

NOT FOR PUBLICATION

This report contains exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972 (applies to Appendices A, B & C)

Report to: **Council**

Date: **31 March 2022**

Title: **Fusion Lifestyle –Leisure Contract Support Update**

Portfolio Area: **Health and Wellbeing – Cllr Hawkins**

Wards Affected: **All**

Urgent Decision: **Y** Approval and clearance obtained: **Y**

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RECOMMENDATION**It is RECOMMENDED:**

- 1. That Council notes the performance of the Fusion contract to date, wider market trends and the financial information on Fusion's performance in 2021.**
- 2. That the contract variation and changes to the management fee profile as set out in Appendix A are approved (Table 1).**
- 3. To fund the £272,242 shortfall in income of the leisure management fee in 2021-22 from the Government COVID Grant funding (This funding is in the COVID Losses Earmarked Reserve).**
- 4. To fund the £174,632 shortfall in income of the leisure management fee in 2022-23 from the Government COVID Grant funding (This funding is in the COVID Losses Earmarked Reserve).**
- 5. To fund the £174,632 shortfall in income of the leisure management fee in 2023-24 from the Government COVID Grant funding (£33,915), the Leisure Earmarked Reserve (£42,851) and the Business Rates Retention Earmarked Reserve (£97,866).**

1. Executive summary

- 1.1. The Covid-19 pandemic continues to impact the current use and recovery of leisure centres across the country with challenging conditions still affecting Fusion Lifestyle, the Council's operator, following the reopening of the facilities in April 2021.
- 1.2. In the recent report published in September 2021 on 'Securing the future of public sport and leisure services' by the LGA and APSE, it highlights the devastating impact of Covid-19 on public leisure with the loss of income due to facility closures, higher operational costs and Councils providing additional funding support to keep them open.
- 1.3. Access to leisure services and the health and wellbeing of the community are clearly linked; there is a connection between low levels of physical activity and an increased occurrence of certain health issues. There are other important reasons why higher levels of physical activity will have a positive effect on the overall health and wellbeing of a community. Sport England reports that increased opportunities for physical activity, and access to leisure and sporting facilities can help to reduce anxiety, stress or depression; improve levels of confidence and self-esteem and can help bring together people from diverse backgrounds.
- 1.4. This report provides an update on current performance levels, the recovery and business impact within the Contract and proposed contract variations so as to mitigate those impacts.
- 1.5. It recommends the future management fee profile is adjusted to reflect the impact of the pandemic. These changes do not vary the total management fee due over the contract period, which remains the same. So the impact is one of timing, cashflow and revenue income from the management fee payable.
- 1.6. The cashflow deficit is to be managed through the use of Government COVID Losses grant funding that the Council has received and holds in a reserve.
- 1.7. The report is proposing to use funding from COVID Government grant funding to finance the cashflow shortfall in the proposed management fee income to the Council in the early years of the contract. This is to meet a cashflow deficit and a timing difference between the amounts that the Council has budgeted for its management fee income from leisure and the actual amounts that are proposed to be received in the contract variation. The shortfall in the early years (up to 2023/24) is made up for by paying more in the middle (from 2024/25 onwards) and later years of the contract, so that overall the Council would receive the same amount over the life of the contract.
- 1.8. The amounts shown in Recommendations 3, 4 and 5 are not payments that are being proposed to be made to Fusion Leisure. The amounts are a way of financing the cashflow shortfalls in those years in the Council's revenue budget, as the contract variation proposes to pay lower management fee income in the early years of the contract, to that which was originally forecast and budgeted for.

