

Report To:	EXECUTIVE CABINET
Date:	22 March 2017
Executive Officer:	<p>Member/Reporting Officer: Councillor Gerald P. Cooney – Executive Member (Healthy and Working)</p> <p>Angela Hardman, Executive Director of Public Health, Performance and Business Intelligence</p>
Subject:	ACTIVE TAMESIDE - ENABLING, STRENGTHENING AND SUSTAINING FUTURE GROWTH AND DEVELOPMENT.
Report Summary:	The report identifies the key issues that require consideration to support Active Tameside to continue to move forward as the preferred provider and delivery vehicle for sport and leisure in Tameside, playing an active role in system wide approaches to improve health and wellbeing outcomes, enabling progress towards tackling health inequalities and achieving long term sustainable improvements in life expectancy.
Recommendations:	<p>In the context of the considerations contained within this report, it is recommended that the Executive Cabinet approve the measures necessary to:</p> <ol style="list-style-type: none"> 1. Advance the total management fee to Active Tameside for 2017/2018 on 1 April 2017 to support the cash flow of the organisation (£ 1.433 million); 2. Provide a supplementary one off no repayable £0.311 million management fee to Active Tameside during 2016/2017 (£0.141million) and 2017/2018 (£0.170million) respectively to mitigate reduced actual (2016/2017) and projected (2017/2018) levels of revenue income as detailed in sections 3.5 and 3.6 of the report subject to due diligence and the delegated approval of the First Deputy (Finance & Performance); 3. Note the revised procurement framework and the Council's ambitions to ensure the long term financially sustainable community asset based provision of wellbeing facilities and services, review the current commissioning arrangements and the most appropriate timing for recommissioning including the most advantageous property arrangements.
Links to Community Strategy:	Healthy Tameside
Policy Implications:	N/A
Financial Implications: (Authorised by the Section 151 Officer)	Whilst the advance of the total 2017/2018 management fee to Active Tameside on 1 April 2017 will support the cashflow of the organisation, it should be noted that the Council will be exposed to a loss of investment interest during the financial year on the sum payable. It is noted that the supplementary £0.311 million as detailed within recommendation 2 is non repayable to the Council. Clearly it would be advisable to only approve such payment conditional to subsequent repayment in future years once Active Tameside is in an improved sustainable financial

position. Cabinet Members should also note that this supplementary payment is not included within the recently approved 2017/2018 Council budget.

There is an inherent risk that also needs to be recognised with the additional funding requested such that the existing further management fee reductions to 2023/2024 (approved by the Executive Cabinet on 24 March 2016) are also susceptible to non delivery to the level expected due to the volatility of the associated market forces and / or delays to the capital investment in the estate infrastructure.

The Council has provided borrowing to Active Tameside for various capital projects over a number of years. The borrowing is wholly repayable to the Council. There is an outstanding sum of c £7 million due to be repaid by 2024/2025. There is a request from Active Tameside to potentially extend the repayment term of the existing borrowing, the rationale being to support annual cashflow. The associated borrowing and interest implications will require further evaluation should the Council be agreeable to such a request. However, indicative estimates suggest that the cashflow of Active Tameside will improve by approximately £0.128million per annum (including the proposed borrowing of £1.050 million (excluding interest) relating to the construction of the new Denton facility).

Executive Cabinet Members should be satisfied that Active Tameside can demonstrate that the organisation will be in a significantly improved financial sustainable position in the longer term to wholly repay the debt beyond the current repayment date of 2024/2015 should an extension to the repayment period on the outstanding (and new Denton facility) borrowing be approved.

Legal Implications:
(Authorised by the Borough Solicitor)

The current arrangements with Tameside Sports Trust (Active Tameside) amounts to a concession contract and are therefore caught by the Concession Contracts Regulations 2016 which came into force on 18 April 2016. Under Regulation 43 of the Regulations a contracting authority has limited discretion to modify a concession contract during its term. The circumstances as described within this report do not fall within any of the provisions within Regulation 43, therefore the legal advice is as the report stands the Council cannot lawfully extend the contract without breaching the 2016 Regulations. In considering the additional payments that the Trust is seeking, Members need to be satisfied that there is an overriding benefit – this could be avoiding the risks set out in the fund and securing the repayment of the loans outstanding to the Council.

