


Cabinet Report	Agenda Item 5	
Date:	30 September 2021	
Report Title:	Freedom Leisure - Covid-19 impact and Fenland District Council Support	

1 Summary

For Cabinet to agree the financial support offered to Freedom Leisure for the period October – December 2021.

2 Key Issues

- 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 agreement.
- This arrangement, after Hudson Leisure Centre capital costs and gym equipment replacement costs, has saved FDC £351,000 p.a. Additionally, a review of contract management staff as a result of the new Freedom contract added £49,000 p.a. to the annual savings, equating to a total of £5.6 million of savings over the life of the contract.
- Freedom is dependent on income and cash flow to manage the business. As a large organisation, they have capacity to absorb market conditions and respond in a more agile manner than a Council might. The business is, however, dependent on income from paying customers therefore following the significant impact of Covid 19, the Council has provided a series of support packages in line with the Council's leisure contract.
- Leisure centres have reopened and performance is more positive than expected – but still below pre-Covid rates.
- FDC retains some grant funding from the National Leisure Recovery Fund (NLRF) available for Q3 of 2021/22 and this may be used to fund operational cost shortfalls. However, it may not be used to fund any management fee deferral for Q3 2021/22.

3 Recommendations:

It is recommended that:

- Fenland District Council provides the Phase VI financial relief to Freedom Leisure set out in these recommendations and detailed in section 5 of this report.
- FDC defers the monthly management fee of £38,000 per month for October 2021 – December 2021, at an estimated cost to the Council of £114,000, repayable in accordance with the terms set out at paragraph 3.4 of these recommendations.
- FDC continues to support Freedom Leisure on an open book basis by providing financial support from the remaining NLRF grant. The current estimated cost of operational support for the period is £25,260.
- Repayment of the £114,000 described in paragraph 3.4 of these recommendations shall become payable through an annual deduction of 75% of any profit generated in excess of the levels predicted in the LOBTA (Leisure Operators Base Trading Account). This is a change from the current 50/50 profit share and will be subject to the performance of the business over the contract period.

- The Monitoring Officer and s.151 Officer are authorised to put in place all necessary arrangements to give effect to the agreed recommendations to include entry into the necessary legal arrangements and expenditure of the amounts described from existing budget provisions.

Wards Affected	All Wards
Portfolio Holders	Cllr Sam Clark, Portfolio Holder for Leisure Cllr Chris Boden, Leader of the Council and Portfolio Holder for Finance
Report Originators	Phil Hughes, Head of Leisure Services Carol Pilson, Corporate Director Peter Catchpole, Corporate Director Amy Brown, Chief Solicitor
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Background Papers	2020/21 Cabinet Reports 2021/22 Cabinet Reports NLRF application pack Confidential: Freedom Leisure modelled income and expenditure Confidential: LOBTA - Leisure Operators Base Trading Account

4 Reconciliation and summary of support provided to Freedom Leisure from April 2020 to March 2021 and estimated support provided from April 2021 - September 2021

4.1 2020/21 Financial Reconciliation

The total support agreed by Cabinet for Freedom for financial year 2020/21 consists of:

Phase I support	£277,668	
Phase II support	£276,582	
Phase III support	£295,322	
Less:		
Income support grant	(£321,139)	
NLRF grant	<u>(£69,962)</u>	
Net total support 2020/21		<u>£458,471</u>

4.2 2021/22 Estimated Financial Support

Estimated Net Phase IV support (April – June 2021)

Deferred management fees payable to FDC:	£114,000	
Financial support (estimate)	£62,857	
Less:		
Income support grant (estimate)	(£80,670)	
NLRF Grant	(£62,857)	
Estimated Net Phase IV support (April-June 2021)		£33,330

Estimated Net Phase V Support (July – September 2021) £114,000

Estimated Net total support April – September 2021 **£147,330**

4.3 Please note the following alterations underlying the information above;

- The estimated Phase IV support remains at £33,330. However, the operational cost netted off with the NLRF grant has been reduced from £62,857 to £59,114. This reduction in grant requirement is due to there being better than expected leisure centre performance during this period.
- The estimated Phase V support remains at £114,000. Again, the operational cost netted off with the NLRF grant has been reduced from £47,178 to £31,224. This reduction in grant requirement is due to there being better than expected leisure centre performance during this period.
- The estimated reduction in operational costs across the first 6 months of the year has meant that the remaining NLRF balance rises from an original estimate in July's Cabinet report of £44,421 to a balance of £64,118.

5 Proposed Phase VI Support: October – December 2021

5.1 Fenland has a contract with Freedom Leisure that is in the second full year of a 15-year contract. The significant efficiencies and savings that the contract has

allowed FDC are expected to return during its term, with the lifting of social distancing requirements.