- 1.9. An independent consultant was commissioned to report on the proposals and provide a view as to their relative merits, the state of the market and the bigger picture strategy options. The report is included in Appendix C.
- 1.10. Investing and supporting public leisure facilities is an investment in ill-health prevention and leisure centres are essential community hubs, significantly contributing to improving people's health and wellbeing.
- 1.11. Appendix A sets out the new proposed management fee. There would be shortfalls in the leisure management income in the years 2021-22, 2022-23 and 2023-24. Recommendations 3 to 5 of the report set out how these could be funded.
- 1.12 It is proposed that the Council funds the shortfall in the management fee income from Fusion in 2021-22 and 2022-23, from Government COVID grant funding that was awarded to Councils to meet losses in income due to the pandemic. This Government grant funding is in the COVID Losses Earmarked Reserve which has an uncommitted balance of £480,789. Arguably the leisure industry has been one of the worst impacted sectors from the pandemic, with very little in the way of national Government funding.
- 1.13 From 2024-25 onwards, the proposed management fee income would be in excess of the current budgeted income level, as detailed in Appendix A.
- 1.14 This report was considered by the Executive on 3rd March 2022. Minute E.94/21 refers. It was resolved:-
1. That the performance of the Fusion Contract to date; wider market trends; and the financial information on Fusion's performance in 2021 each be noted;
 2. That Council be **RECOMMENDED** to approve the contract variation and changes to the Management Fee Profile as set out in Appendix A (Table 1) of the presented agenda report;
 3. That Council be **RECOMMENDED** to fund the £272,242 shortfall in income of the Leisure Management Fee in 2021/22 from the Government COVID Grant funding (This funding is in the COVID Losses Earmarked Reserve);
 4. That Council be **RECOMMENDED** to fund the £174,632 shortfall in income of the Leisure Management Fee in 2022/23 from the Government COVID Grant Funding (this Funding is in the COVID Losses Earmarked Reserve); and

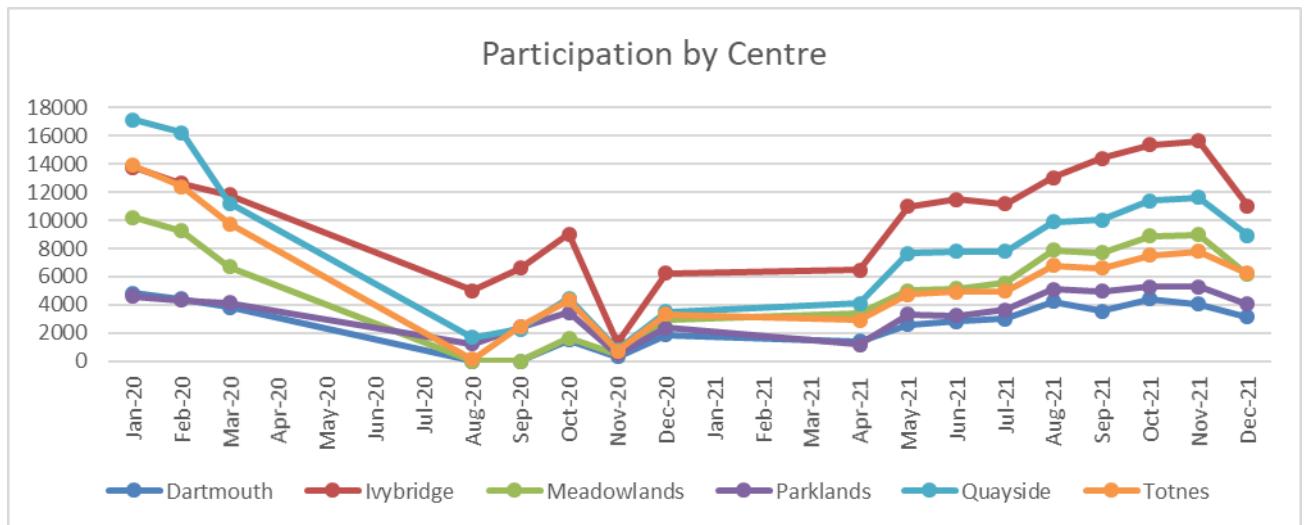
5. That Council be **RECOMMENDED** to fund the £174,632 shortfall in income of the Leisure Management Fee in 2023/24 from the Government COVID Grant Funding (£33,915); the Leisure Earmarked Reserve (£42,851); and the Business Rates Retention Earmarked Reserve (£97,866).

