



Report of the Leader of the Council

Cabinet – 19 November 2020

Wales National Pool Swansea Financial Support

Purpose:	To provide an update on the costs of closure, additional operating costs and reduced income at Wales National Pool (WNPS) owing to Covid-19 and advise Cabinet on the levels of financial support needed by Wales National Pool Ltd to July 2020 and from August 2020 to 31 March 2021
Policy Framework:	Creating an Active and Healthy Swansea; City of Sport; Medium Term Financial Plan
Consultation:	Legal, Finance, Access to Services.
Recommendations:	It is recommended that Cabinet: 1) Approves the additional underwriting of £350,000 to support WNPS between 1 st August 2020 to 31 st March 2021. 2) Note that additional financial support is likely to be required beyond 31 st March 2021 and until at least until 31 st July 2021, with a detailed report to Cabinet to follow at a future date. 3) Delegate's authority to the Chief Legal Officer to enter into any documentation necessary to implement any of the recommendations in this report and to protect the Council's interests.
Report Author:	Jamie Rewbridge
Finance Officer:	Ben Smith
Legal Officer:	Debbie Smith
Access to Services Officer:	Rhian Millar

1. Introduction

- 1.1 For the purposes of this report Wales National Pool Swansea Ltd, an independent company, incorporated specifically to operate and manage Wales National Pool Swansea and funded equally under contract by Swansea Council and Swansea University will be referred to as 'WNPS'.

- 1.2 Wales National Pool Swansea (WNPS) was closed on 20th March, and a high proportion of the Wales National Pool staff were furloughed under the Government's Job Retention Scheme (JRS), with a handful of staff retained to undertake regular building and safety checks, and routine maintenance to plant and equipment.
- 1.3 The facility and services restarted on 10th August for the Swim Wales elite squad only, and subsequently restarted services for clubs and the general public in the following weeks. Owing to capacity issues, the deficit funding required from partners in order to operate at a break even position has been increased and the company will require support from its main two partners Swansea University and Swansea Council in the immediate and medium term.

2. Industry and WLGA advice

- 2.1 A number of discussions and forums have taken place around the fragility of the leisure and cultural industry, particularly where Trusts operate facilities in partnership with local Councils. This has been presented in an advice paper by the Welsh Local Government Association (WLGA)
- 2.2 The WLGA's advice to local councils is that Leisure Trusts have been unable to access much of the current government financial support being offered and are facing a very challenging position as not for profit organisations.
- 2.3 Support from Local Authorities or funding partners has been deemed as critical for Trusts to reopen facilities moving forward. The following section includes relevant advice produced by the WLGA together with input from Sport Wales, Arts Council Wales, Local Government Association (LGA), UK Active and Community Leisure UK. Swansea Council has broadly followed the advice and guidance as relevant to its partnership arrangements through the open book and funding support aforementioned through a closure period.
- 2.4 The WLGA paper reports that leisure and culture facilities provide vital health, leisure and wellbeing services to local communities and will be a key re-engagement service for those communities post the COVID-19 pandemic.
- 2.5 Cultural, leisure and sport facilities were not allowed to reopen until at least the amber stage of the Welsh Government's traffic light system to exit the lockdown, and most activities continue to be under significant restrictions
- 2.6 Leisure and culture providers who are charitable trusts or private operators are now at crisis point as a result of loss of income and limited cash reserves. Even at the point of reopening, there remains limited use of re-opened spaces and cancellations of services where social distancing is simply not possible, enhanced cleaning, and start-up costs including staff re-training.
- 2.7 Leisure and culture providers are currently falling between the cracks of most announced support packages. Leisure and culture trusts are most at risk because they are charities, societies or community interest companies (with a public benefit asset lock) and as such do not distribute profits.

