

BRISTOL CITY COUNCIL
DECISION



**DECISION OF: MIKE JACKSON (CHIEF EXECUTIVE) WITH ADVICE FROM:
EXECUTIVE DIRECTOR OF PEOPLE, DIRECTOR OF PUBLIC
HEALTH AND OTHER RELEVANT PROFESSIONAL ADVISORS**

DIRECTORATE: PEOPLE

DECISION NO: 13

**SUBJECT: FINANCIAL ASSISTANCE FOR SLM LEISURE FACILITIES IN
BRISTOL**

KEY DECISION: YES

REASON:

Under the terms of the SLM contract, SLM have a legitimate claim for financial adjustments to cover the loss of net income and a narrow band of costs related directly to Covid legislation and In putting the health and wellbeing of our citizens foremost, the allocation of funding from the general fund reserve is approved.

This decision is for the period up to March 31st 2021. The payment is to ensure that public leisure facilities provided by SLM and which are located in areas of high need, are able to reopen and provide services following periods of Covid-19 restrictions.

The Decision

In line with the scheme of delegations the Chief Executive (Head of Paid Service or S151 officer (Chief Finance Officer) in consultation with Cabinet Member for Finance, have agree to the Council making a urgent payment for c.£825,883 of which £252,939 is offset by the National Leisure Recovery Fund (NLRF) and a forecasted c.£572,994 from the general reserve. The financial assistance covers £285,465 for November 2020, £49,839 for December 2020, £214,982 for January 2021 and a forecasted £138,000 February 2021 and £138,000 for March 2021, to ensure leisure facilities in Bristol are able to reopen, continue operating and provide the contractually agreed financial assistance during the period stated.

The services provided play an important role in ensuring the mental and physical wellbeing and social connectedness of local communities. Public Health England reports that regular physical activity can reduce the risk of many chronic conditions, including coronary heart disease, stroke, type 2 diabetes, cancer, obesity, mental health problems and musculoskeletal conditions. Engagement in leisure activities also contributes strongly to mental wellbeing, by allowing people to be active and to connect with others.

The Council recognises that leisure centres have a positive impact on efforts to improve the population's health, by contributing to healthier lifestyles, mental wellbeing and reducing health inequalities, obesity rates and physical inactivity, which could have a detrimental impact of the health and wellbeing of Bristol's citizens.

BACKGROUND:

1. **The Council owns nine leisure centres and swimming pools located across the city.** Sport and Leisure facilities are provided within Bristol's Sport and Recreation Facility Strategy and are designed to serve Bristol's most deprived areas, with the purpose of improving health through participation in activity and through the employment of local people. Future proofing the integrity of the Council's sport and leisure strategy and continuity planning is inextricably bound up with the viability and resilience of the current operator. In total across all leisure centres there is a workforce of over 500 local people who are currently on furlough; of which there are 348 across the SLM contract.
2. In 2006 Bristol City Council entered into a 10 plus 5 year leisure management contract with Sport and Leisure Management Limited (SLM) to provide leisure services at six facilities: Horfield Leisure centre, Easton LC, St Pauls Community Sports Academy, Kingsdown LC, Henbury LC and Bristol South Pool.
3. Up until 2017 the Council paid a 'Contract Price' of £1.3m /annum including costs for utilities to provide services to an agreed performance standard. In 2017 a 5-year contract extension was agreed with SLM until April 2022 in return for a zero subsidy position delivering savings to the Council. With the exception of Bristol South Pool, SLM is responsible for full repairs and maintenance of the facilities and the associated lifecycle risk.
4. To date, covering the period from 1st April 2020- October 31st, 2020 financial assistance of £458,996 has already been approved and paid under an Emergency Decision. The council has received a ringfenced £677,000 from the National Leisure Recovery Fund (NLRF) towards the SLM deficits for December 2020(NLRF funding is forecasted to last until June 2021) , but funding criteria caps the amount which can be used during the closure periods 6th January to 12th April leaving the balance across the three complete lockdown months to be funded by the council.