2. Background

- 2.1. In 2016, the Council signed a Design Build Maintain and Operate (DBOM) contract with Fusion for the two leisure centres in West Devon. The contract is for 25 years and allows the Council to bring in private sector expertise and experience in managing a discretionary service for public leisure centres. Totnes Leisure Centre has a separate contractual arrangement between Fusion and Tadpool (see 3.6 below).
- 2.2. This report follows the extensive update given at Full Council last year on 24th September 2020 (Minute 18/20), where the Council agreed to continue with the Fusion Contract ('Strategic Options Appraisal') as being the most appropriate means of supporting Health and Wellbeing objectives within the South Hams area.
- 2.3. The report also set out how the Council supported the leisure contract with significant funding for £435,000 to allow its centres to remain open through to March 2021. This was approved at Council on 30th April 2020, 30th July 2020 and on 24 September 2020 (Minute Ref 18/20).
- 2.4. A further report on 25th March 2021 (Minute 46/20) outlined additional support being made to Fusion through the National Leisure Recovery Fund for £170,985. This enabled Fusion to meet the costs of preparing and carrying out the re-opening of leisure centres from 12th April 2021 onwards following the last lockdown.
- 2.5. At the March 2021 meeting, it was highlighted that a further report would be brought back after the summer to provide an update on the leisure centres since their re-opening and Fusion's performance.

3. Leisure Centre's reopening and usage update

- 3.1. The key re-opening dates for the leisure centres were recently outlined in Fusion's first Quarterly Review of this year 2021/22.
- 3.2. All Centre's successfully re-opened from 12th April in line with Covid-19 restrictions and from 19th July more activities and usage could take place with the easing of the restrictions.
- 3.3. Centre participation across all 6 leisure centres in South Hams and West Devon has increased since re-opening from c19500 to c53,350 in November 2021. For December 2021, usage decreased to 39,525 which was expected at this time of year.
- 3.4. This figure (c53,350) compared to November 2019 of c62,900 represents 85%. Whereas for December the comparison to the 2019 figure is 83%.



- 3.5. Key points to note in leisure activities, memberships and usage are as follows: Overall centre memberships in December '21 are at 76%; 5,149 against 6,764 in March'20 and this being at 76% compared to December '21 memberships.

Total	March 2020	December 2021	%
Dartmouth	560	443	79%
Ivybridge	1,665	1,309	79%
Quayside (Kingsbridge)	1,523	1,163	76%
Totnes*	1,117	748	67%
Meadowlands (Tavistock)	1,075	890	83%
Parklands (Okehampton)	824	596	72%
Total	6,764	5,149	76%

*Totnes Leisure Centre has a separate contractual arrangement between Fusion and Tadpool (see 3.6 below).

3.6 Totnes Leisure Centre

The Leisure contract that the Council has with Fusion does not include the operation of the Totnes Leisure Centre, as this is run directly by Fusion on behalf of Tadpool, not this Council. This situation is historic and was the outcome sought by Tadpool in 2016. Fusion and Tadpool's agreement is provided through a direct lease arrangement and a small rental payment. At that time, and still, the Council recognises the benefit of having one operator, Fusion, across all centres.

- 3.7 Fusion have accessed the limited business grants that were available during the COVID pandemic (including Totnes Leisure Centre), though leisure centres were not always eligible for all the various business grant schemes.

- 3.8 A detailed performance update was provided in November as part of a Members Bulletin which highlighted the following key points:
- Swim school has been in very high demand and overall memberships are at 89% compared to March '20.
 - Casual public swims have been very popular, also fitness classes have seen increased usage. The gym usage has been slower to recover.
 - Increases in centre programming and extended opening hours where demand and revenue growth has allowed.
 - A comprehensive marketing and promotions campaign with local direction and management, including the use of discounts and unique offers to encourage customers to use the Centres.
- 3.9 In regards to water and air quality, as well as cleaning for centre operations, key points to note:
- Air Handling Units are part of the regular planned maintenance programmes and are being set at 100% fresh air.
 - Opening of windows and use of fans to circulate air where possible.
 - Water testing across swimming pools and other areas is undertaken regularly (at least 4 times) during the day across all centres, including flushing of all water outlets. This covers alkalinity, chlorine and total dissolved solid levels. An external supplier completes additional monthly visits for bacteria testing of all water outlets and any remedial works are undertaken as required.
 - All Centres have regular cleaning schedules, including high contact areas which are disinfected after group activities and customer use, frequently (at least every 2hrs) during the day. Specific cleaning tasks are assigned for each area across the centres. Recent deep cleans have taken place across all the sites and monthly contract cleaning support is being developed.
 - These areas are covered in the Quest Assessment process that all Centres will be undertaking, as well as having internal and external centre audits along with mystery customer and manager visits.
- 3.10 UKActive highlighted last year that from the most recent data the number of positive Covid-19 cases from people visiting leisure centres, pools and health clubs in the UK is extremely low. Figures from 12th April, when centres/gyms re-opened to 21st Nov, an overall rate of 0.83 cases per 100,000 visits were recorded.