- 2.8 Leisure and culture trusts in particular face serious cash flow challenges. Welsh leisure and culture trusts continue to incur an average of nearly £168,000 of monthly costs (excluding costs recovered through the Job Retention Scheme and any negotiated expenditure reductions). These costs include utilities, significant pension contributions i.e. local government pension scheme contributions are c. 17-18% (not recoverable from the previous Job Retention Scheme or replacement Job Support Scheme above the 3% threshold) and ongoing building maintenance. This is while leisure and culture trusts are losing an average of £460,000 of income per month.
- 2.9 When a leisure and/or culture operator running services on behalf of a council begins to be no longer financially viable, the Council faces a difficult choice. It can either allow the operator to become insolvent, potentially bringing any facilities owned by the Council back in-house as a means of keeping them open, or it can choose to support the operator.
- 2.10 In all cases, leisure and culture services contribute significantly to the Wellbeing of Future Generations Act. Therefore, any disruption in delivering those services will have a significant impact on council's statutory obligations, with many councils no longer having any professional leisure or cultural service managers to be able to recommence operational service or undertake operational reviews.
- 2.11 Either approach is likely to involve significant costs to the council. The cost of supporting a trust will vary according to the particular local circumstances and the approach of the council or partner organisation. Bringing a facility back in-house also involves a wide range of costs including:
- TUPEing staff and potentially 'topping up' the salaries of those currently on furlough;
 - loss of income while the facilities are closed under the current restrictions (and higher increased costs following the lifting of restrictions because councils will potentially need to recruit and secure expertise before they can reopen facilities. Councils will also face full business rates where previously trusts could claim charitable relief.)
 - re-tendering the services at a later date if applicable
- 2.12 Recognising that there will be many calls on council resources at this time, the following list is provided to help councils identify their options to support their local leisure and/or culture trust. Not all options will be appropriate in all council areas and will depend on local contracts. However, councils are encouraged to work with their leisure and culture provider as a partner, rather than simply a contractual provider, to identify what will work best for them and, in the long-term, the communities in support of the council's public health, future generations and economic strategies.
- 2.13 The following actions will support a partnership approach between councils and their leisure and culture providers:
- Adopting the recommendations and approach recommended in PPN 02/20 and subsequent PPN04/20.

- Supporting the net subsidy position utilising the Open Book approach recommended in the PPN 02/20 to run from service closure on 20 March to the date at which 'full normal service and income levels have been achieved' to ensure fairness and transparency. Leisure and culture providers will be under an obligation to mitigate costs as much as possible.
- Holding regular review meetings with the operator to monitor and manage the joint response to the crisis.
- Understanding that organisations have had to furlough most of their staff resource, so reconciliation under the Open Book specific to the contract should be quarterly to minimise resource impact.
- Understanding that leisure and culture operators including trusts, are not eligible for the vast majority of Welsh Government-backed business support schemes, nor those of Sport Wales and the Arts Council of Wales (at the time of writing).
- Taking steps to understand the potential costs to their council in present and future budgets should their leisure and culture partner be unable to continue.
- Noting that under 'Change in Law provisions' (where applicable) the council is fully responsible for all the costs of hibernation and supporting the ramp back up to normal working.
- Agreeing costs with the operator (where relevant), including security, plant checks etc.

3. Other in house operated services

- 3.1 For Councils in Wales that operate their own Leisure facilities in-house, the picture of deficit funding and ongoing running costs is worsened by the fact that Councils haven't had the same opportunity to furlough their staff, as trusts and operators have. Therefore the position in other local authorities is not dissimilar to the position Swansea Council face within operations such as the Grand Theatre, with 100% cost of staff, some ongoing building cost/risk, but no income.
- 3.2 In terms of some context, WNPS have been eligible for an anticipated £175k under the JRS scheme between scheme start and anticipated end date of 31st October.

4. Governance, Funding Arrangements and outturn 19/20

- 4.1 Swansea Council and Swansea University are contractually bound to underwrite the annual deficit of WNPS until December 2023 when the current agreement ends. The company is governed by a Board, with membership made up of 3 Council representatives and 3 University representatives and an independent chair.
- 4.2 All Board Members are appointed to act in the best interests of the company, and not their respective organisations. Board advisors and Officers of the respective organisations attend board meetings, but do not hold any decision making/voting powers.