Access to Information:

The background papers relating to this report can be inspected by contacting Debbie Watson, Head of Health and Wellbeing



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1. INTRODUCTION

- 1.1 The report identifies the key issues that require consideration to enable Active Tameside to continue to move forward as the preferred provider and delivery vehicle for sport and leisure in Tameside, playing an active role in system wide approaches to improve health and wellbeing outcomes, enabling progress towards tackling health inequalities and achieving long term sustainable improvements in life expectancy.
- 1.2 To enable this to continue and develop further the longer term sustainability of the Trust, Executive Cabinet are asked to consider proposals provide a supplementary management fee of £ 0.311 million during 2016/2017 and 2017/2018, which Members should note would not be repayable in future years. This will support the existing business case agreed in the Executive Cabinet report of March 2016.
- 1.3 The report provides a summary overview of Active Tameside's journey and achievements over recent years, and highlights the long standing financial challenges that have served to limit the Trust's ability to build and achieve the financial resilience necessary to reduce or eliminate the risks associated with the future trading of the leisure facility estate.
- 1.4 In reviewing progress against the original Cabinet decision in March 2016, it is clear that Active Tameside is currently facing significant financial and operational risks. This report looks to identify the current risks with some proposals which aim to mitigate against these and outlines the rationale and deliverables required to progress the proposition.

2.0 BACKGROUND

- 2.1 Active Tameside is responding well to the challenges of public service reform and is a leading Greater Manchester and Tameside organisation in a rapidly transforming sector. Active Tameside offers the Council a unique relationship involving agility, diversity and co-production, with place based working deeply rooted in neighbourhoods to enable the delivery of outstanding health and social outcomes.
- 2.2 The relationship between the Council and Active Tameside has developed considerably during an exceptionally challenging period for public services as a result of close collaborative working the partnership has enabled the delivery of efficiency savings and service improvements. In March 2016 this led to the approval of a business case by the Council's Executive Cabinet to agree a joint Council and Active Tameside capital investment scheme to modernise and reconfigure the Council's leisure facility estate.
- 2.3 Active Tameside is a leading Greater Manchester and Tameside organisation in a rapidly transforming sector. Active Tameside has led the formation in 2016 of the Association of Greater Manchester Leisure Trusts (GM Active). GM Active is made up all 13 GM leisure and cultural trusts and it is pursuing collaborative opportunities to contribute to the Population Health Plan. GM Active is a major stakeholder in the GM public services system with a combined expenditure budget in excess of £ 100 million. Notwithstanding, Active Tameside continues to offer the Council a unique relationship involving agility, diversity and co-production, with place based working deeply rooted in neighbourhoods to enable the delivery of outstanding health and social outcomes.
- 2.4 Active Tameside has recently produced an innovative new strategy (*Inspiring People to Live Well and Feel Great*). This strategy is the blueprint that will drive a new set of deliverables agreed with Active Tameside that, aligned with the Care Together programme and Commissioning for Reform Strategy, will contribute to health and wellbeing, enable progress towards tackling health inequalities and achieve long term sustainable improvements to life expectancy for Tameside residents.

- 2.5 Since the inception of their new Executive Leadership Team and Board of Directors in 2010/2011, Active Tameside has delivered improvements to performance and efficiency whilst simultaneously transforming and diversifying services. Active Tameside's journey has involved the recovery of a significant financial operating deficit (circa £1.2 million 2010/2011) whilst reducing the revenue contribution (management fee) paid by the Council by £ 0.780 million (up to and including 2017/2018). Since 2010/2011 Active Tameside has increased turnover by circa £ 3 million and simultaneously reduced the management fee from 26% of turnover to 14% (2016/2017), with a further expected reduction to 11% (2017/2018).
- 2.6 Specific examples of brand and service diversification and development by Active Tameside include Live Well, Sky High Adventure, Total Adrenaline, iPlay Zone and the new iTrain 24/7 value gym which will increase overall gym memberships from 3,500 (2010/2011) to 10,000 (2017/2018). From four core services in 2010/2011 namely swimming, gym exercise, gymnastics and facility management, Active Tameside has developed 14 new discrete services, many under Active Tameside's Live Well brand focusing on health and wellbeing. The majority of Active Tameside's services are full to capacity and some function above capacity and are targeted for further growth and development with inward investment. It is very clear that Active Tameside is delivering upon the Council's mandate to grow, diversify and deliver more services to benefit more people, whilst simultaneously reducing expenditure to the tax payer.
- 2.7 Active Tameside is striving to source inward investment in a fiercely competitive market place for commissioned services and grants. Currently commissioned services and grants outside of Active Tameside's core management fee account for over £ 1 million of Active Tameside's turnover. Active Tameside is a lead Tameside agency bringing stakeholders together under the Active Alliance, as well as across GM via GM Active to collaborate and bid for resources as consortia. Active Tameside have recently completed bids to Sport England under their new inactivity fund investment programme and Active Tameside are working closely with New Charter to secure £ 0.250 million from the New Charter neighbourhood's fund and further investment under the Care Together commissioning arrangements. This investment will significantly increase the scale and reach of interventions to support older adults, including those with long term and limiting conditions, and activities for young people, including interventions targeting anti-social behaviour. This is demonstrative of both Active Tameside's and New Charter's commitment to social objectives and their strong developing functional relationship.