4 National Leisure Overview

- 4.1 As part of the National Leisure Recovery Fund, performance and usage data for leisure centres is being tracked through 'Moving Communities.'
- 4.2 This research reveals that while public leisure centres have shown a steady rate of recovery since reopening in March, there are still former participants that have not returned, with recovery rates settling at just above 70%. This current data is being compared to 2019 figures in the same period.
- 4.3 Activities have recovered at different rates as well with Swimming at 78% and Group Exercise at 62%. Also recovery rates in the rural areas were below the national average at around 65%. This may reflect an older age group as more urban areas with a younger population are returning at a faster rate.
- 4.4 In a report published by the LGA and APSE in September regarding the 'Future of Public Sport and Leisure Services', it highlights that the pandemic has hit the leisure sector hard, compounding existing challenges, including ageing leisure centres and a lack of strategic coordination between health and leisure at a national level.
- 4.5 The District Council Network reported in May 2021 that more than 100 leisure centres could be at risk of closing due to the pandemic and additional Government is needed to support the leisure sector.
- 4.6 Recent leisure procurements have indicated that it is challenging for bids to return best value and competitive tenders. Several areas, such as Plymouth and Exeter, have decided to return their leisure service to a local provision. However other Councils (including South Somerset DC) have successfully completed a procurement exercise with significant improvements in the financial proposals and investment in facilities, albeit the improvement is generally coming after the first 18 – 24 months of the contract to allow for Covid recovery.
- 4.7 Councils are still continuing to invest in their local facilities, such as Exeter with a new energy efficient leisure complex opening shortly and in North Devon, with the build of its new centre in Barnstaple this Summer. Most operators in the market are forecasting a return to pre Covid levels during the 2022/23 financial year.

5 Financial Considerations

- 5.1 Appendix A sets out a financial overview on various aspects of the Leisure Contract.
- 5.2 Appendix B set out the latest set of accounts and a financial outlook for 2021.
- 5.3 Both Councils have commissioned a strategic financial report from an independent local government advisor (Appendix C) to provide an appraisal and overview of our current Fusion contract and the financial support being provided by both SHDC and WDBC.

5.4 The report is contained in Appendix C and the conclusion of that report is set out in full below for convenience.

"Conclusions.

The proposed amended way forward for the operation of Leisure Services via Fusion represents a sound proposition for South Hams and West Devon.

A renegotiated arrangement with the existing supplier is in line with LGA guidance and is likely to be the least risky solution, protecting services and value for money compared to the alternatives available.

In my experience, many other Councils would be pleased to have an offer of this nature on the table.

The future is inevitably risky, but there are approaches to mitigating some of these risk as outlined in section 7."

5.5 The report also pulls out some key areas of focus going forward in the conversation and partnership with Fusion. These are already items that get considered as a matter of course, but are set out in full below to recognise their importance and will continue to be reported against in future Hub reports.

- *Requiring Fusion to provide frequent management accounts, detailed consideration of which forms a part of the overall contract monitoring.*
- *Requiring Fusion to produce long term forecasts that are scrutinised and assessed, possibly using an external leisure industry specialist.*
- *Liaising with the client local authorities across Fusion's business base to monitor its wider trading position.*
- *Being prepared to act individually or collectively to support Fusion again as a last resort, should circumstances justify it.*
- *Supporting Fusion to market and develop its business in South Hams and West Devon, using the Councils communications and networking capabilities.*
- *Consider ways in which the Council may assist in securing further business for Fusion e.g. through public health strategies in Devon to improve physical activity and mental health*

6 'Better Lives for All – A Vision for South Hams'

6.1 Strengthening Community Wellbeing, a high level theme within the delivery plan, identifies 'to increase active participation in sport and leisure activities'. A key action within the Thematic Delivery Plan is to work with our leisure provider to identify opportunities to increase active participation.