- 4.3 In each year the General Manager is required to present a financial business plan to Board for approval. The business plan will determine the funding required to subsidise the operation of the facility through the financial year (August-July), of which the subsidy is split 50/50 between the two main partners Swansea Council and Swansea University.
- 4.4 In a normal trading year, the expected subsidy of the Pool, including a sinking fund allocation would be in the region of £560k overall, and therefore £280k per partner.
- 4.5 The agreed business plan outturn for financial year August 2019 to July 2020 was a net subsidy of £544k, and therefore £272k per partner. In this period, this assumed that £43k would be set aside in a maintenance sinking fund held by the company for major repairs and maintenance.
- 4.6 Delivering the business plan for WNPS relies upon significant income targets that can only be delivered when the facility is in full operation and pool space can be maximised through delivery of programmes, public swimming, and group bookings. The income target for financial year 2019-20 was £1.38M, based upon the previous year's actual of £1.32M.
- 4.7 The Covid-19 outbreak forced closure of the facility from 20 March through to August, and significantly reduced any opportunity to recover income for over a quarter of the financial year 19/20. Whilst income from the JRS furlough scheme assisted, much of the costs to maintain the building, costs of a small maintenance and management team who weren't furloughed and general business overhead all remained. There was some reduction in utilities and chemicals.
- 4.8 For staff that remained on furlough through the closure of the facility, and into the reopening phases, it was agreed by WNPS Board that the company would support staff by offering a flat 20% top up to the JRS scheme. As the scheme changed in September and October, pay for staff would reduce accordingly. This offer was broadly in line with other contributions to staff pay offered by other partnerships and was deemed generally fair and acceptable to Trade Unions.
- 4.9 WNPS undertook a number of mitigating measures through the closure period to reduce costs where possible, and were successful in receiving a small grant through Sport Wales' resilience fund but neither would go far enough to fully cover the increased subsidy requirement, caused principally by the lost income.
- 4.10 Table 1 below indicates the financial outturn for the WNPS for financial year 19/20, set against the budgeted business plan position.

Table 1

	19/20 Budgeted	19/20 Actual	Up/down %
<i>Income</i>	-£1,388,402	-£884,579	-36.29%
<i>Salaries</i>	£931,200	£1,009,493	8.41%
<i>JRS recovery</i>	N/A	-£144,634	
<i>Sinking Fund</i>	£43,156	£0	-100.00%
<i>Utilities</i>	£335,000	£315,441	-5.84%
<i>Other Expenditure</i>	£623,942	£529,228	-15.18%
<i>TOTAL Expenditure</i>	£1,933,298	£1,709,528	-11.57%
<i>NET Subsidy</i>	£544,896	£824,949	51.40%
Cost to Council at 50%	£272,448	£412,474.50	51.40%

- 4.11 The NET subsidy for the facility for the financial year equates to an additional level of underwriting per partner of £412k, an increase of 51% against the business plan for 31 July 2020.
- 4.12 The cost of settling the WNPS 19/20 outturn at the levels suggested in table 1 are £140k more than budgeted.
- 4.13 The Council has been successful in a claim for £200k from Welsh Government (WG) to underwrite costs associated with quarter 1 for lost income directly linked to partner organisations. The sum granted fully covers the level of underwriting required for period set out above.

5. WNPS Financial year 2020/21 (reopening phase)

- 5.1 WNPS re-opened to the Swim Wales elite swimmers on August 10th for 1 session per day, 6 days per week, increasing to 2 sessions per day from 31st August. Negotiations took place to ensure Swim Wales were paying a fair and proportionate rate for their exclusive use, but it was also an opportunity for WNPS to reopen and amend procedures in a phased way.
- 5.2 WNPS opened for the general public on the 14th September, followed by Swansea University Club and Swim Swansea Swimming Club on the 28th September.
- 5.3 Following a change in government guidance, WNPS had started to increase the number of gatherings within the pool hall at one time from 5th October, which enabled public, clubs and Swim Wales to have combine use of separate areas of the pool and facility, in a carefully managed way
- 5.4 Throughout this process, WNPS brought staff members out of the furlough scheme as required in line with the programme expansion.

- 5.5 As of w/c 19th October WNPS was accommodating, Swim Wales athletes, swimming clubs associated to the partner organisations and the general public, with a % split of pool time per week is as follows.
- Swim Wales - 25%
 - Swimming Clubs - 29%
 - General Public - 46%
- 5.6 For the first 2 weeks of opening, WNPS achieved over 90% of capacity in public sessions. This has increased each week and WNPS reached 100% capacity by w/c 19th October for each daily session offered. The number of sessions has also increased by this date from 27 to 40 per week in line with changes to restrictions
- 5.7 Whilst current demands at time of reporting are a fraction of the 'normal' capacity of WNPS for public swimming, demand has been excellent and customer feedback has also been extremely positive, with customers stating how safe they feel due to the controls implemented.
- 5.8 WNPS is now planning for the next phase of reopening, and the return of the Learn to Swim programme.
- 5.9 On 19th October the Welsh Government First Minister announced a two week 'firebreak' from 6pm on 23rd October, which will see all leisure facilities including WNPS close until Monday 9th November, losing 16 full days trade and income, and an important period of potential revenue across October half term.
- 5.10 WNPS General Manager has undertaken some financial modelling in respect of an overall position for WNPS financial year 2020/21 that runs from 1st August 2020 to 31st July 2021. Whilst this section of the report highlights the likely overall cost to operate the facility over that period, it is important to note that as the financial years straddle the Councils, this report will only seek authority to support increased costs to 31st March 2021, but will note likely future costs also.
- 5.11 Within this modelling, the WNPS General Manager has provided 3 scenarios to the Board; a Worst, Medium and Best Case scenario. All were modelled prior to the announcement of the firebreak 23 October to 9 November, and therefore do not fully acknowledge the Oct/Nov firebreak or potential future breaks that could be enforced over the remaining financial year.
- 5.12 WNPS Board have been advised that the medium case scenario is more likely, however this was the position prior to the most recent firebreak. It assumed customer confidence would increase and restrictions would further be relaxed and therefore grow income through membership, learn to swim programme, schools and to increase capacities overall.
- 5.13 Given the more recent firebreak and potential for future interruptions in service through restrictions being changed, it may now be more prudent to consider an overall worst case scenario within table 2 below:

