

Executive Committee
2021

13 July

Finance Report: Taking stock of the Council's financial position and the risks specifically presented by Rubicon at May 2021

Relevant Portfolio Holder	Councillor David Thain
Portfolio Holder Consulted	YES
Relevant Head of Service	Chris Forrester, Claire Felton
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Wards Affected	N/A
Ward Councillor(s) consulted	N/A
Relevant Strategic Purpose(s)	
Non-Key Decision	
If you have any questions about this report, please contact the report author in advance of the meeting.	
This report contains exempt information as defined in Paragraph 3 of Part I of Schedule 12A to the Local Government Act 1972, as amended	

1. RECOMMENDATIONS

The Executive Committee RESOLVE that:-

- 1) The financial context and risks set out in section 3 are noted;**
- 2) The decision taken by members of the Shareholders Committee (in line with the Council's Constitution) to approve a revised one-year Rubicon Business Plan is noted;**
- 3) The requirement to support the mitigating actions as set out in Section 7 is noted as is the work undertaken by officers to determine a longer term business plan focusing on financial sustainability and relevant and appropriate service delivery**

2. BACKGROUND

- 2.1 The impact of Covid-19 (and related business restrictions) on Rubicon Leisure, and the Council's budget, has been previously identified as an area of risk (by the Executive, the Council's Section 151 Officer, Monitoring Officer and broader Corporate Management Team).

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- 2.2 On 25th March 2021, a Joint Board of Rubicon Directors and Shareholders Committee Business Planning meeting was held. At this meeting the prospect of additional (Covid related) costs of over £1.2 million in 2021/22 were raised (over and above the originally contracted £0.6m cost).
- 2.3 In the context of the Council's fragile financial position (noting the still relatively recent statutory recommendation from the external auditors under section 24 of the Local Audit and Accountability Act 2014 in relation to the Council's financial position), and in the context of the above, a number of measures have therefore been put in place with the support of the Executive to manage and mitigate the financial risk posed by Covid-19 and Leisure.

REPORT PURPOSE

- 2.4 The purpose of this report is therefore to:
- i) Set out in broad terms the Council's financial position / financial context - in light of the approved 21/22 Budget and Medium-Term Financial Plan and Covid-19;
 - ii) Set out the financial risks associated specifically with Rubicon Leisure;
 - iii) Update the Executive on the steps taken and mitigating actions;
 - iv) Update the Executive on the decision taken by members of the Shareholders Committee (in line with the Council's Constitution) to approve a revised one-year Rubicon Business Plan and note the subsequent operational and service delivery changes required to achieve a balanced position in 2021/2022.
 - v) Update members on the progress to date in preparing the longer term business plan, and the on-going dialogue between officers and the Rubicon Board to enable this to be finalised and presented to the Shareholder Committee for approval in due course.

3. FINANCIAL IMPLICATIONS

Financial Context

- 3.1 The Council faces a challenging financial context having:
- i) recently received a statutory recommendation from its external auditors under section 24 of the Local Audit and Accountability Act 2014 in relation to its financial position;
 - ii) identified (but still needs to deliver) significant savings over the medium term;
 - iii) reserve balances (General and HRA) only marginally above minimum levels; and
 - iv) high levels of planning uncertainty with regards to the levels of available funding in coming years
- 3.2 It must also be noted that there remains a number of significant additional risks and uncertainties including:
- i) The Council's finances and operations have been significantly impacted by the Covid-19 outbreak. Further work is required as part of closing down the 20/21 Outturn position to clarify all the short term cashflow implications and the medium to long term impact of Covid-19 on our residents, our economy and (therefore) our cost base remain uncertain.
 - ii) There remains a lack of clarity and certainty with regard to the future of local government finance. The Government's 'Fairer Funding Review' has been delayed again until 2022/23 at the earliest and the Government only provided a one-year financial settlement for 2021/22. What the Council's available resources will be over the medium term, therefore remains uncertain.
- 3.3 **Based on the above, the Executive Director of Resources has therefore described the Council's current financial position as 'fragile' and further work is planned with members as part of the 2022/23 budget setting processes to strengthen the Council's financial position.**

