


Agenda Item No:	15	
Committee:	Cabinet	
Date:	16 March 2023	
Report Title:	Freedom Leisure - energy crisis support	

This item comprises **EXEMPT INFORMATION** within Schedule 17 which is not for publication by virtue of Paragraphs 5 of Part 1 of Schedule 12A of the Local Government Act, 1972 (as amended).

1 Summary

- 1.1 Freedom Leisure has asked the Council to consider providing financial support and continued changes in service provision to fund the increase in energy costs to run the four leisure facilities. This report asks Cabinet to consider continued approaches to mitigating some of the excessive energy costs currently being placed on Freedom Leisure and to consider financial options to support Freedom with such costs.

2 Key Issues

- 2.1 Leisure centres play a critical role in supporting health and wellbeing, tackling health inequalities and levelling up communities. Fenland's leisure centres offer the community the opportunity to maintain or improve their activity levels, improving their health and reducing their risk of ill health. The leisure centres also offer children the opportunity to learn the important life skill of swimming.
- 2.2 We have always known that sport and physical activity strengthens our communities and contributes enormously to the health and wellbeing of the nation, but only recently has [evidence](#) been developed attributing a financial value to sport and physical activity.
- 2.3 Every £1 spent on sport and physical activity in England generates £4 in return across health and wellbeing, stronger communities and the economy. This equates to £9.5bn annually of physical and mental health benefit across England alone.
- 2.4 In December 2018 Freedom Leisure, a charitable trust and not for profit organisation, took over the operation and management of the Council's four leisure centres with a 15 years and 4 months agreement. This arrangement is saving FDC £351,000¹ p.a. Additionally, the Council is saving a further £49,000 p.a. by combining some staffing roles as a result of the Freedom contract. The total saving equates to approximately £5.6 million of savings over the contract period.
- 2.5 The energy crisis that the country is currently experiencing has added exceptional unavoidable costs into the leisure sector. It was anticipated that

¹ At 2018 prices

the Government's support to businesses on increased energy costs would keep costs down, however that has not been sufficient. Whilst Government has set up a scheme, the Energy Bill Relief Scheme (EBRS) to support businesses, the impact of the scheme is limited, especially for high energy services such as leisure centres, particularly those with swimming pools. Since FDC's original commitment to support Freedom with excess energy costs, the Government has reassessed its support for industry with the [Energy Bills Discount Scheme](#). Leisure centres have not been afforded [energy intensive user status](#) meaning that from April 2023, the support afforded by Government drops, exposing the leisure sector across the country to higher energy costs.

- 2.6 In the first 6 months of 2023/24 Freedom estimates excess energy costs (i.e. the cost above what was expected to be paid without inflated energy costs) of £290,298. This cost is an estimation based on previous energy use, expected tariffs and includes the impact of energy mitigation measures already implemented or those in train. These measures include a dramatic focus on any possible reduction in energy usage, as well as the reduction in opening hours that Cabinet agreed to in 2022.
- 2.7 Excess energy costs are affecting the whole leisure sector regardless of whether services are delivered in house or through a contract partner. In fact if the service was still in house the Council would be in a worse position because as well as having to bear the excess energy costs directly, the Council would be responsible for all other operational costs of running the centres.
- 2.8 Freedom and other leisure providers have been actively lobbying the Government through the LGA, District Councils Network, UK Active and directly to local MPs, highlighting the severe financial difficulty that the leisure sector is facing and the potential consequences, including the threat of closure of leisure facilities in future, without additional financial support. This lobbying continues and has intensified since details regarding the exclusion of the sector as an energy intensive user in the scheme of Government support running from April 2023 was released.
- 2.9 Cabinet should note that this paper covers April to September 2023. Without a significant reduction in wholesale energy costs or significant Government intervention to support vulnerable industries, a further paper will be presented to Cabinet in summer 2023 reviewing the situation once more.
- 2.10 It should be noted that this situation is not a short-term issue. Gas prices have a 20% – 25% Ukraine war premium added. Should the war come to an end prices will fall back – but not to the extent that was enjoyed in 2021. Members should note that it appears that the energy market will remain at a significantly higher level for a period of time with some analysts anticipating this to remain the case into 2025.
- 2.11 Cabinet is asked to consider whether to financially support Freedom Leisure with excess energy costs and keep in place the opening hour reductions agreed to mitigate energy costs in 2022. The financial support is expected to be lower than the maximum support cost indicated in paragraph 3.6, with this value being 86% of the anticipated maximum excess energy costs.
- 2.12 FDC officers and the Freedom management team meet regularly whereby FDC are scrutinising the situation and any financial ask ensuring Freedom are

doing everything possible to reduce their baseline costs across all areas of their business within the Fenland contract. Further details on this are provided in sections 9-12 of the report.