3.0 IMMEDIATE FINANCIAL RISKS

- 3.1 The original proposal within the Cabinet Decision of 24 March 2016 was that the management fee provided for the operation of the leisure facility estate and the liabilities associated with the maintenance of the estate would reduce (initially c.30% of turnover (2010/2011) currently c.15% (2016/2017) and targeted to become less than c.5% of turnover by 2024).
- 3.2 The management fee reduction was based upon new and refurbished facilities opening and generating income within defined timelines, plus Active Tameside having the opportunity to becoming recipients of substantial revenue investment to deliver new commissioned services (initially generating £ 0.050 million surplus (2016/2017) growing to £ 0.250 million surplus by 2021/2022).
- 3.3 Whilst the first two capital schemes (Total Adrenaline – Mottram and ITrain - Dukinfield) are complete, delivered on budget and performing well, completion was delayed slightly and there are further projected delays involving the extension to Hyde Leisure Pool, all resulting in lost non-recoverable income for Active Tameside. The anticipated opportunities for new commissioned work attracting inward investment, under the emerging Care Together commissioning arrangements, have been affected due to the delay of the Greater

Manchester Health and Social Care Partnership Transformation Fund. Impact of the delays to capital schemes and the lack of inward investment now see a shortfall of £ 0.141 million in 2016/2017 and £ 0.170 million projected in 2017/2018.

- 3.4 Therefore there is an urgent request from Active Tameside for additional £ 0.141 m revenue funding by 31 March 2017 to ensure Active Tameside delivers a balance position in the current financial year. The request is in response to reductions in revenue projected to be realised within the Executive Cabinet Decision of 24 March 2016. It should be noted however that Active Tameside are proposing that this sum is not subsequently recovered in future years.
- 3.5 Details of the 2016/2017 variation are provided in Table 1:

Table 1

Detail	Variation £ million	Comment
Active Longdendale	0.020	The new play centre (Total Adrenaline) opened to the public on 19 November 2016. The project was delayed by two months as the refurbishment took longer than originally envisaged.
Active Dukinfield	0.071	Active Dukinfield was due to open in September 2016 but actually opened on 26 January 2017. The delay was caused by design changes due to the effects of building regulations following the addition of a members lounge area. Active Tameside implemented a programme of pre-sale memberships to mitigate any losses from the delayed opening
Inward Investment	0.050	The award of Greater Manchester Transformation funding to the Tameside and Glossop locality was not formally approved until December 2016 which delayed the opportunity for Active Tameside to bid against this specified investment source during 2016/2017. The ICFT will invite bids against c. £ 2.5 million of the £ 23.2 million Greater Manchester Transformation funding awarded which will relate to Social Prescribing commissioned services. Bids will be requested during March/April 2017. Funding allocations will then be awarded during May 2017. AT will be able to submit an associated bid (s) once service specifications have been confirmed (expected during March 2017). It should therefore be noted that this projected shortfall may be recoverable in 2017/2018 dependant on the success of any associated bids submitted.
Total	0.141	

- 3.6 There is then a further request for an additional £ 0.170 million revenue funding during 2017/2018 to mitigate the revenue reductions projected to materialise during that year as detailed in Table 2 :

