

Name of meeting: Cabinet
Date: 27 July 2021
Title of report: Kirklees Active Leisure – Funding and Partnership Framework Update

Purpose of report

To update Cabinet on Kirklees Active Leisure (KAL's) forecast irrecoverable losses directly attributed to the Covid-19 lockdown to date, Government and Council financial support to date, forecast COVID impact on KAL in 2021/22 and consideration of further financial support following a request from the KAL as well as presenting the KAL Partnership Framework, which sets out how we would like to see KAL work differently going forward.

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	Yes Proposed spending in excess of £250k
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports?)	Yes
The Decision - Is it eligible for call in by Scrutiny?	Yes
Date signed off by Strategic Director and name Is it also signed off by the Service Director - Finance? Is it also signed off by the Service Director -Legal Governance and Commissioning?	9 th July 2021 - Rachel Spencer-Henshall, Service Director - Corporate Strategy, Commissioning and Public Health Eamonn Croston – Service Director - Finance Karl Larrad, on behalf of Julie Muscroft
Cabinet member portfolio	Cllr Paul Davies – Corporate Cllr Musarrat Khan – Health & Social Care

Electoral wards affected: N/A

Ward Councillors consulted: N/A

Public or private: Public (Appendix A and B in private)

Exempt information in accordance with Schedule 12A of the Local Government Act 1972 namely it contains information relating to the financial and business affairs of any particular person. It is considered that disclosure of the Information relating to the financial or business affairs of any particular person (including the authority holding that information) would adversely affect the person concerned and therefore the public interest in maintaining the exemption, which would protect the rights of an individual or the Council, outweighs the public interest in disclosing the information and providing greater openness in the Council's decision making.

Has GDPR been considered ? Yes

Summary

- 1.1 Kirklees Active Leisure (KAL) is a Charitable Trust which operates 12 leisure facilities and swimming pools based on grant funding and leases from Kirklees Council. Just under 90% of KAL's £16m annual turnover (pre-COVID impact) is dependent on user generated income. The Council's revenue budget also includes an annual budgeted funding contribution to KAL, totalling £1.456m in 2020/21.
- 1.2 A report was taken to Cabinet on 28 July 2020 setting out the COVID impact on KAL, resultant from emerging national lockdown measures. The report set out the serious consequences to KAL and the Council from KAL potentially being in an insolvent position due entirely to irrecoverable income losses from the COVID impact. Cabinet approved a Council underwrite of up to £4m through 2020/21 to help KAL through the financial challenges caused by COVID. The funding underwrite was earmarked from COVID funding received by the Council from Government.
- 1.3 The report also made reference to the funding underwrite justification of the adoption of a new 'KAL Commission' (which is now entitled 'Kirklees Partnership Framework'), with a much greater focus on engaging with, and supporting, the target groups and those who suffer the most from inequalities, and through that engagement, redesign their offer and approach to ensure it supports those people to be more physically active and improve their health outcomes.
- 1.3 This update report notes the continuing challenging landscape for KAL resultant from COVID. The previously approved Council underwrite of up to £4m is expected to be fully utilised, with an additional £1.1m Government funding secured through a successful external bidding process to Government, confirmed in January 2021.
- 1.4 While there was a Government recovery roadmap announced on 22 February 2021, the outlook over the next 12 months and beyond for KAL remains challenging. It is anticipated that further financial support will be required to support KAL's gradual recovery over the period. It is anticipated that this support will be needed in the latter half of 2021/22, with a further Council underwrite requirement of up to £3.5M. It is intended that the funding underwrite will be met from Council earmarked reserves. The 'up to £3.5m' underwrite may reduce further if there is a subsequent bidding round of funding available to KAL from Government in 2021/22. The incorporation of the underwrite of up to £3.5M into the updated general reserves position as part of the Council's 2020/21 financial outturn and rollover report, is also presented on the same Cabinet agenda.
- 1.5 This update report also presents the draft KAL Partnership Framework (Appendix C – G), which has been developed alongside KAL, and establishes an increased emphasis on addressing inequalities.
- 1.6 The Partnership Framework is non-prescriptive in terms of actual programmes, and instead outlines the key outcomes, partnership approach and inclusive, place-based ways of working which will shape KAL's offer going forward.