- 2.13 FDC officers also monitor the contract with operational discussions with centre managers and the local contract manager. These discussions are on the ground evidence of best practice and measures being adopted to reduce energy use. Evidence of the energy use reductions are highlighted in paragraph 7.7.
- 2.14 Any request for financial assistance is conducted on an open book basis with evidence supplied and provided to the Chief Accountant for scrutiny.
- 2.15 FDC has secured a £5,000 grant from Sport England to employ a specialist consultant to assess energy use within the Freedom contract. This work will give the Council further assurance that Freedom is managing the contract as efficiently as possible and, in instances where that is not the case, what is required to be actioned. A report is due in May 2023.
- 2.16 Freedom continues to pay the management fee due to the Council.

3 Recommendations

It is recommended that Cabinet;

- 3.1 notes the considerable impact that the energy crisis continues to have on the leisure sector across the country;
- 3.2 notes the continued good operational performance of the Fenland group of leisure centres managed by Freedom;

recognises the £4 return on investment that every £1 invested in sport and physical activity generates in England and as part of that return recognises the essential role that the Council's leisure facilities play in helping to maintain the physical and mental health of our community as highlighted in the attached

- 3.3 Appendix I;
- 3.4 recognises the significant financial challenges that the Council itself is facing;
- 3.5 agrees to maintain the reduction in opening hours agreed in 2022 in order to continue to mitigate some energy costs in the leisure centres.
- 3.6 considers, and delegates to the Section 151 Officer, working in consultation with the Portfolio Holders for Finance and Leisure, to offer direct financial support to Freedom Leisure in the form of a repayable loan, on an open book basis, **up to** a maximum sum of £250,000² for the period 1 April 2023 to 30 September 2023.

This represents 86% of the expected maximum excess energy cost, with the sum anticipated to be reduced by the continuing implementation of the mitigating measures put in place to reduce operating costs and energy consumption as detailed in section 12.

Any repayable loan shall become payable through an annual deduction of any profit generated in excess of the levels predicted in the Leisure Operators Base Trading Account (LOBTA). This is a change from the current 50/50 profit share and will be subject to the performance of the business over the remaining contract period. The past three years have been particularly difficult for businesses across the country. Whilst the operational business has recovered well, there remains no certainty that excess profits will be made in the future.

- 3.7 instructs officers, alongside other industry experts, with input from the energy market, to investigate the likely longer-term impact of the energy supply costs on the management of leisure facilities, reporting back to Cabinet with options that consider a longer-term approach to managing the situation. This report to be presented alongside a further report regarding Freedom Leisure and potential energy support for the remainder of 2023/24 and a review of ongoing actual costs to date.

² See section 12.5

Wards Affected	All Wards
Portfolio Holders	<p>Cllr Chris Boden Leader of the Council and Portfolio Holder for Finance</p> <p>Cllr Sam Clark Portfolio Holder for Leisure</p>
Report Originators	<p>Phil Hughes Head of Leisure Services</p> <p>Carol Pilson Corporate Director</p>
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Background Papers	<p>See</p> <p>Appendix I</p>

4 Reasons for Exemption

- 4.1 Schedule 17 of this Report is NOT FOR PUBLICATION in accordance with Paragraph 5, Schedule 12A of the Local Government Act 1972 in that it contains information relating to legal advice. The public interest test has been applied to the information contained within this exempt report and it is considered that the need to retain the information as exempt outweighs the public interest in disclosing it.

