

COUNCIL

Minutes of the meeting held on 4 April 2023 commencing at 7.00 pm

Present: Cllr. Hunter (Chairman)

Cllr. Layland (Vice Chairman)

Cllrs. Abraham, Andrews, Ball, Bayley, Bonin, Bulford, Dr. Canet, Cheeseman, Clack, Clayton, Perry Cole, Collins, G. Darrington, P. Darrington, Dickins, Edwards-Winsor, Esler, Eyre, Fleming, Fothergill, Griffiths, Grint, Harrison, Hogarth, Hudson, Kitchener, Layland, Maskell, McArthur, Nelson, Pender, Purves, Raikes, Reay, Roy, Streatfeild, Thornton, Waterton, Williams and Williamson

Apologies for absence were received from Cllrs. Barnes, Barnett, Brown, Penny Cole, Dyball, London, McGarvey, McGregor, Morris and Pett

Cllrs. Penny Cole, Dyball, McGarvey, and McGregor were present via a virtual media platform which did not constitute attendance as defined by the Local Government Act 1972.

50. To receive any declarations of interest not included in the register of interest from Members in respect of items of business included on the agenda for this meeting.

There were none.

51. Matters also considered by the Cabinet

- a) Response to Sencio Community Leisure Insolvency Position – Sevenoaks District Council Leisure Sites

Councillor Fleming moved and Councillor Dickins seconded the report which sought agreement for a budget of up to £1.83 million for expenditure associated with supporting the oversight, maintenance and safety of Council owned leisure facilities, whilst negotiations with the Insolvency Practitioner were finalised, for an interim operator to oversee the leisure facilities. It also sought for the establishment of an internal investigation by Internal Audit.

Councillor Fleming spoke to the motion giving a recent history of the events. Sencio had been responsible for the operator contract of the leisure centres and golf course for 20 years and had been in regular talks with the Council since 2020 regarding its business planning and recovery, resulting from the pandemic. In 2020, Councillors

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had expressed concerns regarding Sencio's business recovery plan. As a result, a review of their business and recovery plans was undertaken by leisure consultants, Max Associates and looked into how to take it onto a strong financial footing. Max Associates had expressed concerns that even pre-covid there was a budget shortfall, with liabilities in the region of £2m. The Council had not been told of this by Sencio before publication of the report. At the Cabinet meeting on 8 July 2021, it was agreed to look to appoint an alternative contractor should Sencio hand back the contract, and that no additional funding at the time would be given to Sencio due to the significant risk to tax payers. In October 2022, Sencio's management team told the Council it had a trading surplus. Council's representatives on the Board were asking for cash flow and statement of accounts as there were concerns over staff wages in December 2022.

In January 2023, Sencio's Chief Executive had attended the Council's Scrutiny Committee meeting and had confirmed that it had turned a corner. The Council's Scrutiny Committee invited Sencio to attend its March meeting with their audited accounts. Before attending the meeting, Sencio had informed the Board of Trustees that they were appointing an Insolvency Practitioner as they were unable to meet their financial commitments for March 2023. Since then, the Council had been working closely with Sencio's Insolvency Practitioner and the Chairman of the Board to achieve an early surrender of the lease, so that the centres could be re-opened as quickly as possible

In regards to Sencio's staff, the Council was organising an information session providing support from the Council's Benefits, HR and Housing Teams as well as the voluntary sector. The event was taking place on 6 April 2023 at the Council, alongside the regular housing and community hub, which would be taking place on 11 April.

He expressed his thanks to the Officers who had been working tirelessly over the past few weeks and to the Board representatives who had been putting pressure on Sencio's Management Team and Board to look at the accounts and centre provisions.

Councillor Streatfeild moved an amendment to the motion which was duly seconded to add that "it should be declared, in principle that, Sencio staff wages should be paid in full by the Council, to be funded by earmarked reserves, after insolvency and insurance procedures if they remain unpaid, it is declared in principle that Residents' Sencio memberships should be honoured in full by a future provider, and agree in principle subject to insolvency procedures that creditors that are SMEs in Sevenoaks District should receive monies owed as a priority."

Councillor Streatfield spoke to the amendment stating his gratefulness for an internal investigation to take place, but residents, employees and local businesses needed more than what was given in the original motion. The Council had always stated that public services would always be protected and run efficiently but one of the most important public services in Sevenoaks and Edenbridge had now closed. He further stated that a sum of money must be made available to open the leisure centres as quickly as possible due to the health crisis brought on by the pandemic and these

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facilities were most important to the vulnerable in the community, and needed protecting. He believed that the amendments prioritised those who should not be left out of pocket, and learn lessons from the experience.