2 Information required to take a decision

- 2.1 The COVID pandemic and subsequent national restrictions applied at various times through 2020/21 have impacted significantly on KAL's operating position and consequential COVID impacted financial sustainability. The original report to

Cabinet on 28 July 2020 noted at the time that failure to support KAL through the challenge of COVID would have left them vulnerable and with the likelihood that some sites may have had to close anyway, and possibly lead to the demise of KAL.

- 2.2 This would have had serious consequences both to the Council, who may have had to pick up a number of liabilities, and for the public, with the loss of the major operator of leisure facilities, and the health and social consequences therein. In particular, KAL is the main provider of swimming pools in Kirklees, and the prolonged closure of these would have a knock-on impact on the ability for schools to meet statutory school swimming obligations as well as meeting the swimming needs of the wider population.
- 2.3 The Council approved underwrite to date of up to £4m, from earmarked COVID funding received from Government, and officers managed to secure funding of £1.175m from the National Leisure Recovery Fund to mitigate some of the losses to date, whilst the leisure industry is actively lobbying for further support to be made available. This has ensured KAL remained solvent through 2020/21 and this is forecast to continue at least through the first half of 2021/22.
- 2.4 KAL continues to utilise the furloughing scheme and other available Government financial support as far as it is able. KAL has also been very proactive in supporting the response to COVID and worked closely with the Council to re-deploy some staff into critical Council services to support the Covid-19 response effort, and the Council would expect continuing flexibility in this regard, depending on the pace and direction of the Government recovery roadmap herein.
- 2.5 Updated KAL financial projections are set out in Private Appendices A and B. They indicate that KAL's recovery through 2021/22, which reflects the current Government recovery roadmap, will be gradual with further irrecoverable income losses of up to £3.5m through the latter half of 2021/22. This figure assumes continuation of leisure services at all existing facilities borough wide, no KAL redundancies, and no extension of current furloughing scheme by Government beyond September 2021.
- 2.6 The Council recognises that the recovery landscape remains fluid, forward projections change depending on Government guidance, and KAL will continue to work closely with the Council with revised projections should any of these expectations materially change. The wider leisure and fitness industry recognises that financial challenges will exist throughout 2021/22 and in all probability into 2022/23 as well, and discussions with KAL similarly reflect this view.
- 2.7 This report also incorporates the KAL Partnership Framework, which was a key condition of the continued Council commitment to underwrite irrecoverable income losses through 2021/22. The framework acknowledges that KAL play can play an even greater role in helping to address some of the health and activity inequalities that exist. The impact and significance of those inequalities has been exposed even more from the impact of COVID on individuals, families and communities. At the same time, KAL have themselves been looking at how they might become more of a 'health and wellbeing' provider, and so this opportunity to support their transition into that arena is timely, albeit under the most unfortunate of circumstances.
- 2.8 The draft KAL Partnership Framework is attached as Appendix C and it is intended to increase KAL's contribution to tackling inequalities, inactivity and the wider Kirklees Outcomes.

- 2.9 The Partnership Framework is not intended to be prescriptive in terms of what KAL might deliver, as the Council & KAL believes this needs to be informed and shaped by the target cohorts and communities themselves, but it does set out principles for ways of working which will lead to this.
- 2.10 In particular, it sets out the need for KAL to work with multiple Council Services and other external agencies to gain insight and co-produce opportunities to meet the needs and wishes of those who historically have been less active. It is not expected that KAL do this all on their own, and through working more closely in partnership we believe that better outcomes for all can be achieved.
- 2.11 It is anticipated that this will result in KAL having 3 clear functions going forward:
- Supporting Statutory Provision – this is primarily helping Primary Schools discharge their responsibility to provide school swimming under the National Curriculum via the School Swimming Service that now sits within KAL.
 - Provision of universal activity – this is the traditional KAL offer, that is open to anyone, and primarily features public swim, gym, fitness classes, sports hall activity and, increasingly, the family attractions.
 - Targeted provision – this is outcome focussed, aimed at reducing inequality and inactivity levels amongst cohorts that are less active than the wider community. This may include place-based initiatives to meet the differing demands of distinct local communities, or targeted approaches aimed at particular groups of people. As a result, these opportunities may not exist in every KAL setting, however, an advantage of KAL running multiple sites is that people who wish to access a particular activity are able to do so across the network, rather than being tied to a single facility. The intention is that KAL will have an increasing focus on this area of work, whilst retaining their offers in the other 2 areas.
- 2.12 The draft framework also sets out the mechanisms by which the Partnership will be governed, and Senior Officers may wish to reflect on the membership of the Partnership Performance group in particular (Appendix D), to ensure that all aspects of the Council who may be able to support and / or benefit from working with KAL are properly represented.
- 2.13 The draft partnership framework reflects the overall purpose and relationship with KAL from the perspective of increasing physical activity, particularly within groups who currently are not active. Cabinet may wish to reflect on this as we approach the midpoint of the existing funding agreement to see if this is still correct and how we may want to think about KAL's role in relation to delivering our economic strategy ambitions.