5 Introduction

- 5.1 In December 2018 Freedom Leisure, a charitable trust, took over the operation and management of the Council's four leisure centres with a 15 year, 4 month agreement. This arrangement will save the Council £351,000³ p.a., with the added staffing cost savings at the Council as a result of the change meaning a total of £5.6 million of savings over the life of the contract.
- 5.2 The first 15 months of the contract (prior to the covid pandemic) proceeded as well as either partner could have anticipated. Customer feedback, as well as income growth, demonstrated that Freedom had been doing a very good job managing the facilities on the Council's behalf. Following Covid, the Freedom operational team has worked tirelessly to attract customers back into the leisure centres and income levels are now approaching pre-covid levels.
- 5.3 The Council financially supported Freedom Leisure during Covid 19 due to its contractual obligations. In financial years 2020/21 and 2021/22, this support amounted to £636,808. Of this amount, £164,988 was non-repayable. The remaining support of £471,820 becomes repayable through an annual deduction of 75% of any profit generated in excess of the levels predicted in the LOBTA (Leisure Operators Base Trading Account – the expected financial performance that Freedom submitted as part of their bid to manage the facilities on behalf of the Council). This is a change from the contractual 50/50 profit share and will be subject to the performance of the business over the contract period.
- In the period September 2022 to March 2023 FDC has supported Freedom with excess energy costs. This is summarised in Appendix II.
- 5.4 Since April 2022, the contract has returned to its pre Covid 19 position with Freedom paying FDC a management fee, demonstrating the health and viability of the business and the recovery from the impact of Covid 19.
- 5.5 Fenland has a 15-year contract with Freedom Leisure that is now in year 5. The significant increase in user numbers, particularly in swimming lessons, operational efficiencies and cashable savings that Freedom has made since Covid 19 has enabled the contract to return to its pre Covid 19 position, with Freedom paying FDC the full management fee in the current year to date. The energy crisis may have a more severe impact on local leisure facilities than Covid 19, if further central Government support is not made available.

³ At 2018 prices

5.6 Freedom and other leisure providers continue to lobby the Government through the LGA, District Council Network, UK Active and directly to MPs, highlighting the severe financial difficulty that the leisure sector is facing.

6 The impact of sport and physical activity

6.1 Being physically active is a 'miracle cure' for many of the health issues that afflict a large number of people across wealthier countries. In England it is recommended that 150 minutes of physical activity is undertaken per adult per week. This does not have to be in a formal environment such as a leisure centre, but many people do use local, affordable leisure facilities as places to enjoy physical activity, build up a good activity habit and enjoy the support of other people doing similar, with friendly staff and the social environment that group activity in leisure facilities encourages.

6.2 Until recently the economic benefits of physical activity were unclear. Sport England has carried out research with Sheffield Hallam University's Sport Industry Research Centre⁴. This work has highlighted the following information that represents the benefit of sport and physical activity in England across several domains, namely;

- Physical and mental health
- Mental wellbeing
- Individual development
- Social and community development
- Employment
- Gross Value Added

⁴ To view the full document, please see the embedded document in

The social and economic value of being active

For every £1 spent on community sport and physical activity in England
£3.91 worth of impacts are generated...

Physical & mental health

150,000 cases

Heart disease and stroke prevented
Value: £1 billion

900,000 cases

Diabetes prevented
Value: £3.6 billion

8,500 cases

Cancer prevented
Value: £460 million

93,000 cases

Dementia prevented
Value: £3.5 billion

375,000 cases

Depression prevented
Value: £110 million

30,000,000

Fewer GP visits
Value: £450 million

33,000,000

Reduced use of psychotherapy services
Value: £670 million

21,000

Hip fractures prevented
Value: £800 million

1,500,000

Back pain cases prevented
Value £410 million

280,000

Sports injuries caused
Cost -£1.5 billion

£9.5 billion

Physical & mental health impact generated



The social and economic value of being active

For every £1 spent on community sport and physical activity in England **£3.91 worth of impacts are generated...**

Mental wellbeing	Individual development	Social & community development
<p>Improved life satisfaction through participation for 24 million people Value: £31.2 billion</p> <p>Improved life satisfaction through volunteering for 3.9 million people Value: £10.5 billion</p>	<p>Improved educational attainment Value: £4.5 million</p> <p>Increased earnings Value: £277.5 million</p>	<p>10,000 fewer crime incidents Value: £38.6 million</p> <p>The replacement value of work by volunteers Value: £5.7 billion</p> <p>Enhanced social capital Value: £14.2 billion</p>
<p>£42 billion Mental wellbeing impact generated</p>	<p>£282 million Individual development impact generated</p>	<p>£20 billion Social community development impact generated</p>



The social and economic value of being active

For every £1 spent on community sport and physical activity in England
£3.91 worth of impacts are generated...