7 Proposed Way Forward

- 7.1 It is recommended:
- That Council notes the performance of the Fusion contract to date, wider market trends and the financial information on Fusion's performance in 2021.
 - That the contract variation and changes to the management fee profile as set out in Appendix A are approved (Table 1).
 - To fund the £272,242 shortfall in income of the management fee in 2021-22 from the COVID Losses Government Grant funding.
 - To fund the £174,632 shortfall in income of the management fee in 2022-23 from the COVID Losses Government Grant funding.
 - To fund the £174,632 shortfall in income of the management fee in 2023-24 from the COVID Losses Government Grant funding (£33,915), the Leisure Earmarked Reserve (£42,851) and the Business Rates Retention Earmarked Reserve (£97,866).
- 7.2 From 2024-25 onwards, the proposed management fee income would be in excess of the current budgeted income level, as detailed in Appendix A.

8 Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance		<p>Officers have taken legal advice during 2020 on the impact the Government's decision has on the contract and therefore the Council.</p> <p>The contract contains a change in law clause which has been triggered by the Government's actions and as such, it is a requirement under the contract for the Council to provide support during the forced closure period. The Council has provided this support.</p> <p>The Appendices to this report (A, B and C) are exempt from publication because they contain information about financial and business affairs of the Council and third parties as defined in Paragraph 3 of Schedule 12A to the Local Government Act 1972.</p>

		<p>The public interest test has been applied and it is considered that the public interest lies in not disclosing these Appendices at this time because they contain financial and commercially sensitive information which could prejudice the third party if such information was disclosed at this time.</p>
Financial implications to include reference to value for money		<p>The report is proposing to use funding from COVID Government grant funding to finance the cashflow shortfall in the proposed management fee income to the Council in the early years of the contract. This is to meet a cashflow deficit and a timing difference between the amounts that the Council has budgeted for its management fee income from leisure and the actual amounts that is proposed to be received in the contract variation. The shortfall in the early years (up to 2023/24) is made up for by paying more in the middle (from 2024/25) and later years of the contract, so that overall the Council would receive the same amount over the life of the contract. The amounts shown in Recommendations 3, 4 and 5 are not payments that are being proposed to be made to Fusion Leisure. The amounts are a way of financing the cashflow shortfalls in those years in the Council's revenue budget, as the contract variation proposes to pay lower management fee income in the early years of the contract, to that which was originally forecast and budgeted for. Appendix A sets out the new proposed management fee. There would be shortfalls in the management income in the years 2021-22, 2022-23 and 2023-24. Recommendations 3 to 5 of the report set out how these could be funded. It is proposed that the Council funds the shortfall in the management fee income from Fusion in 2021-22 and 2022-23, from Government COVID grant funding that was awarded to Councils to meet losses in income due to the pandemic. This Government grant funding is in the COVID Losses Earmarked Reserve which has an uncommitted balance of £480,789. Arguably the leisure industry has been one of the worst impacted sectors from the pandemic, with very little in the way of national Government funding.</p>

		From 2024-25 onwards, the proposed management fee income would be in excess of the current budgeted income level, as detailed in Appendix A.
Risk		The risks of the Leisure service were set out in Section 4 of the report to Council on 24 September 2020.
Climate Change		Contract targets to reduce energy usage Comprehensive Impact Assessment Implications
Supporting Corporate Strategy		Health and Wellbeing – see Section 6
Equality and Diversity		Whilst private sector facilities are available within the area, opportunities for equality and diversity are improved through the re-opening of public sector leisure centres.
Safeguarding		N/A
Community Safety, Crime and Disorder		N/A
Health, Safety and Wellbeing		<p>One of the Council's adopted strategic priorities is Health and Wellbeing and it has a history of providing these services, which is why it has entered into a long term contract to do so.</p> <p>It is not the case that the Council's leisure centres are the only services available in the area.</p> <p>However they are the biggest and most complete in the offer that they provide. This includes, swimming (casual, club and swim school), gym & personal training and group fitness classes.</p>
Other implications		

Appendices

EXEMPT Appendix A – Financial Information relating to the Leisure contract

EXEMPT Appendix B – Fusion Lifestyle Accounts – year ended 31 December 2020

EXEMPT Appendix C – Independent Report on Fusion Contract Proposals

Background Information

None