Table 2

Detail	Variation £ million	Comment
Active Hyde	0.070	Originally the pool was due to open in March 2017. Design development of the new pool has taken longer than expected. It was originally envisaged that the new pool would share much of the existing mechanical and electrical infrastructure contained in the existing building but due to technical issues this is now not possible. Consequently, the scheme has been delayed due to the need to fully design an independent mechanical and electrical system. The procurement of the scheme through the LEP has also been delayed due to the specialist nature of the work and the size of the likely contract which is too small for the larger, more experienced construction companies and too big for the small more local contractors. This matter has now been resolved and the scheme is now out to tender. It is envisaged that the pool development will be completed in January 2018.
Inward Investment	0.100	The ICFT will invite bids against c. £ 2.5 million of the £ 23.2 million GM Transformation funding awarded which will relate to Social Prescribing commissioned services. Bids will be requested during March/April 2017. Funding allocations will then be awarded during May 2017. AT will be able to submit an associated bid (s) once service specifications have been confirmed (expected during March 2017). It should therefore be noted that this projected shortfall may be recoverable dependant on the success of any associated bids submitted.
Total	0.170	

- 3.7 Over the past few years Active Tameside has been unable to accrue cash reserves and has operated for a number of years without reserves in place. The Council has more recently had to provide reassurance to the auditors of Active Tameside that the Council has resources in place to support the Trust as a going concern for the subsequent financial year via the associated management fee. It is evident that this procedure would remain in place for the duration of the existing lease term without some fundamental shift in the current working model and structure of the organisation.
- 3.8 The Council has provided borrowing to Active Tameside for various capital projects over a number of years. The borrowing is wholly repayable to the Council. There is an outstanding sum of c £ 7 million due to be repaid by 2024/2025. It should be noted that this sum includes proposed borrowing of £ 1.050 million (excluding interest) relating to the construction of the new Denton facility.
- 3.9 There is a request from Active Tameside to potentially extend the repayment term of the existing borrowing over the proposed extended lease, the rationale being to deliver the existing business case by supporting annual cashflow.
- 3.10 The associated borrowing and interest implications will require further evaluation should the Council be agreeable to this proposal. However, indicative estimates suggest that the cashflow of Active Tameside will improve by approximately £0.128 million per annum

(including the proposed borrowing of £1.050 million (excluding interest) relating to the construction of the new Denton facility).

4.0 PARTNERING OPPORTUNITY

- 4.1 Partnering arrangements for Active Tameside were initially discussed in the Executive Cabinet report of 16 December 2015. The report stated that any future partnering arrangement would remain within the 'gift' of Active Tameside, and would be more about 'added value' than about 'survival' of the organisation, and would be against the backdrop of a more financially sustainable organisation running an attractive sports and leisure estate with capacity for future growth, thus enabling Active Tameside to secure the best possible terms.
- 4.2 Active Tameside have been having discussions with a third party to secure their organisation. However, it is understood that any arrangement must be incumbent up a contract extension by a further five years from 2024, to enable the 3rd party to provide the reserves necessary to support cash flow and financial resilience indefinitely, thereby eliminating any risk of Active Tameside and TMBC having to discuss financial support when exceptions occur.
- 4.3 Specifically it is stated that a contract extension will enable the re-profiling of the financial plan to ease current financial pressures and mitigate future potential trading risks. A contract extension will also serve to allow a legitimate period to yield financial and social impact returns from Active Tameside's investment into the capital schemes (£ 2.8 million which excludes the new Denton facility) in line with Active Tameside's charitable objects, and also facilitate the opportunity for the 3rd party to invest on an equivalent basis. Active Tameside state that a partnership would seek to achieve the following:
- Investment for Active Tameside to drive business development as a result of becoming part of a larger aligned charitable trust with shared objectives to improve Tameside communities.
 - Financial resilience, where Active Tameside currently has none due to lack of cash reserves which should equate to circa £ 1 million for an organisation with Active Tameside's turnover.
 - Efficiency through scale economy, made possible by specific back office and other potential service alignment and integration measures over time.
- 4.4 Within this service provider partnership, assurances have been sought by Active Tameside's Board in order that a partnering arrangement should:
- Serve to strengthen the unification of the Tameside public service system to further the objectives of the Council and the ICFT under Care Together Strategy and also meet the ambition of the GM Population Health Plan.
 - Provide a platform for wider GM opportunities, including links with GM Homes, GM Active and the GM Health and Social Care Partnership for growth, and to further the objectives of the GM Population Health Plan.
 - Achieve social outcomes and a people focussed ethos in all Tameside neighbourhoods (i.e. non tenure specific) ahead of financial gain that will enhance and grow the reputation of Active Tameside.
 - Achieve social outcomes and a people focussed ethos ahead of financial gain that will enhance and grow the reputation of Active Tameside and the Council.
 - Retain the localised leadership and governance arrangements of Active Tameside and pursue economies of scale whilst retaining Active Tameside employees where possible.
 - Facilitate the co-design of population scale services that contribute to reducing demands and cost to the health and social care system, whilst also meeting inward investment from commissioned services within a reducing management fee.