Employment

Community sport and physical activity supports **285,000 jobs** in England:

Commercial sector
139,000 jobs

Public sector
102,000 jobs

Voluntary / Third sector
45,000 jobs

285,000
jobs supported

Gross Value Added

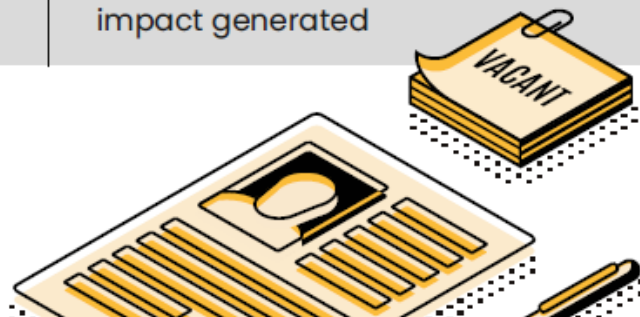
Community sport and physical activity contributes **£13.8 billion** to the economy annually in England:

Commercial sector
Value: £7.0 billion

Public sector
Value: £3.7 billion

Voluntary / Third sector
Value: £3.1 billion

£13.8 billion
impact generated



6.5

7 The Impact of the ongoing Energy Crisis

- 7.1 At a time when the recovery from Covid is in sight, leisure providers across the UK are being hit hard by both rising utility costs and household cost of living pressures that may impact participation rates.
- 7.2 Freedom Leisure has asked the Council to consider continuing to provide financial support to cover the increase in energy costs. The excessive scale of these costs was not built into the bid submission when the contract was let. Without a form of intervention from the Council, the operation of leisure centres, as currently delivered, will be placed at risk.
- 7.3 Despite Freedom managing the leisure centres well operationally, the energy crisis that the country is currently experiencing has added exceptional and

unavoidable operating costs into the business. Government support is insufficient to mitigate these excess costs to a reasonable extent. Estimated excess energy costs of £290,298 are anticipated in the first 6 months of 2023/24.

- 7.4 As a large organisation, Freedom has the capacity to absorb typical market fluctuations and respond in a more agile manner than a Council might. However, the current situation in terms of excess energy costs is untypical. These costs are not affordable for Freedom within the current contractual arrangement with the Council.
- 7.5 The Council heavily scrutinises Freedom Leisure to ensure they are doing everything possible to reduce their overheads across the Fenland contract so any financial contribution requested by FDC is limited. This is set out in sections 9-12 of the report.
- 7.6 Since October 2022 energy prices paid by Freedom have increased significantly. In the period October 2022 to January 2023 the average gas price increase is 369%. Electricity prices rose between November and December by an average of 240%.
- 7.7 The tables below highlight the impact (compared with 2021/22 prices) of these changes on the cost of providing the service, despite the operational teams doing everything possible to reduce energy consumption.

2022/23	Excess	%	% Reduction
Gas	Cost Net	increase	in
		in cost	Gas used
October	15,938		
November	33,796		
December	35,853		
January	30,821		
Totals	£116,408	256%	-24%

2022/23	Excess	% increase	% Reduction
Electricity	Cost Net	in cost	in
			Electricity
			used
October	1,185		
November	16,386		
December	16,913		
January	17,715		
Totals	£52,199	116%	-22%

- 7.8 Freedom is a large organisation working with many Council partners. The table below summarises the situation for each partnership. Whilst the approach that FDC is taking with Freedom is typical of most contracts; an open book approach to support, with mitigation measures also implemented where possible.