3 Implications for the Council

3.1 Working with People

KAL facilities draw staff and customers from all corners of Kirklees, and the facilities play an important role in their communities. This ranges from being a social space where people may meet up with friends to supporting local community sports clubs with appropriate facilities. KAL regularly seeks and reviews feedback from their customers to help shape their offer, and the customer satisfaction rate is high. Through the KAL Partnership Framework we have set out how KAL might canvass and respond to the views of those who suffer from health inequalities, who are inactive or who come from some of our most deprived communities.

3.2 Working with Partners

KAL are a key local partner, who contribute to the economic performance of Kirklees and are a major employer, in particular of young workers. This financial support will enable them to overcome the shock to their business of COVID. The Partnership Framework recognises that KAL will not always be the most appropriate provider of services, however, we will encourage them to develop new and stronger partnerships within the health sector and more broadly across the council and in communities, so that collectively a number of organisations can work together to achieve mutually desired outcomes, with KAL playing the role as appropriate.

3.3 Place Based Working

KAL runs a number of facilities across the borough and we will encourage KAL to shape the offer in their sites to meet the needs of the various local communities. In particular, where noted health or other inequalities exist, we believe that there is an opportunity to work together to tackle these.

3.4 Climate Change and Air Quality

Longer term, the KAL Partnership Framework and consideration of how it can both support the active travel agenda and also work to tackle the health inequalities in the communities around the facilities, is intended to promote more local access, and through more sustainable means.

KAL have for a long time been committed to reducing energy costs and operating facilities as efficiently as possible and are committed to continuing to do so.

3.5 Improving outcomes for children and young people

KAL operates the bulk of the swimming pools in Kirklees, and manages the School Swimming programme, which allows schools to fulfil their responsibilities regarding ensuring children can swim. They also have a wide offer of other activities which are either aimed at, or open to children and families to support them in being active.

3.6 Other (e.g. Legal/Financial or Human Resources)

Updated KAL financial projections are included in the Private Appendices A and B attached, and are based on the current Government roadmap trajectory, which is subject to ongoing review.

The re-opening of KAL facilities and increased usage is heavily predicated on the Government recovery roadmap, relaxation of social distancing and user confidence and there will be a continued Council expectation of a flexible KAL workforce if circumstances warrant it, and the Council wishes to re-deploy staff in the interim. There is also an expectation that KAL will continue to review all available financing packages available going forward, with the industry continuing to lobby Government for an enhanced support package, and should additional funds become available to KAL through 2021/22, the quantum of actual Council funding underwrite will flex accordingly, with this being overseen by the Finance operational group.

Provision for the proposed continued irrecoverable losses underwrite will be through Council earmarked reserves as also set out in the Council 2020/21 financial outturn and rollover report which is a separate item on the same Cabinet agenda.

The provision of financial assistance is not considered to constitute unlawful subsidy under the UK Subsidy Control Rules which replaced State aid following the UK's withdrawal from the EU. The financial assistance is not considered to be "subsidy" as defined in the UK /EU Trade and Co-operation Agreement (TCA) as it is very unlikely to affect trade or investment between the parties. The legal powers for the council to underwrite /fund costs of Kirklees Active Leisure subject to acting reasonably in public law terms will be Section 19 (3) of the Local Government (Miscellaneous Provisions) Act 1976.

