

<b>Report of:</b>	<b>Head of Environment and Healthy Lifestyles</b>
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<b>Key Decision:</b>	<b>No</b>
<b>Report Track:</b>	<b>Cabinet: 04/10/18</b>

**CABINET**  
**4 OCTOBER 2018**  
**UPDATE ON CAPITAL INVESTMENT IN CHASE LEISURE CENTRE AS PART OF THE COUNCIL'S FINANCIAL RECOVERY PLAN**

**1 Purpose of Report**

- 1.1 To update Cabinet on Inspiring Healthy Lifestyles (IHL) capital investment proposal in respect of Chase Leisure Centre.

**2 Recommendations**

- 2.1 That Cabinet consider and agree to act as guarantor for IHL up to £1,000,000 in order to deliver their preferred capital investment proposal previously determined by Cabinet on 25<sup>th</sup> January 2018 and in order to deliver the minimum required level of savings of £50,000 per annum from 2019-20 to the Council.
- 2.2 To establish a new equipment bond for a fixed term (5 years) into which IHL will be required to contribute an annual sum circa £10,550 per annum equivalent to the reduction due on their current pension bond payment. This will mitigate the potential additional risk in relation to the fitness equipment and will be refundable upon confirmation of the full equipment payment by IHL and their funder.
- 2.3 To delegate authority to the Head of Environment and Healthy Lifestyles in consultation with the Portfolio Leader for Culture and Sport to agree and facilitate all actions (Bond Agreement including terms and conditions and mechanism for releasing payment etc) required to implement the capital investment at Chase Leisure Centre.

**3 Key Issues and Reasons for Recommendation**

- 3.1 Cabinet at its meeting held on 25<sup>th</sup> January 2018 agreed to act as guarantor for IHL in order to secure the capital funding solution required to deliver their preferred capital investment proposal and deliver the minimum required level of savings of £50,000 per annum to the Council from 2019-20. The extent to which

the Council agreed to act as guarantor (for the capital cost only) was estimated to be in the region of £521,891, with IHL separately funding (leasing) any new fitness equipment.

- 3.2 Since Cabinet's decision on the 25<sup>th</sup> January 2018 IHL have been working with their preferred funder and the Council to agree and finalise the legal documents necessary to release the capital investment required delivering the agreed project.
- 3.3 During these discussions it has come to light that the only way IHL's funder would provide the funding required was for there to be a fairly equal balance between equipment and capital works within the scope of the funding agreement. For this reason the equipment costs have to be included in the agreement, resulting in a requirement for the Council to act as guarantor for the estimated capital works (£522,268) and the equipment (£472,918), the total value of which is circa £1,000,000.
- 3.4 Given IHL's preferred funding agreement which now requires the Council to act as guarantor for up to £1,000,000, Cabinet are asked to consider the implications and confirm their agreement to this change. The full legal and financial implications are set out in the appropriate sections of this report.

## **4 Relationship to Corporate Priorities**

- 4.1 One of the key Council's aims and priorities seeks to increase access to physically active and healthy lifestyles as a way of contributing to improving health and wellbeing of all those who participate (better health outcomes). Any investment that encourages access and use of leisure and culture facilities will assist in contributing to increasing participation in physical activity.
- 4.2 Implementation of the Council's Financial Recovery Plan and delivery of the savings required is intended to minimise the impact on the delivery of the Council's corporate priorities.

## **5 Report Detail**

### **Background**

- 5.1 Cabinet at its meeting on 15<sup>th</sup> December 2016 proposed a series of saving options to deliver a balanced budget in 2019-20 in accordance with the £1.6 million saving requirement identified as part of the Financial Recovery Plan process.
- 5.2 Part of the FRP process included reviewing the existing contract for culture and leisure with the Council's provider, Inspiring Healthy Lifestyles, in order to deliver significant savings, circa £210,000 up to 2019-10 through a reduction in its management fee.

- 5.3 Part of the management fee reduction, circa £70,000 p.a. was identified by improvements to and streamlining of IHL's operational budgets. These savings were delivered in 2017-18 as proposed.
- 5.4 The balance of the savings to be achieved required IHL to develop their preferred capital investment proposal to deliver a minimum of £50,000 revenue savings by 2019-20 for the extended contract term. Over the proposed extended contract period this equates to a savings target of £650,000.
- 5.5 Cabinet at its meeting held on 25<sup>th</sup> January 2018 agreed to act as guarantor for IHL in order to provide the capital funding solution to deliver their preferred capital investment proposal. This option, (Option 2) included refurbishing the gym, introducing virtual fitness programmes to the existing studio, converting the bowling green to an indoor cycling studio (Les Mills Trip), functional studio and multi-purpose studio. This also included the provision of bowling mats to provide a programme within the sports hall. The extent to which the Council would act as guarantor (for the capital cost only) was estimated to be in the region of £521,891, with IHL separately funding (leasing) any new fitness equipment.