Table 2

WNPS Financial year 1st August 2020 to 31st July 2021:	Worst Case	Medium Case	Best Case
<i>Income</i>	-£267,741	-£540,594	-£675,074
<i>Salaries</i>	£1,019,640	£1,008,820	£978,000
<i>JRS recovery</i>	-£27,000	-£36,000	-£45,000
<i>Sinking Fund</i>	£0	£0	£0
<i>Utilities</i>	£410,000	£380,000	£350,000
<i>Other Expenditure</i>	£685,581	£655,210	£634,014
<i>TOTAL Expenditure</i>	£2,088,221	£2,008,030	£1,917,014
<i>NET Subsidy</i>	£1,820,480	£1,467,436	£1,241,940
Cost to Council at 50%	£910,240	£733,718	£620,970

- 5.14 Some assumptions have been undertaken in the above modelling, based upon projected income targets and growth of the business as the fundamental differences between options.
- 5.15 In all 3 scenarios, it broadly considers that staffing levels remain in line with normal operations, but in the best case scenario, assumes a more positive outcome in regards to sickness and necessity for cover through the year. Whilst it is expected in all scenarios that pool use will be reduced, the necessity to have additional cleaning regimes, and staff managing access/egress and entry points, limits any immediate staffing savings you may expect through lower footfall.
- 5.16 Utilities indicates a broad range based upon cost per unit increases which have been experienced across previous years, with limited opportunity to minimise consumption in any scenario to maintain the necessary building and pool temperature and humidity levels.
- 5.17 Other Expenditure includes various SLAs that the WNPS has with its respective partner organisations, which remain largely unaffected under each scenario, and whilst there is some opportunity to reduce fixed costs of contract cleaning and planned maintenance, the majority of controlled expenditure have limited saving opportunities without having impact on operations and customer safety and visitor experience
- 5.18 Against a previous years targeted budget position of £272k per partner, the options range for 20/21 is between £621k (best case) and £910k (worst) as a cost per partner.
- 5.19 Taking a reasonable worst-case scenario, the Council share of revenue cost is likely to be £910k for period 1st August 2020 to 31st July 2021.
- 5.20 The Council must consider this cost for the purposes of budgeting within its financial year 1st April 2020 to 31st March 2021, therefore the cost of supporting WNPS at the levels suggested above over an 8 month period,

including grant that it has received for Q1 is likely to be £607k and therefore £350k more than budgeted. This is calculated as follows:

Expected budgeted 'outturn' for WNPS March 19 to July 20 = £272k

Budget for year = -£272k

Paid to date = 68k (April May June)

July 2020 due = £140k

Add in grant = -£200k

-£264k remaining budget period August- March

Expected worst case scenario WNPS 20/21 = £910k per partner

Pro rota (8 months)= 607k to March 2021

Less -£264k in budget

£343k (rounded to £350k for reporting)

- 5.21 The Council recently submitted a Q2 claim to WG for £175k related to lost income/increased cost. Whilst there is no guarantee that grant support from WG to the Council will continue through Q2-4, if they continue to be supported, the liability to the Council of £350k will be reduced.
- 5.22 WNPS has National status, so should Welsh Government/Sport Wales not be supportive of hardship fund claims, the Council could consider further lobbying to make a case as to why a Local Authority and University are left underwriting the cost of a National facility in truly unprecedented times.
- 5.23 **It is recommended that Cabinet approves the additional underwriting of £350,000 to support the WNPS operating period between 1st August 2020 to 31st March 2021, noting that support is likely to be required beyond this date and until at least until 31st July 2021, with a detailed report to follow at a future date.**

6. Equality and Engagement Implications

- 6.1 The Council is subject to the Public Sector Equality Duty (Wales) and must in the exercise of their functions, have due regard to the need to:
- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
 - Advance equality of opportunity between people who share a protected characteristic and those who do not.
 - Foster good relations between people who share a protected characteristic and those who do not.