DECISION:

1. Subject to approval of the claimed costs by the Chief Finance Officer, agrees to provide financial assistance of c.£825,883 which covers 1st November 2020 – 31st March 2021 of which £252,939 is offset by National Leisure Recovery Fund and a forecasted c.£572,994 from the general fund reserve.
2. Note: that this transaction will not result in a reduction in the general fund reserve below the Policy compliant level.
3. Note: the council also needs to consider a deed of variation to the end of the contract and how it will meet further costs pressures for the financial year 2021–2022; should they exceed the c.£424,061 residual NLRF (current full year estimates could be c. £981,035)
4. Note: that the situation will be kept under review and further updates will be provided in a subsequent report to Cabinet.

REASONS:

Cost related to delivering leisure services by third parties and local supplier relationship are only part covered by the NLRF (hence the strong lobbying by many authorities in this regard) and after government funding has contributed to these there is still a shortfall which needs to be met by local authorities.

OTHER OPTIONS CONSIDERED:

Mutually agree to terminate the contract and transfer the services from SLM. This option is not considered cost effective for the council, because the services will either need to be brought in-house at greater expense, or alternatively a replacement provider would need to 'step in', with similar financial issues remaining. This will present operational, technical and reputational risks.

FINANCIAL IMPLICATIONS:

Additional costs and loss of income related to leisure services delivered by third parties and local supplier relationship are only part covered by the government NLRF funding.

The Council has considered all other possible budgets to meet the costs and at this stage in the financial year the only option available is the general fund reserve. Previously anticipated drawdowns to support the Covid-19 pressures are no longer required in 2020/21 and as such the general fund reserve is currently estimated to be in excess of the policy compliant level of £20m.

Given the necessity of this payment and the significance of leisure centres and services in terms of improving health and reducing health inequality, both directly and indirectly through local employment and economy, and £0.572m of the general reserve is being utilised for this purpose.

LEGAL POWERS AND IMPLICATIONS

The Council has a statutory duty for public health, which includes improving the population's health, by contributing to healthier lifestyles, mental wellbeing and reducing health inequalities, obesity rates and physical inactivity.

The financial support (in particular in relation to payments for period falling before 1st January 2021) are unlikely to constitute state aid for the purposes of the EU state aid rules because: (1) it is very unlikely that such support would distort or threaten to distort competition in the relevant market; and (2) such support would only have a local impact.

In relation to point (1), the SLM provided leisure services are provided in a market comprising other private or BCC contracted out leisure services. The support will not result in reductions to the end user prices and/or changes to service offerings that could threaten such undertakings or otherwise 'un-level' the existing playfield in favour of SLM. In relation to point (2), the relevant services are provided to a limited area within the UK and are highly unlikely to attract and are not specifically marketed to customers in other Member States. It is also not foreseeable that such financial support would have any, or more than a marginal, effect on the decisions of competitors in other Member States in relation to investing in the Bristol leisure market or establishing a presence in Bristol.

The arrangements are also considered to be permitted (and low risk) under the applicable EU/UK public procurement rules concerning variations of concession contracts.

CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS

None.

CONSULTATION

Not applicable.

RISK MANAGEMENT

1. Litigation; In the event the Council does not provide financial support, there is a potential risk of challenge under the SLM contract. Government Guidance (in the form of Practice Notes) in relation to Covid-19 and the difficulties faced by contractors, encourages parties to be pragmatic and work together to find solutions and so avoid litigation.

2. The cost to the Council of not financially supporting SLM will be significantly higher if SLM fail and are no longer able to operate the Bristol contract. This is because services will either need to be brought in-house at greater expense, or alternatively third party 'step in' arrangements identified, through which the same financial issues will remain. This will present operational, technical and reputational risks and possible litigation.