- 5.2 The recovery of the leisure sector from April onwards has been far more positive than initial modelling and financial projections. The Fenland contract with Freedom is doing particularly well, when compared across the other local authority contracts that Freedom manages. Learn to Swim memberships are performing particularly well, with fitness memberships performing in the top quartile of Freedom's local authority contract too.
- 5.3 It should be noted that despite better than expected performance, the fitness memberships at the Hudson Centre in Wisbech are not performing as well as the other three sites due to competition from the low priced PureGym based at Tesco in Wisbech. Previous members are being targeted as the centre already has their information, but in addition Freedom is also considering less typical methods to attract people who have **not** previously used leisure centres. These approaches may include physical leaflets to residents offering a 'come in for a tour and receive a gift or free sessions on completion.' Reverting to more traditional marketing approach might impact on an untapped market, whilst still continuing the social networking and web marketing push.
- 5.4 As at 19 July 2021 the Fenland Freedom contract monthly membership direct debit income was at 85.5% of the January 2020 level. Note that January is usually a 'boom' month for leisure memberships so achieving that level in July would be unlikely, but that is the best yardstick pre-covid.
- 5.5 Whilst the overall recovery picture is more positive than anticipated, Freedom will still require some support from FDC in the coming months. As noted in paragraph 4.3, FDC has a balance of £ £64,118 from the Government NLRG grant. This funding will be used to cover operational cost deficits in the coming three months. Current estimates are a cost of **£25,260** for this period.
- 5.6 However, the NLRG grant cannot be used for the income lost from the management fee payments to FDC. This means that in the period October - December 2021 FDC will need to defer the management fee for the period of **£114,000**. This will be recouped from Freedom on similar terms to previous management fee deferrals – by a larger share of any future excess profits that the contract may make.
- 5.7 **The estimated net total support cost to FDC for the period October – December 2021 will be £114,000.** The operational costs can be funded by the government NLRG grant.
- 5.8 It should be noted that the Council is keen to regain the financial support identified in this report using this mechanism. However, the Council recognises that repayment levels are uncertain due to the nature of future income levels, determined by customer demand and due to the fact that the profit share only applies after the contracted profit has been taken by Freedom.
- 5.9 From January, it is predicted Freedom will begin to pay a partial element of the management fee to FDC which has been suspended through Covid. This will be based on the performance of the business and illustrates a partial return to our pre Covid contract arrangements.

6 Contractual Options Assessment

- 6.1 Cabinet should be aware that previous support made to Freedom was a contractual obligation. The continuing shortfall in Freedom's income is a direct result of the Covid 19 changes in law, and it is reasonable to argue that the

change of law provisions in the contract do enable FDC's level of support to reflect the fact that Freedom's income will not return to pre-Covid levels immediately. There is a contrary argument that FDC has no obligation to support Freedom financially from 19 July when the law changed back to the pre-Covid law (i.e. no social distancing). However, even if this were correct, FDC is not obliged under the contract to require this adjustment and there are sound commercial arguments not to do so in the context of FDC's relationship with a valued, long term partner – these are set out below and provide a good argument that FDC is acting in the same way as a private sector operator would in not adjusting the payments under the contract and thus there is no subsidy to Freedom.

- 6.2 To ensure that FDC maintains the long-term contract with Freedom and the future savings that this will accrue to the Council, as well as offering the potential to recoup the deferred management fees, an approach of continuing to support Freedom as a valued partner is recommended.
- 6.3 If the Council attempts to negotiate a reduction in the currently proposed relief package such that only partial support is provided, it will impact on the services that can be delivered and would therefore put Freedom in a disadvantageous position in terms of re-establishing its competitive position in the market and ultimately the level of profit required to offset the payments made.
- 6.4 If the Council provides the relief package on the terms identified, due diligence suggests that this will put Freedom in the best possible business position to recover over the coming year. Nevertheless, it is acknowledged that there remains a possibility that trends will not evolve as expected which could result in a requirement to remodel the proposed operational model and / or ultimately to revisit the relief package. Of all the options however, the report recommendation provides Freedom and the Council with the best opportunity to work towards the realisation of the originally predicted savings and programme of improvements originally planned for the benefit of our community.
- 6.5 In conclusion, whilst we remain in a position of uncertainty, a further relief package funded by the NLRF will provide an opportunity to push performance back above pre-covid levels as soon as possible. It also avoids the wider implications of taking the leisure centre service back in house where the effect would be evident not only in budgetary terms but also potentially in relation to the level of service that could be provided.