

REPORT TO:		Cabinet	
DATE:		18 March 2021	
PORTFOLIO:		Cllr Munsif Dad BEM, JP - Education, Leisure and Arts	
REPORT AUTHOR:		Ben Caulfield, Scrutiny and Policy Officer	
TITLE OF REPORT:		National Recovery Leisure Fund (NRLF) Award	
EXEMPT REPORT (Local Government Act 1972, Schedule 12A)	Options	Not applicable	
KEY DECISION:	No	If yes, date of publication:	

1. Purpose of Report

- 1.1 To inform Cabinet of the successful application to the National Recovery Leisure Fund (NRLF) for £172,527 to support the reopening of Leisure Facilities, and seek authority to enter into legal agreements with Sport England and Hyndburn Leisure.

2. Recommendations

- 2.1 That Cabinet delegates authority to the Deputy Chief Executive to enter into a legal agreement with Sport England for the NRLF award of £172,527.
- 2.2 That the amount of £170,985 be passed on to Hyndburn Leisure as the Operator of Hyndburn and Mercer Hall Leisure Centres.
- 2.3 That the Deputy Chief Executive is delegated authority to enter into an agreement with Hyndburn Leisure which passes on the obligations of the agreement between the Council and Sport England to Hyndburn Leisure.
- 2.4 That Cabinet notes that the clauses in the agreement with Sport England are non-negotiable. Whilst the agreement contains particular clauses that the Council may have wished to avoid had the agreement been negotiable (as set out in clause 3.10 below), the rewards of the £172,527 funding outweigh the risks of entering into the agreement.
- 2.5 That officers be authorised to waive contract procedure rules in order to commission a provider nominated by Sport England to carry out monitoring and evaluation at a cost

of £1542. This is a condition of the award from Sport England and is included in the grant amount.

3. Reasons for Recommendations and Background

- 3.1 Like many sectors, the leisure industry has been hit hard by the Covid-19 Pandemic. Hyndburn Leisure typically generates around £2m income each year and has a similar level of expenses. COVID 19 has forced it to significantly curtail its income generating activities and close many of its facilities for long periods during 2020/21. It is expected that its revenue generation will not return to normal levels immediately in 2021/22, as the pandemic will continue to limit attendance at its sport centres and other sites. While the Trust has taken very positive steps to reduce its costs during the pandemic and generate new income from other sources it expects to end the 2020/21 financial year with a significant overspend for the current financial year of somewhere between £650,000 and £900,000 due to COVID 19. A return to some level of normal activity at some point in 2021/22 will allow the Trust to perform much better in 2021/22 than in 2020/21, but it would still be expected that they will trade with some financial loss in this year. This level of financial loss would place Hyndburn Leisure in a grave financial position and its future would be in jeopardy.
- 3.3 The National Leisure Recovery Fund (NRLF) seeks to support eligible public sector leisure centres to reopen to the public, giving the sport and physical activity sector the best chance of recovery to a position of sustainable operation over the medium term. Sport England have worked with the Department for Digital, Culture, Media and Sport (DCMS) to set the fund criteria and will act as the accountable body for its administration and monitoring - on behalf of DCMS.
- 3.4 A total of £100 million is available as a biddable fund to eligible local authorities in England, which will be allocated in a single funding round.
- 3.5 As an eligible local authority, the Council successfully bid for £160,000 (The maximum available to us) to support the reopening of Hyndburn and Mercer Hall Leisure Centres after enforced closures due to Covid-19 restrictions. An additional amount of £1,542 has been awarded for monitoring and evaluation, which under the terms of the agreement must be paid out to the organisation who Sport England have chosen to carry out the monitoring and evaluation work.
- 3.6 Subsequently, Sport England granted an additional award to all successful Local Authorities. The additional award was proportionate to the amount already granted, which amounts to an additional £10,985 for Hyndburn. Therefore the total amount of grant awarded is £172,527. The additional £10,985 is by way of a variation to the main agreement.
- 3.6 Sport England have confirmed that 30% of the grant can be used to cover losses suffered in the enforced closure period of January – April 2021 at Hyndburn and Mercer Hall Leisure Centres. The remainder of the grant is to support the costs associated with the reopening of these facilities, and are outlined in the agreement.

The following expenses from the Operator (Hyndburn Leisure) are covered under the agreement:

- Staffing
- Utilities
- Repairs and maintenance
- Equipment
- Management costs
- Cost of sales
- Other expenditure

3.7 It should be noted that this grant will by no means cover the expected losses incurred by Hyndburn Leisure due to impacts of COVID-19 in full, but are a welcome contribution.