Council	Support 2022-23	Support 2023-24
A	Waiver of management fee for 2022-23 plus agreement on other mitigations	Waiver of management fee for 2023-24 plus agreement on other mitigations
B	Agreed support of £265K in 22-23 for utility costs	Working with the Council and a consultant to provide information for a report which should go the Council in April 2023
C	Will fund extra utility costs from Oct/Nov 2022, subject to open book	Will fund extra utility costs in 2023-24, subject to open book
D	Agreed support of £203K in 22-23 for utility costs	Agreed support of up to £408K in 23-24 for additional utility costs
E	Council has responsibility for utility tariff increases so no further action	Council has responsibility for utility tariff increases so no further action
F	Support being provided in terms of waiving the management fee and financially supporting energy projects to reduce consumption	Support being provided in terms of waiving the management fee and financially supporting energy projects to reduce consumption
G	Agreed support of £255K in 22-23 for utility costs	Agreed support of £315K in 23-24 for utility costs plus agreement on other mitigation
H	Full financial support being provided for utilities and income not being to pre Covid figures through the open book process (up to £800K)	Full financial support being provided for utilities in 2023-24 likely to exceed £1m
I	Have agreed to support the shortfall of approx £300K	Have made provision of £1m in the budget for 2023-24 to cover additional utility costs
J	Has agreed £90K support in 22-23	Has agreed support of up to £450K from 2023-24
K	Has agreed £281K support in 22-23 and further mitigating actions	Report going to Cabinet in March
L	Has agreed £62K support in 22-23 and further mitigating actions	Information has been provided to the Council for support in 2023-24. No date yet of Council meeting
M	Has agreed £204K support in 22-23 and further mitigating actions	Report going to Cabinet in March requesting £626K or potential facility closures
N	Support being discussed currently	Support being discussed currently
O	Have agreed to close the swimming pool of 1 leisure centre and review in April 2023 depending on future government support	Information has been provided to the Council for 23-24

P	Agreed £200K of support plus possible management fee waiver	Agreed £200K of support plus possible management fee waiver
Q	Has engaged consultants to recommend on support for 22-23 and 23-24	Has engaged consultants to recommend on support for 22-23 and 23-24
R	Has agreed to waive the management fee in 22-23 and review in 23-24 subject to government support	Has agreed to waive the management fee in 22-23 and review in 23-24 subject to government support
S	No Support forthcoming in 2022-23	We have mutually agreed to terminate the contract with the sites being managed by a LATC from 1 April 2023

8 Are there alternative options to supporting Freedom Leisure?

- 8.1 Members should note that if FDC was still managing the leisure centres directly, the Council would not be benefitting from the annual reduction in cost (£400,000⁵ p.a.) that the Freedom contract offers, nor the increased performance in terms of admissions that Freedom has generated from the leisure centres.
- 8.2 However, the Council would be in a similar position with regards to paying the current substantial excess energy costs. If the Council took the centres back in-house, costs would rise by both the excess energy costs **AND** the £400,000⁶ p.a. saving being made annually. In addition to this excess cost, the costs associated with such a considerable management change are expected to be in excess of £100,000 in year one, reducing in subsequent years. As highlighted in the table above in paragraph 7.8, client E already has responsibility for utility price increases, and this would be the case were FDC managing the facilities, and is a typical term now being added into external contracts.
- 8.3 The Council could also consider retendering the contract (with Freedom's approval in order not to breach the contract with Freedom). However, another operator is unlikely to offer to cover excess energy costs and is also unlikely to offer an arrangement that betters the one that the Council has in place with Freedom – given the turmoil and uncertainty in the economy and particularly the leisure industry. This approach would only increase FDC's costs on top of the current excess energy support consideration that Freedom may be offered by the Council.
- 8.4 This places the Council in a difficult position. Any alternative arrangement, that does not actually take the significant step to close leisure facilities, to the current arrangement with Freedom and the support that the Council may offer

⁵ Note this value is at 2018 prices when the contract was originally let

⁶ Note this value is at 2018 prices when the contract was originally let

Freedom to mitigate excess energy costs, will put the Council in a worse financial position than supporting Freedom with the current energy situation.

- 8.5 Cabinet should recognise that the current situation is not a short-term situation, and consideration of a longer-term strategy to address on-going excess energy costs should be considered during 2023/24.

9 Energy mitigation measures already implemented

- 9.1 Since taking on the management of the facilities, Freedom has implemented a further suite of measures to reduce costs and increase income. These include;

- Income generating interventions such as targeted price rises that reflect current and future inflation rates;
- Staff structure reviews;
- Increased efficiency of internal processes aligned to income generation;
- Improved membership acquisition, improved membership retention and a subsequently improved membership yield;
- A complete review of swimming lesson management leading to an increase of children on learn to swim courses of 61% - an additional 1,235 children learning to swim every week in Fenland pools. The total number of children on the learn to swim programme is 3,140 per week. This increases income and number of children learning to swim;
- Improved rate of collecting income derived by Direct Debit, linked to an improved debt collection scheme;
- Electrical system upgrades;
- Energy metering upgrades and energy monitoring software upgrades;
- Building management system (BEMS) upgrades, including air handling systems and regular review of system schedules to reduce energy use.