EQUALITY IMPLICATIONS

Employment and Economy

1. Across the six leisure centres and swimming pools, which SLM operate, located across some of the most deprived areas of the city, there are over 350 local staff employed and c.2 million annual visits; as such the provision of which has a significant impact on both local employment opportunities and the local economy.

Impacts on Children young people and families

2. The Council is the largest single provider of pool water space, which the majority of Bristol's primary schools access for school swimming (as part of their key stage 2 requirements). There are approx. 4500 children in SLM learn to swim programmes learning a life skill.
3. As part of the Council's Exceptional People in Care (EPIC) offer, all BCC foster carers, children in care and care leavers can access free membership and other activities across BCC leisure facilities.

Inequality impacts

4. Through its concessionary pricing scheme, the Council's leisure centres provide affordable and accessible opportunities for residents to be physically active, compared to the costs of other private provision which can be prohibitive and discourage people on low incomes from accessing.
5. Due to the location and catchment of a Bristol's leisure centres and in the event leisure operators are not supported and unable to continue delivering services, there will be a greater impact on Bristol's most deprived communities, resulting in a widening of social and health inequalities.
6. Evidence shows that regular physical activity can reduce the risk of many chronic conditions, including coronary heart disease, stroke, type 2 diabetes, cancer, obesity, mental health problems and musculoskeletal conditions. These conditions are significantly higher within Bristol's most deprived areas.

Public Health Impacts

7. The Council has a statutory duty for public health, which includes improving the population's health, by contributing to healthier lifestyles, mental wellbeing and reducing health inequalities, obesity rates and physical inactivity.
8. Bristol's leisure centres play a key role by providing a wide and varied programme of activities, exercise referral schemes for residents who have been suffering with serious conditions including cancer, cardiac problems, respiratory conditions, Parkinson's disease and MS, plus through their broader contribution to the health of the community.
9. Leisure centres impact on a range of public health and adult social care outcomes such as:
 - a. reducing the levels of obesity in adults and children
 - b. reducing social and health inequalities, and increasing healthy life expectancy
 - c. reducing the number of falls and injuries in over 65's

- d. and reducing early death from cardiovascular diseases, cancer and respiratory diseases.

Wider impacts

10. If leisure operators are not supported the re-mobilisation of Bristol's leisure centres will be significantly affected.
11. Facilities will be unable to open and clubs and voluntary organisations unable to re-start activities for communities, until such time new delivery mechanisms are established.
12. There will be a significant impact on the social and health benefits to Bristol's communities at a time when these will be most needed.

CORPORATE IMPLICATIONS

1. Wellbeing: is one of four themes in the corporate strategy and based upon creating healthier and more resilient communities where life expectancy is not determined by wealth or background.
2. Key commitments in the corporate plan is that Bristol will be a leading cultural city, making culture and sport accessible to all.
3. Embed health in all our policies to improve physical & mental health and wellbeing and reduce health inequalities reducing future demand pressures on health and social care services and helping to reduce costs.
4. Supporting preventative interventions and opportunities for physical activity amongst children and adults and creating a resilient, sustainable, clean and healthy city.
5. Promoting opportunity, attracting funding and protecting investment in culture while also facilitating others.
6. Continue to offer good quality services which attract visitors.

APPENDICES

None.

BACKGROUND PAPERS

None.

This decision is being taken under the urgency/emergency powers provided in the officer scheme of delegations in the Constitution.

To take emergency action on behalf of the Council on any matter in cases of urgency or emergency with, wherever possible, prior consultation with the Head of Paid Service and / or Director of Finance in consultation with the Mayor and Executive Member for Finance.

SIGNATORIES:

DECISION MAKER:

Signed: 

Note: If electronic signature used email from Director confirming decision and allowing use of electronic signature must be attached

Title: Chief Executive Officer and Head of Paid Service

Date: 30th March 2021

CONSULTEES:

Title: Director of Finance and S.151 Officer

Date: 1 April 2021

Signed: 

Title: Deputy Mayor – Cabinet Member for Finance

Date: 1st April 2021

Signed: 