Our Equality Impact Assessment process ensures that we have paid due regard to the above.

- 6.2 An EIA screening form has been completed, with an agreed outcome that a full EIA report is not required at this stage.
- 6.3 The Cabinet report sets out the financial implications of the Covid-19 lockdown for the leisure providers that operate facilities on behalf of the Council. At this stage, the report sets out the levels of financial support that the operators require through the continued lockdown period, and anticipated levels of financial support that will be required to re-open the facilities in line with a high-level approach, in accordance with industry and government guidance
- 6.4 Officers have consulted with national agencies such as the WLGA, Sport Wales and Welsh Government as well as industry sector representatives regarding the challenges facing the Leisure sector.
- 6.5 The report relates to the Council's ability to financially support its partners in the context of Covid-19 lockdown so officers are not recommending any public consultation or other stakeholder consultation as it does not at this stage affect service users.

7. Legal Implications

- 7.1 The Council together with Swansea University is contractually bound to underwrite the annual deficit of WNPS until December 2023 under the terms of the current management and operating agreements. Failure by the Council to comply with this obligation would result in the Council breaching the terms of the Agreements with the consequential risk of potential claw back of government funding, litigation, costs and reputational damage.
- 7.2 Continued Council support for leisure and culture providers during the current pandemic is in line with recent UK and Welsh Government guidance contained within various Covid 19 Procurement Advice Notes.

8. Financial implications

- 8.1 The total level of support required to support WNPS in financial year 2020/21 is likely to be £350k more than budgeted in a reasonable worst-case scenario. This includes the successful grant claim received for Q1 from Welsh Government, but assumes no further claims are successful.
- 8.2 It is likely that further restrictions on capacities and additional firebreaks will incur further financial implications for the Council. In this case the Council will further be required to consider whether underwrite costs to operate WNPS will continue into financial year 2021/22.
- 8.3 The preceding financial implications rightly focus specifically on the considerations facing our leisure operators. The wider financial position facing the Council must however be borne in mind and Cabinet must be mindful of any potential precedent created by granting further extensions

to any one group of operators over another, even if potentially otherwise justified given the nature (strategic scale, importance of wider draw).

- 8.4 Cabinet has received an overarching report on the Council's finances at the first quarter and forecasted for the year. Whilst this will continue to evolve, estimates compiled by the Section 151 Officer and used as the basis for estimates of increased spend and income and tax losses and grant claims from Welsh Government it is clear the budget will need to flex by a nine figure sum (i.e. over £100 million). Given claims for reimbursement are competitively pitched against 21 other Councils and against national fixed sum pots not all costs will be fully covered.
- 8.5 A best case scenario would be a seven figure shortfall (i.e. several £ million) and a worst case scenario an eight figure shortfall (i.e. around £10 million). That worst case scenario would require all contingency sums to be allocated and several draws made on earmarked reserves to balance the budget in year. Crucially, however, no draw from General Reserves (set at the minimum acceptable level already) is forecast needed.
- 8.6 This uncertainty materially impedes the ability of Cabinet to make decisions to incur more costs now and will increase the likelihood of further draws from earmarked reserves to cover final "losses". It is expected that the overall position will continue to be firmed up as the year progresses when the extent of overall support and the success of those reimbursement claims will be better known.
- 8.7 In all cases it is explicitly assumed that any voluntary decision to forgo income or increase costs by reducing or waiving charges due or providing subsidies and underwrites on reopening will mean there may be limited scope to claim such future "losses" from Welsh Government
- 8.8 If Cabinet were minded to proceed the Section 151 Officer would recommend the cost be funded by release from contingency (given one off nature) and that Cabinet accepts the draw from other earmarked reserves in due course will likely go up as the available contingency sum shrinks by release and allocation to services. Any draw from contingency, if so approved, will be fully reflected in the third quarter monitoring report on the budget to Cabinet in February. Cabinet will also have to be mindful of any future cost obligations in recommending a budget for 2021-22 to full Council for March 2021.

Background Papers: None.

Appendices:

Appendix 1 - EIA Screening Form.