- 9.2 More recent interventions include;

- Staff and customer awareness campaigns of energy usage;
- Reduction in stored hot water temperatures by 1 degree, with a reduction in boiler temperatures by 2 degrees;
- Pool water temperatures have been reduced gradually where possible, whilst noting the potential adverse effect this could have on participation;
- Air conditioning minimum set points have been increased to 20 degrees;
- Closure of the sauna and steam rooms at the Manor Leisure Centre.
- Additional plant room interventions to reduce energy costs.

- 9.3 A review as to the viability of Freedom switching to ESPO as an energy supplier has been undertaken. Whilst a switch is possible, unit rates would remain the same. Additionally, FDC is not in a position to supply energy to Freedom via the ESPO contract in order to reduce VAT costs. This is due to the positive fee that Freedom pays to FDC for managing the facilities.

- 9.4 Freedom has applied for 100% NNDR relief for 2022/23 and future years.

10 Energy mitigation measures planned for short term delivery

- 10.1 FDC is working within the County Council's framework for delivery of energy efficient plant to install additional solar PV panels on each leisure centre roof as soon as possible. Support for this approach has been offered for the Manor leisure centre from the recycled Whittlesey Market Towns funding, reducing FDC's expected capital outlay on this initiative. It is anticipated that delivery and installation will take place in May ensuring the full solar benefit of the summer is realised.
- 10.2 Energy efficient lighting is due to be fitting in the pool halls at the Hudson and George Campbell shortly.
- 10.3 Planned preventative maintenance issues are also being considered and will form part of a package of planned works in 2023/24.

11 Freedom Leisure - staffing cost reductions to mitigate costs due to the energy crisis

- 11.1 Freedom Leisure is in the process of implementing further significant cost reduction actions to mitigate the energy costs increases. These include;
- A review of the local leisure centre staff structure targeting a significant reduction in staffing costs.
 - Switching the 1.0 FTE Fenland contract manager to a 0.5 FTE role for the current period.

12 Anticipated estimated excess cost to FDC in the period 1 April 2023 to 30 September 2023.

- 12.1 Excess energy costs are estimated at £290,298 for this period. However, the mitigation measures already in place and those planned to be implemented are anticipated to reduce this cost.
- 12.2 Mitigation impacts include estimated reductions in cost as follows;
- -£25,000 solar PV implementation from May 2023
 - -£65,738 6 months staffing savings due to continued opening hour reductions
 - -£12,500 6 months staffing saving using a 0.5FTE contract manager
 - -£1,500 5 months of energy efficient pool lighting (Hudson / George Campbell)
 - -£24,250 Anticipated NNDR cost reduction for the period
- £128,988 Total best-case saving measures
- 12.3 The best-case savings identified above, if realised in the 6-month period to September, **reduces** the expected excess cost over the period down to **£161,310** and with it the support that FDC may need to offer.
- 12.4 These calculations are estimates and should be treated as such.
- 12.5 The maximum anticipated cost that Freedom anticipates excess energy to cost in the period April – September 2023 is £290,298, within a

recommendation in this report under section 3.6 to support a maximum of 86% of this cost.

13 Risks and Financial Assessment

- 13.1 Members agreed, prior to the leisure centre management outsourcing process, that they wished leisure centres to continue to remain in each town.
- 13.2 FDC is not managing the leisure centres - it is Freedom's business, but it is very much a partnership, and it is in FDC's interests that the Freedom management contract continues if Members wish to continue the provision of leisure centres for the Fenland community. If Freedom breaks the contract with FDC or the company fails as a result of unsupportive clients, then FDC's short term costs by bringing the service back in house will increase by at least £400,000⁷ p.a. FDC would be taking back the health and safety risk, staff management, accountancy and payroll functions, administrative functions and human resources of over 160 different staff. Staff restructures took place in FDC's back-office teams to reflect leisure being outsourced. These additional costs would have to be added back into the FDC budget to support any in-house change. It will not be possible to find an alternative provider of the Service at short notice.
- 13.3 If FDC was to take the facilities back in-house, then the current excess energy costs would be payable by the Council directly. There would be no way of avoiding these costs. This would be a similar case if another contractor took on the contract; any revised contract would include the current energy costs and the Council would not be able to avoid these costs.
- 13.4 Should the contract with Freedom not continue as a result of the energy cost crisis, FDC will not realise the £4.1m of savings over the outstanding period of the contract. Taking a long-term view, putting in place supportive operational changes in conjunction with Freedom, alongside potential financial support, is in FDC's best financial interests.
- 13.5 FDC's current MTFs highlights a potential shortfall of £1.748m by the end of 2027/28 as well as consideration of the added uncertainty of fairer funding, new homes bonus and business rates retention as well as current inflationary pressures which may mean this figure rises through the budget setting process. If the Freedom contract ceases and FDC brings the service in-house this will add a minimum additional base revenue cost of £400,000 per annum to the Council. Additionally, added to this sum are the excess energy cost increases leading to a total increased revenue cost to FDC in the region of £1m p.a.
- 13.6 If the Council's contract with Freedom were broken, the planned savings of the Freedom contract will then not be possible leaving the Council to reconsider the strategic approach to leisure centre provision in Fenland, with financial pressures inviting a reassessment of the current level of provision across the four towns to balance the Council's budget.
- 13.7 There is a risk that, despite FDC's support, Freedom does not remain viable. This is a risk that FDC needs to recognise, whilst understanding the larger risk

