

To	Cabinet Member for Finance, Innovation and Property
From:	Chief Financial Services Officer
Director:	Finance and Transformation

BRIEFING NOTE: EXECUTIVE - NON-KEY DECISION

TONBRIDGE AND MALLING LEISURE TRUST – UTILITY COST SHARING AGREEMENT

Summary of Issue: Under the management agreement with Tonbridge and Malling Leisure Trust (TMLT) there is a utility cost sharing arrangement that is triggered dependent on certain circumstances including trading performance. Not surprisingly, that arrangement will be triggered in 2022/23. The claim (sum to be paid) under the agreement is ordinarily to be paid following the end of the financial year. However, the scale of the increase in energy costs will place TMLT’s in-year cashflow position under severe strain. As a result it is proposed on account payments be made in 2022/23.

Recommendation: that two on account payments in respect of the utility cost sharing arrangement be made in recognition of the significant impact of increased energy costs on TMLT’s in-year cashflow position. One in September and the other in December; and a final payment following the end of the financial year. The scale of the on account payments to be agreed by the Director of Finance and Transformation in liaison with TMLT when a clearer picture begins to emerge as to TMLT’s in-year cashflow position.

1 Background

Under the management agreement with (TMLT) there is a utility cost sharing arrangement that is triggered dependent on certain circumstances including trading performance. On those occasions where the utility cost sharing arrangement is triggered the Council is contractually obliged to meet a share of the energy costs incurred in the relevant year.

2 Main Issues

Ordinarily you might not expect the utility cost sharing arrangement to be triggered, but has, not surprisingly, in the current circumstances.

The actual sum to be paid under the arrangement for the year 2022/23 will not be known until after the end of the financial year, but taking into account the surcharge to be introduced by the Trust for swimming and the on account

payment made in 2021/22 the claim (sum to be paid) is currently projected to be in the order of £700,000 to be funded from the Budget Stabilisation reserve. What happens beyond 2022/23 dependent on where energy prices are at the time and trading performance.

Under the agreement the claim is ordinarily to be paid following the end of the financial year. The scale of the increase in energy costs, however, is such that TMLT's in-year cashflow position will be under significant pressure. As a result it is proposed two on account payments be made in 2022/23, one in September and the other in December; and a final payment following the end of the financial year.

The scale of the on account payments to be agreed by the Director of Finance and Transformation in liaison with TMLT when a clearer picture begins to emerge as to TMLT's in-year cashflow position.

3 Legal Advice

The matters set out in this briefing note are considered routine or uncontroversial and a legal opinion has not been sought.

4 Financial and Value for Money implications

There will be a small adverse impact in respect of the interest that would otherwise have been earned from the on account payments.

5 Risk Assessment

The Council is contractually obliged to meet the claim under the utility cost sharing arrangement.

Not to make on-account payments could place the TMLT's in-year cashflow position under severe strain.

6 Public Sector Equality Duty

The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

7 Consideration by Overview and Scrutiny

We do not consider that this matter needs to be considered by O&S/ SSC before a decision is made.

8 Communications

Any press/ public/ local member interest or involvement – not applicable.

9 Conclusion

On account payments in respect of the utility cost sharing arrangement be made by exception in recognition of the significant impact of increased energy prices on TMLT's in-year cashflow position.

10 Annexes

None.