Context: Rubicon Leisure

- 3.4 The contracted management charge (set pre Covid-19) is circa £660k for 2021/22. Dividing this management fee cost on the basis of the number of Band D properties in Redditch for 2021/22 (26,158), the base management charge of £660k represents a cost per year of £25.23 per band D property.
- 3.5 The total cost to the Council in 2020/21 is estimated to be £1.5m, which included £0.8m of additional funding provided to Rubicon from the general Covid grant funding received by the Council from central government. Netting this general Covid-19 funding off the 20/21 cost reconciles back to the agreed 20/21 management fee of £0.6m.
- 3.6 It should be noted that the cost to the Council in (the pre Covid-19) year 2019/20 were £1.1m which included an additional cost over and above the contracted management charge of £0.4m.
- 3.7 As a consequence of the impact of Covid-19 on Rubicon Leisure's ability to do business, a potential additional cost in 2021/22 of £1.258m was originally put forward in discussions with the Rubicon Managing Director (including at the Joint Board of Rubicon Directors and Shareholders Committee Business Planning meeting on 25th March).
- 3.8 Whilst this potential additional cost had been foreseen and therefore has been budgeted for in 21/22 – this budget provision does not represent a commitment to pay.
- 3.9 This additional cost (of circa £1.2m) is significant, and would represent an additional annual cost equivalent to £48.09 per band D property.
- 3.10 The total Rubicon Leisure cost (of circa £1.9m in 21//22) would represent a total annual cost equivalent to £73.32 per Band D property, which could be further broken down as follows:
- a. £31.30 pa for the Abbey Stadium (per Band D)
 - b. £6.93 pa for the Arrow Valley (per Band D)
 - c. £5.77 pa for the Community Centres (per Band D)
 - d. £7.23 pa for the Forge Mill (per Band D)
 - e. £19.08 pa for the Palace Theatre (per Band D)
 - f. £3.01 pa for the Pitcheroak Golf course (per Band D)
 - g. (Making £73.32 in Total per Band D)
- 3.11 **Based on the above, steps have therefore been taken (with the support of the Executive) to press Rubicon for a short term (one**

year) plan and savings options necessary to close the £1.2 m identified for 2021/22.

Rubicon: Short term (one year) plan and savings options necessary to close the £1.2 m identified for 2021/22

- 3.12 On 5th July, the Shareholders Committee received and approved an updated one year business plan for 21/22.
- 3.13 Within this plan the Rubicon Board identified savings of £615,483 (which will reduce the forecast £1.9m cost scenario for 21/22 highlighted above). The report to the Shareholders Committee is included in Appendix 1 for information.
- 3.14 In addition to this, Rubicon are reviewing operational structures in order to deliver additional savings. Further work is also proposed regarding the following:
- Review of Community Centres
 - Review Forge Mill
 - Explore Capital Investment Projects to increase income and reduce expenditure
- 3.15 These matters represent savings, and as such remain within the Council's approved budget and policy framework. The implications of these savings, should they be delivered, is that the Council's 21/22 budget could be reduced by some £615,483. At this stage however, it is not proposed that the budget is changed due to the need to first:
- a) gain assurances over coming months through budgetary control that this saving has been achieved in practice;
 - b) consider any one off (invest to save) costs; and
 - c) consider the wider impact on Council finances of both the impact of Covid-19 on service costs and of Covid general grants.
- 3.16 It should also be also noted that while the above savings represent a much improved position in this regard, further work is required to ensure that the Council's financial position is strengthened.