### **Update**

- 5.6 Since Cabinet's decision on the 25<sup>th</sup> January 2018 IHL have been working with their preferred funder and the Council to agree and finalise the legal documents necessary to release the capital investment required delivering the agreed project.
- 5.7 However, during these discussions it has come to light that the only way IHL's funder would provide the funding required was for there to be a fairly equal balance between equipment and capital works within the scope of the funding agreement. For this reason the equipment costs have to be included in the agreement, resulting in a requirement for the Council to act as guarantor for the estimated capital works (£522,268) and the equipment (£472,918), the total value of which is circa £1,000,000.
- 5.8 Given IHL's preferred funding agreement which now requires the Council to act as guarantor for up to £1,000,000, Cabinet are asked to consider the implications and confirm their agreement to this change. The full legal and financial implications are set out in the appropriate sections of this report.
- 5.9 The risk for delivering the annual revenue savings still sits with IHL and not the Council. IHL will be responsible for identifying any additional operational efficiencies to bridge any gap between the revenue impact of the project and the management fee reduction required by the Council.

## **6 Implications**

### **6.1 Financial**

- 6.1.1 The current budgets reflect the proposed savings identified within the report including the investment proposal reduction. IHL have currently guaranteed the £50,000 per annum with the risk of generating the income sitting with them. In

order for IHL to obtain funding from their preferred funder they require the Council to be guarantor in the event of any default. Although the guarantor figure is higher than previously stated the equipment that IHL are replacing is contained within their original business plan.

- 6.1.2 The original proposal submitted by IHL in January 2018 required the Council to act as Guarantor for its capital investment; the additional requirement to act as a Guarantor for the Fitness Equipment has arisen following subsequent discussions with IHL and their funder.
- 6.1.3 This is purely on a one off nevertheless in light of the remedies involved in the unlikely case that IHL do not comply with the funding obligations (and the additional Waiver requirement ) it is felt prudent that a refundable bond is maintained by the Council.
- 6.1.4 IHL currently make a non refundable Indemnity Pension Bond to the council that is reviewed on an annual basis. A reduction in the bond of £10,550 per annum is now due and it is therefore recommended that in order to reduce the impact on IHL that this is held, and accumulated, as a refundable bond to be repaid after 5 years.

## 6.2 Legal

- 6.2.1 The Council has been asked to act as Guarantor for IHL in order for IHL's preferred source of funding (hereinafter "the Funder") to provide the capital funding solution.
- 6.2.2 The risk to the Council is likely to be minimal and liability will only fall to the Council in the event that IHL fail to comply with their obligations under the funding agreement and the agreement is terminated. Should IHL fail to comply, the Council would be given 6 months in which to make a decision on which of the following courses of action to take:
  - a) To take over IHL's obligations and liabilities under the agreement, provided that the Council are able to retain any revenues received from the Leisure Centre, subject to the agreement of IHL; or
  - b) For the Council to arrange for an alternative service provider to replace IHL to take over the contractual obligations, subject to the Funder's agreement; or
  - c) To terminate the agreement with the Funder and pay any outstanding sums as a result of the termination.
- 6.2.3 In addition, the Council is also required to execute a Waiver Form in its capacity as landlord of the Leisure Centre as part of the agreement with the Funder to act as Guarantor for IHL. The Waiver Form is a separate document whereby the Council agrees not to seize, sell or claim a right over any of the equipment that IHL will be hiring under their agreement with the Funder, and that the equipment shall not in any way constitute part of the Leisure Centre and shall remain separate. The equipment may be removed by the Funder at any time from the Leisure Centre, provided that in doing so any damage to the Leisure Centre is made good. The Waiver Form also contains an undertaking to be given by the

Council to the Funder not to create a charge or encumbrance over the Leisure Centre without giving the Funder prior written notice and not to sell, lease or dispose of the Leisure Centre without requiring the purchaser, lessee or dispose to grant a similar waiver to the Funder.

6.2.4 Given the scale of the contractual relationship with IHL and the relatively small value of the capital funding that is being sought, the risk to the Council of being financially liable in the event of a breach by IHL would seem small under the circumstances. Added to this and by way of assurance to the Council, IHL have provided an extensive list of local authorities that have entered into similar agreements with other trusts and the Funder.

6.3 **Human Resources**

None

6.4 **Section 17 (Crime Prevention)**

None

6.5 **Human Rights Act**

None

6.6 **Data Protection**

None

6.7 **Risk Management**

Many of the risks associated with this option relate to the provider, IHL being able to deliver the capital investment and level of savings required by the Council. However, IHL will be responsible for identifying any additional operational efficiencies to bridge any gap between the revenue impact of the project and the management fee reduction required by the Council. There is a risk for the Council in acting as Guarantor for IHL and their capital funding proposal but this is mitigated to some degree given IHLs track record of delivering such projects.

6.8 **Equality & Diversity**

None

6.9 **Best Value**

The partnership with IHL has already delivered significant savings and secured additional capital investment in its facilities. This option will the deliver additional savings identified in the Council's FRP and continues to demonstrate the Council's commitment to providing value for money services.

**7 Appendices to the Report**

None

**Previous Consideration**

None

**Background Papers**

25 January 2018 – Cabinet Report – Additional Capital Investment in Culture and Leisure Services as part of the Council's Financial Recovery Plan.

15 December 2016 – Cabinet Report – Feedback from the Public Consultation on the Financial Recovery Plan and Approval of Saving Options.