their leisure providers and many are nearing agreements. The majority are leaning towards shorter agreements with a view to reviewing regularly as the situation develops throughout 21/22. One Council has recently announced it is in-sourcing its

Leisure services although this was previously run by a charity who has clearly found it very difficult to continue operations during the pandemic. It is understood that the vast majority of Councils who have a contract with EA are having positive negotiations and agreements are expected to be reached.

### **Outbreak control plans**

- 5.6 There is a risk to reopening leisure facilities in that they could be identified as a source of a future localised outbreak of Covid-19. As such Leisure is highlighted in the BFC Outbreak Management Plan as a specific risk location and an 'action card' will be detailed in the plan in the event of an outbreak. Should an outbreak be traced back to any Leisure site then it could be forced to close which will have an impact on the figures presented in this report.

## **6 Consultation and Other Considerations**

### Legal Advice

- 6.1 The forced closure of leisure centres nationally and limits on numbers once re-opened are considered to be "qualifying changes in law" under the contract between the Council and Everyone Active. Although the exact amount of financial support that the Council is required to grant to Everyone Active is difficult to quantify, the contract clearly states that the Council is contractually required to work with Everyone Active to mitigate the effects of the "qualifying change in law".

On 23 April 2020, by way of a written agreement, the Council agreed to defer the management fee payable by Everyone Active for the months of April – June 2020 until such time as is agreed by both parties, acting reasonably.

On 20 July 2020, through another written agreement, the Council agreed that from the period of 1 July 2020 – 31 March 2021, the Council would provide specified financial support through underwriting losses up to a certain amount and waiving the management fee due. An amendment was made to the surplus share schedule, so that the surplus Everyone Active owes to the Council is increased during any periods where surplus is made until the Council has been repaid for losses which were underwritten (not including the waiver of the management fee). The same approach was applied for the interim agreement in respect of the period from 1 April – 30 June 2021.

The recommendations in this report align with the Council's legal position as it is recognised that a commercially acceptable solution for both parties is required. It is important that going forwards, the next interim agreement also includes an adjustment to the surplus share schedule.

### Financial Advice

- 6.2 The Council's income budget for the year is £1,272,860 which excludes the impact of the previous agreement to waive the management fee of £334,000 for Q1. The Government support being provided to the end of June will provide income of £237,800 which will help mitigate any loss we incur. Government officials have advised that no further Government support will be available during the year.

### Other Consultation Responses

- 6.3 N/A

### Equalities Impact Assessment

6.4 N/A

#### Strategic Risk Management Issues

6.5 Like all local authorities who are involved in Leisure services, Bracknell Forest faces a range of financial, operational and reputational risks associated with the significant impact the Covid-19 pandemic has had on the leisure sector. The proposals in this paper are aimed at securing continuity of service provision with the current operator, which is believed to be in the best long-term interest of residents who use and may wish in the future to use municipal leisure facilities to improve their fitness, health and well-being. There are risks in supporting the operator as proposed, as it is possible that the financial support will not be recouped or, indeed, that EA may still be unable to return to a commercially viable position and may cease trading. However, there is no other viable option available that could ensure facilities re-open as soon as Government rules permit, without which the customer base would most likely seek alternative venues and would be hard to attract back. This would make a challenging trading environment even more difficult to recover from should the Council need to take back responsibility for operating the facilities either directly or through an arm's length company. Either of these approaches is feasible with preparatory time, although it should be remembered that the facilities previously operated at a trading loss when under the Council's direct control.

#### Climate Change Implications

6.6 The recommendations in Section two have an impact on climate change. Fully opening the three leisure sites will increase traffic in the vicinity and increase utility usage. However, there is a significant gain in residents and visitors well being in relation to participation in sport and activities.