⁷ At 2018 prices on contract procurement

being that an unsupportive approach from FDC may lead to the contract being dissolved. FDC has asked Freedom for information regarding other client's approach to support for energy costs and this information is available in paragraph 7.8.

14 Governance Implications

- 14.1 Subject to the recommendations agreed within this report, financial support would be managed and provided on the same basis as during COVID-19 via an open-book arrangement with payments made to cover excess energy costs, less the financial value of mitigating measures that reduce the cost to Freedom, being made.
- 14.2 There was clear provision within the contract between FDC and Freedom to provide financial support when Covid occurred. The Government changed the law, requiring closure of facilities and staff to remain at home. This meant that the change in law clause within our contract highlighted the Council's contractual requirement to support Freedom.
- 14.3 The energy crisis is very different in that there is no change in law. The Council has no contractual responsibility to support Freedom and any supportive arrangement is very much in the spirit of the contract being a partnership arrangement, with the benefit of that support being in both parties' interests - and more importantly, in the interests of the community in Fenland who enjoy the use of excellent leisure facilities. The legal issues regarding any support offered are explored in the exempt Schedule 17.
- 14.4 Should the package of support devised by Freedom and FDC be insufficient to meet the challenge of the excess energy costs then the contract with FDC could become unviable. If Freedom took this view and wished to break the contract with FDC, our contractual terms are clear in regard to compensation due to FDC;
- a) Where the Authority carries out a Retendering Process, the Retendering Costs;
 - b) where the Authority carries out a Retendering Process, an amount equal to the aggregate of the Retendered Annual Payment less the Current Annual Payment where it is a positive number
 - c) All other Direct Losses which the Authority suffers or incurs arising out of any breach of this Agreement or as a result of the termination of this Agreement including (without limitation) any liability to any third party,
- 14.5 These terms are clear, with item b) above having a potential of incurring significant costs on Freedom should they break the contract. Retendering the contract with the current state of the economy, Covid recovery and the excess energy costs is likely to return tenders that incur the excess energy costs within the contract itself, with the overall contract unlikely to be as favourable to FDC as the Freedom contract - if a contractor did tender.

15 Appendix I

Sport England; Social and economic value of community sport and physical activity in England



Click icon above to open embedded pdf file

16 Appendix II

Update regarding the table of actions to support Freedom and mitigate excess energy costs as agreed in the November 2022 Cabinet paper

Action	Revenue cost to FDC	Estimated in year saving	Update at February 2023
Underwrite entire energy cost deficit	Up to £281,000	N/A	Invoices to October 2022 received to date
Leisure centre opening hour reduction programme		£45,000	Opening hours reduced accordingly
Energy billing adjustments		£0	Unable to move forwards. Access to ESPO billing is possible; unit costs identical, but VAT advantage cannot be taken due to Freedom's management fee payments to FDC
Freedom to apply for discretionary NNDR relief	£18,614	£46,534	Application received
Add additional solar PV to each leisure centre Replace pool lighting in 2 leisure centres		Savings realised in 2023/24 – approx. £61,000 per year	Full business case in process. Anticipated fitment of additional PV units in May 2023 to take full advantage of brighter months. Replacement specification written. Tender of works to take place shortly.
Deferral of gym equipment replacement scheme		N/A	To be undertaken as the original equipment replacement date approaches in future years.
Customer prices increases		£32,460	Completed