3.8 In addition, the grant may only be used at the facilities (Hyndburn and Mercer Hall Leisure Centres) outlined in the agreement, and cannot be used to support losses at other buildings operated by Hyndburn Leisure.

3.9 Sport England have indicated that due to the need to award funding as quickly as possible, the agreement is non-negotiable. The Council has 14 days from the date the agreement is sent to sign and return it in order to secure the funding. Whilst the agreement contains particular clauses that the Council may have wished to avoid had the agreement been negotiable, the rewards of the £172,527 funding outweigh the risks of entering into the agreement. It should also be noted that any of the risks in the obligations of the agreement will end after a maximum of two years.

3.10 These risks are summarised below:

- The agreement contains onerous requirements to report monitoring and evaluation data. As the Council does not have access to Hyndburn Leisure's systems and data, these conditions will be passed directly to Hyndburn Leisure. However the Council is directly obligated under the terms of its agreement with Sport England to provide this extensive and detailed statistical information to Sport England notwithstanding the separate agreement with Hyndburn Leisure and is entirely reliant on Hyndburn Leisure in this respect.
- The agreement contains extensive clauses relating to the operation of the facilities. Again, these will be passed to Hyndburn Leisure as the operator of the buildings. However the Council is directly obligated under the terms of its agreement with Sport England to provide this detail notwithstanding the separate agreement which will be entered into with Hyndburn Leisure and is entirely reliant on Hyndburn Leisure in this respect.
- During the term of the agreement, the Council may not sell, transfer, assign, grant or dispose of any freehold or leasehold interest in all or any part of the Facilities without Sport England's prior approval in writing. It is likely that alterations to the lease agreements at these buildings (for example in respect of the ongoing decarbonisation programme) may require the written consent of Sport

England and this may potentially cause delays in respect of future works and initiatives relating to these buildings.

- The agreement requires the Council to have an appropriate Equality Policy, Safeguarding Policy and Procedure and Conflict of Interest Policy in place. These are covered under existing Council policies. As the operator and ultimate grant recipient, Hyndburn Leisure will also be required to have such policies in place and be required to provide copies of them to the Council and Sport England on request.
- The Grant does not represent consideration for a taxable supply to Sport England and is therefore not subject to Value Added Tax (“VAT”). If HM Revenue and Customs rules that VAT is payable, then the amount of the Grant payable by Sport England will be deemed to be inclusive of VAT. The Applicant acknowledges that Sport England will not be obliged to make any further payment in addition to the Grant in respect of any VAT. Officers should clarify the VAT situation before any payments are made to Hyndburn Leisure.
- The agreement is subject to several clawback clauses, whereby the Council would be liable to payback up to the full amount of the grant to Sport England. These clawback provisions will be included in the Council’s agreement with Hyndburn Leisure but this does not obviate the Council’s contractual responsibility to Sport England

3.11 Prior to entering into the agreement with Sport England, the Council will enter into an agreement with Hyndburn Leisure which replicates the conditions of the award imposed on the Council. However, the Council does remain directly liable to Sport England under the terms of the Agreement between them notwithstanding the fact that the Agreement with Hyndburn Leisure does impose similar requirements on Hyndburn Leisure.

4. Alternative Options considered and Reasons for Rejection

4.1 Not accepting the grant award – this is rejected as Hyndburn Leisure have suffered significant financial losses in 2020/21 and are forecasting further losses in 2021/22 due to the impact of the COVID-19 pandemic which included several enforced closures of all leisure services.

5. Consultations

5.1 None

6. Implications

Financial implications (including any future financial commitments for the Council)	The Council will be awarded £172,527 in total, the majority of which (£170,985) will be passed over to Hyndburn Leisure, with the remaining amount spent on monitoring and evaluation which is a condition of the award. There are no future financial commitments for the Council as a result of the report.
Legal and human rights implications	The decision requires that the Council enter into separate legal agreements with Sport England and Hyndburn Leisure. Legal Services have advised on the risks associated with the agreement with Sport England as summarised in 3.10 and 3.11 and have produced the agreement between the Council and Hyndburn Leisure.
Assessment of risk	The legal risks have been assessed and it is determined that the benefits of the grant award outweigh the risks.
Equality and diversity implications <i>A Customer First Analysis should be completed in relation to policy decisions and should be attached as an appendix to the report.</i>	Attached.

**7. Local Government (Access to Information) Act 1985:
List of Background Papers**

- 7.1 *Copies of documents included in this list must be open to inspection and, in the case of reports to Cabinet, must be published on the website.*

If the report is public, insert the following paragraph. If the report is exempt, contact Member Services for advice.

8. Freedom of Information

- 8.1 The report does not contain exempt information under the Local Government Act 1972, Schedule 12A and all information can be disclosed under the Freedom of Information Act 2000.