#### Background Papers

Executive reports from 28<sup>th</sup> April 2020, 14<sup>th</sup> July 2020, 16<sup>th</sup> March 2021

#### Contact for further information

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## Appendix 1 – Risk matrix on Leisure

Strategic Theme 1: Value for money Strategic Theme 2: Economic resilience Strategic Theme 3: Education and skills Strategic Theme 4: Caring for residents and their families Strategic Theme 5: A clean, green and responsibly sustainable place Strategic Theme 6: Communities																					
<b>Everyone Active Risk: Council supports / doesn't support Everyone Active during financial year 21/22</b>																					
<p><b>Risk Rating (Likelihood x Impact)</b>                      Unmitigated 4 x 5                      Current Residual 4 x 4                      Target Risk Score 2 x 3</p> <p><b>Potential Impact if BFC supports EA</b></p> <ul style="list-style-type: none"> <li>• Failure of Everyone Active as a business</li> <li>• Loss of customers either who don't return or who go to other competitors</li> <li>• Covid compliance means there is a different offering on relation to Leisure. This could impact on customers returning</li> <li>• EA requires further funding if the pandemic continues</li> <li>• Return from pandemic will impact on EA's investment strategy &amp; financial recovery</li> <li>• Sites don't generate enough income to cover BFC's financial support</li> <li>• Long term future of leisure industry and the way customers choose to engage in health and leisure</li> <li>• Financial support to EA could limit BFC's investment strategy for future leisure projects</li> <li>• Covid tier system prevents sites opening due to being unviable</li> </ul> <p><b>Potential Impact if BFC doesn't support EA</b></p> <ul style="list-style-type: none"> <li>• Leisure sites can't open as EA do not have funding to pay staff or other costs</li> <li>• Contractual issues mean sites can't open</li> <li>• BFC have to insource leisure provision – significant risk of insufficient management support, back office support (HR, Finance, ICT, comms, marketing)</li> <li>• Reputational risk to insourcing</li> <li>• Financial risk – subsidised by £0.5m p/a when in house – loss of management fee when return to 'normal'</li> <li>• Loss of Leisure industry expertise and specialists as no longer part of a 'Leisure' organisation</li> <li>• Not providing health and wellbeing benefits to residents and visitors if sites are not open</li> </ul>	<p style="text-align: center;"><b>Leisure Risk</b></p> <table border="1"> <caption>Leisure Risk Data</caption> <thead> <tr> <th>Quarter</th> <th>Unmitigated</th> <th>Current</th> <th>Target</th> </tr> </thead> <tbody> <tr> <td>Q1 20/21</td> <td>20</td> <td>15</td> <td>5</td> </tr> <tr> <td>Q2 20/21</td> <td>20</td> <td>10</td> <td>5</td> </tr> <tr> <td>Q3 20/21</td> <td>20</td> <td>15</td> <td>5</td> </tr> <tr> <td>Q4 20/21</td> <td>20</td> <td>15</td> <td>5</td> </tr> </tbody> </table>	Quarter	Unmitigated	Current	Target	Q1 20/21	20	15	5	Q2 20/21	20	10	5	Q3 20/21	20	15	5	Q4 20/21	20	15	5
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	<p><b>Risk Owners:</b> CMT</p> <p><b>Rationale for current score:</b>                      The current third Government lockdown closed all three leisure sites. Sites have reopened during Q1 21/22</p> <p><b>Rationale for target score</b>                      The target score would be achieved if the sites were open and operating in a usual way without Covid restrictions being in place. This would allow a full range of activities to be accessed and give maximum opportunity for income generation allowing the management fee to be paid to BFC</p> <div style="border: 1px solid black; padding: 5px; display: flex; justify-content: space-between; align-items: center;"> <span><b>Current RAG rating</b></span> <span style="background-color: red; color: white; padding: 2px 5px;"><b>Red</b></span> </div>																				

**Current Actions** *(What we are currently doing about the risk)*

- *Ongoing discussions with Members and Everyone Active in order to secure an agreement*
- *EA are minimising the financial impact through schemes such as Government furlough, National Leisure Recovery Fund and reducing expenditure at sites to essential areas only*
- *Monthly reconciliation meetings between BFC and EA to track the detailed financial support package*
- *Understanding the national picture in terms of what other authorities are doing*
- *Undertake a credit check with Corporate Finance to understand the financial standing of EA*
- *Promotion of online activities by EA has been ongoing along with special offers to stimulate the at home market whilst the sites are closed*