4. LEGAL IMPLICATIONS

- 4.1 Rubicon Leisure ("RL") entered into a Leisure Operating Contract (the "LOC") with the Council on 30 November 2018.
- 4.2 The terms of the LOC require RL to provide leisure services at specifically identified sites as defined in the LOC for a period of 30 years (subject to a Council break clause at year 10).
- 4.3 The Council recognises the significant impact that the COVID -19 pandemic (the "Outbreak") has had on the leisure industry and has worked with RL to reach a mutually acceptable agreement (the "COVID Agreement") in response to the Outbreak. The Agreement balances the need for operational local leisure facilities with the legal requirement of periods of forced closure and varies the LOC.
- 4.4 The Covid Agreement divides the Outbreak into distinct phases. These are detailed in Appendix 1 of the Agreement. Certain phases of the Outbreak were periods of enforced closure by the Government under *Health Protection (Coronavirus Restrictions) (England) Regulations 2020* (the **Restrictions**). Other phases of the Outbreak were periods in which leisure facilities were permitted but not required by the Government to open.
- 4.5 The Agreement recognises that the phases of forced closure (detailed at Appendix 1 of the Agreement) are Specific Changes in Law under the terms of the LOC.
- 4.6 This means that provided RL complies with its obligations to mitigate the effects of the Specific Change in Law the Council is required under the LOC to make payments to cover RL's operating costs during the periods of forced closure. These payments will not include any element of profit.
- 4.7 The Agreement also recognises that the periods of limited operation of leisure facilities during periods of reopening do not constitute a Specific Change in Law. Contractually therefore the Council is not required to make payments to RL but acknowledges RL's need for support during these challenging circumstances.
- 4.8 The Agreement therefore states that the Council will make payments to RL to cover any operating losses sustained by RL during these periods of limited operation provided that RL take all steps to mitigate their losses, and allow the Council full open book access to its accounts.

5. STRATEGIC PURPOSES - IMPLICATIONS

Living independent, active and healthy lives

- 5.1 The Council's partnership with Rubicon Leisure is part of its commitment to support activities for healthy lifestyles in the borough.

Climate Change Implications

- 5.2 None identified.

6. OTHER IMPLICATIONS

Equalities and Diversity Implications

- 6.1 None identified.

Operational Implications

- 6.2 The Council provides (under agreement) a number of services to Rubicon Leisure under individual service level agreements. These include but are not limited to Finance, Legal and HR.

7. RISK MANAGEMENT

- 7.1 The financial risk is that the Council's financial position becomes unsustainable – either through failure to respond to the S24 notice, failure to deliver savings, inadequate reserve balances and / or changes to funding levels in future years.

- 7.2 The mitigations to this risk can be summarised as follows:

- i) a short term (one year) plan and savings options necessary to close the £1.2 m identified for 2021/22.
- ii) medium term (3 year) plan including service changes and business case for any investment requirements
- iii) Plans for growth, efficiencies and / or service reductions on a site by site basis (over the short and medium term).

- 7.3 Detailed discussions with the Managing Director of Rubicon Leisure and the Rubicon Board, together with a joint business planning session with the Councils Shareholder Committee outlining the Councils requirements in the short medium and longer term taking account of the covid context culminating in a formal letter to the Rubicon Board (from

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the Council's S151 Officer and Monitoring Officer) following the Joint Board on 25 March 2021.

- 7.4 Further work to be undertaken more broadly (led by the Executive Director for Resources and the Head of Financial and Customer Services) to take stock of the Council's financial position and to identify and implement plans to improve the sustainability of the Council's finances, including plans to:
- i) increase general fund reserve balances;
 - ii) improve the robustness of financial management across the council;
 - iii) identify and deliver savings;
 - iv) plan and prioritise resources effectively.
- 7.5 Further work to be undertaken to revisit, reconsider and potentially revise the Leisure Operating Contract following the Covid pandemic, to reflect both the impact of Covid-19 and the Council's financial position.
- 7.6 Report back to the Executive progress against actions a) to d).

8. APPENDICES and BACKGROUND PAPERS

Background papers:

Rubicon Business Plan, Shareholders Meeting Report dated 5 July 2021 (This report contains exempt information as defined in Paragraphs 3 and 4 of Part I of Schedule 12A to the Local Government Act 1972, as amended)

9. REPORT SIGN OFF

Department	Name and Job Title	Date
Portfolio Holder	Councillor David Thain	
Lead Director / Head of Service	James Howse, S151	
Financial Services	Chris Forrester, Head of Services	

REDDITCH BOROUGH COUNCIL

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Legal Services	Claire Felton, Monitoring Officer	
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