Do you need an Integrated Impact Assessment (IIA)?

No, as confirmed in Appendix H. The current proposals do not set out any operational changes for KAL. The KAL Partnership Framework seeks to identify ways in which groups who suffer health inequalities and inactive people can be supported to be more active and use physical activity as a means of reducing those inequalities or better managing their health conditions, and an Integrated Impact Assessment may be required as part of that work. It is also expected that KAL will continue to seek and adopt policies which impact positively on the environment, in particular about energy efficiency and the use of active travel where possible by staff and customers.

4 Consultees and their opinions

This proposed financial support package has been the subject of detailed discussions between KAL's Management Team and the Council's Service Director for Finance and also the Consultant in Public Health, who are both supportive of this approach. It also has the support of the wider Council Executive Team. The KAL Partnership Framework has been developed in collaboration with KAL's Senior Leadership Team. Elected Member input via an online questionnaire, the results of which are included in the appendices, has also been taken into account.

5. Next steps and timeline

If Cabinet approves the further financial support to KAL along with the KAL Partnership Framework then arrangements for the transfer of funds can be made at the appropriate time during 2021/22 to ensure that KAL are able to meet their financial obligations and retain the minimum level of reserves required as a charity, and for inclusion in the forthcoming review of the broader Council Medium Term Financial Strategy.

The KAL Partnership Framework will lead to an evolution over time in terms of the KAL offer, but they have already commenced with some work in this area, and progress will be continually monitored by the Partnership Performance group.

6. Officer recommendations and reasons

The following recommendations reflect the impact of the enforced lockdown and restrictions in England which have resulted in closure of, and operational restrictions to KAL facilities with the attendant loss of income. The funding underwrite allows the Council to support KAL through the recovery period from COVID 19 pandemic, ensure

it can pay staff, meet monthly expenses, and maintain premises under leases. This support is dependent on KAL having an increased focus on tackling inequalities and physical inactivity and using their position to help deliver on the Kirklees Outcomes, and the approach is set out in the KAL Partnership Framework.

Officers recommend that Cabinet resolve to :

- i) Note this report and Appendices A to I;
- ii) approve the Council commitment to underwrite irrecoverable KAL income loss as a direct consequence of COVID of up to £3.5m through 2021/22; from earmarked Council reserves;
- iii) approve the accompanying KAL Partnership Framework as part of the broader Inclusive ambition agenda and note the incorporation of the underwrite of up to £3.5M into the updated general reserves position as part of the Council's 2020/21 financial outturn and rollover report also presented on the same Cabinet session.
- iv) To note that as part of the forthcoming Medium Term Financial Strategy review, officers will review the KAL Partnership and Framework in line with emerging priority outcomes, including consideration of attendant resourcing implications that might emerge.

7. Cabinet portfolio holder(s) recommendations

The cabinet portfolio holders recommend that Cabinet:

- i) Note this report and Appendices A to I;
- ii) approve the Council commitment to underwrite irrecoverable KAL income loss as a direct consequence of COVID of up to £3.5m through 2021/22; from earmarked Council reserves;
- iii) approve the accompanying KAL Partnership Framework as part of the broader Inclusive ambition agenda and note the incorporation of the underwrite of up to £3.5M into the updated general reserves position as part of the Council's 2020/21 financial outturn and rollover report also presented on the same Cabinet session.
- iv) To note that as part of the forthcoming Medium Term Financial Strategy review, officers will review the KAL Partnership and Framework in line with emerging priority outcomes, including consideration of attendant resourcing implications that might emerge.

8. Contact Officer

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9. Background Papers and History of Decisions

Cabinet report 28 July 2020 – Kirklees Active Leisure COVID-19 funding support

10. Strategic Director responsible

Rachel Spencer-Henshall, Strategic Director - Corporate Strategy, Commissioning & Public Health

11. Attachments

Private Appendix A – Cashflow first 6 months

Private Appendix B – Cashflow 2021/22

Appendices C – G – Draft KAL Partnership Framework

Appendix H – KAL Partnership Framework Equality Impact Assessment Stage 1

Appendix I – Elected member consultation feedback