Members debated the amendment and concerns were expressed at the additional expense this could have on the Council's finances, noting that there was a government scheme that would cover unpaid staff wages, as well as other entitlements. The leisure operator, Everyone Active, already operating in the district had provided their facilities to those who were users of Sencio, so that those who had been left without the gym had an ability to still use facilities. Other Members expressed the importance of getting the facilities open for residents. In order to get the centres open, staff would be required and this could be a way to show they would not lose from the process.

In his reply Councillor Streatfeild stated that the amendment sought to reassure staff business and customers for the future. Exact costs were unknown but to provide reassurance and to look after SMEs of the smaller providers in the District for their interests.

The motion was put to the vote and it was lost.

Debate continued on the original motion.

It was acknowledged that the Council was in a fortunate position to have reserves and the ability in place to fund an interim provider, and support for an internal investigation to enable lessons to be learnt going forward. There were also concerns for repayment of loans and securing the outstanding payments to be made back to the Council. Some Members expressed concern as to how the Council would have influence over the interim provider, total figures and timeframes.

In his reply to the debate, Councillor Fleming stated that Sencio's loan repayments to the Council were up to date and therefore, no triggers to forfeit the lease had been set. It was highlighted that Sencio were a separate company to the Council. Sencio operates with its own board of trustees and management team responsible for its business and financial planning, alongside the day-to-day running of these leisure facilities.

At the January meeting of the Scrutiny Committee, Sencio's Chief Executive advised Members that Sencio had turned a positive corner. She confirmed she would need to seek the Board's permission to present the company's accounts to the Committee. Had the Council been a part of Sencio then permission would not have been needed. The Council's Board representatives had been working under difficult circumstances but were required to act under the rules of the Board. They had however, been able to question and brought additional information to the rest of the Board who were not aware that in January the payment of staff wages had been split into two.

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He further responded that under the terms of the interim contract the Council would have significant influence over the asset maintenance and plant investment, similarly to White Oak Leisure Centre. Under an open book arrangement, both the profit and loss will reside with Council. In terms of oversight, the open book arrangement is reviewed and adjusted monthly by the Council, partnership meetings are held between the Council and the operator on a weekly basis in the first 3 months and then monthly thereafter. Any expenditure over £5,000 had to be approved. It would also be required that any changes to programmes had to be presented to the Portfolio Holder for feedback and approval.

Due to the accelerated procurement exercise, the Council was not in a position to appoint three different operators to manage the sites. However the longer term procurement exercise, over the next two years, would explore more options. The Leader stated that he believed that the right decision had been taken in 2021 to look for alternative operators, especially after the hesitation with Sencio's recovery plan and the finances at the time. Once the keys were returned then the Council would be able to start reopening the Leisure and golf facilities. Officers had been provided with reports on the current state of the buildings and details requiring attention to get the centres back into operation. He advised that not long before the Council meeting that evening, once again pressure by the Members had been put on the Board to return the keys.

The motion was put the vote and it was

Resolved: That

- a) the events and progress to date outlined within the report, be noted;

- b) a budget be approved, as set out in Appendix A of up to £1.83 million for
 - i) the expenditure associated with supporting the oversight, maintenance and safety of Council owned leisure facilities, whilst negotiations with the Insolvency Practitioner were finalised;

 - ii) an interim leisure operator to oversee the Council's leisure facilities for a period of two years (or until the procurement of a new operator is completed).

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- iii) the Chief Officer, People & Places and Chief Officer, Finance & Trading, be delegated authority to investigate an interim leisure operator and enter into a contact subject to consultation with the Portfolio Holder for People & Places and Portfolio Holder for Finance & Investment.

- c) the funding be borrowed from earmarked reserves in the short-term and would need to be repaid. A solution to repay the reserves would need to be agreed before the conclusion of the 2024/25 budget setting process.

- d) an investigation by its Internal Auditors, be agreed, as to establish
 - i) why Sencio had gone into administration/insolvency,
 - ii) who was responsible, and
 - iii) report lessons to the Council to inform the Council's contractual relationship and governance with a future long term provider.

THE MEETING WAS CONCLUDED AT 7.57 PM

CHAIRMAN