5.0 CURRENT RISKS

- 5.1 No action is taken by the Council to support Active Tameside, without any change in Active Tameside's immediate operational and financial risk position, Active Tameside's Board will need to determine the viability of Active Tameside to continue operating potentially leading the Council to undertake a tender procurement event for a new service provider. In the event of a failure of Active Tameside the Council would be exposed to the potential loss of the investment loaned to Active Tameside as referred to in paragraph 3.8 and the call in of guarantees given to third party suppliers of gym equipment who would not contract with Active Tameside due to their current financial position
- 5.2 Active Tameside have no reserves and operate within an increasingly challenging trading environment, therefore should Active Tameside encounter exceptional budget pressures going forward they will risk being unable to trade. This could result on a further call for Council resources.
- 5.3 Due diligence by the 3rd party has determined that a lease and contract extension by five years is a prerequisite of any partnership arrangement. If they fail to secure a partnership which is mutually acceptable to the parties the risks in paragraph 5.1 will arise.
- 5.4 The remaining planned capital schemes Hyde Leisure Pool and Denton Wellness Centre experience delays. This could result on a further call for Council resources.
- 5.5 The current arrangements with Tameside Sports Trust (Active Tameside) amounts to a concession contract and are therefore caught by the Concession Contracts Regulations 2016 which came into force on 18 April 2016. Under Regulation 43 of the Regulations a contracting authority has limited discretion to modify a concession contract during its term. On the information known to date the Council cannot lawfully extend the contract without breaching the 2016 Regulations.
- 5.6 Any extension to the current arrangements is highly likely to trigger the Council's procurement obligations under the 2016 Regulations rendering the Council susceptible to challenge in court for breach.
- 5.7 A decision of Active Tameside to enter into partnership arrangements with any third party would be within its gift provided it does not impose any contractual or other obligations on the Council.
- 5.8 There remains a significant risk to the Council in the event of a structural failure at a facility, not only in terms of the cost of rectifying the problem but also in a request to underwrite the lost revenue to avoid further financial viability issues, as evidenced over the years.

6.0 CONCLUSION

- 6.1 Active Tameside is a highly valued delivery vehicle making an important contribution to the place based ambition and effort to achieve improvements in the health and wellbeing outcomes in Tameside neighbourhoods. Active Tameside has a track record of efficient and effective delivery, coupled with a reputation that embraces partnership working with other organisations, employers, schools, voluntary groups and in health and social care settings, generating a significant contribution to the system wide effort to reduce health and social care demand, promote productivity and improve economic growth.
- 6.2 The Council and Active Tameside have demonstrated a shared commitment through a strong collaborative relationship and joint investment of £ 20 million capital per the March 2016 report approved at the Executive Cabinet (Council c. £ 17 million and Active Tameside c. £ 3 million respectively) which is key to the continued development of the partnership and

the success of the delivery model. The here and now position continues to be challenging because despite best endeavours Active Tameside has been unable to accrue necessary reserves (c. £ 1 million required) to achieve the financial resilience to reduce or eliminate the risks associated with trading in a competitive and dynamic market place. Without an intervention that would result in Active Tameside having access to cash reserves immediately, Active Tameside will continue to operate under the risk of not having sufficient funds to meet all expected and unexpected costs, and also lack the necessary investment capability to sustain and develop its business.

7.0 RECOMMENDATIONS

7.1 As detailed on the report cover.