

RECORD OF INDIVIDUAL EXECUTIVE DECISION MADE BY AN OFFICER

Decision Maker	Decision Type	Date
Rebekah Sutcliffe, Strategic Director of Reform	Administrative Decision	1 st August 2018

OCL Contract - Change in Law Payment

Exempt/Confidential Report		No
Key Decision ¹		No

Decision (s)

Oldham Community Leisure (OCL) under the terms of the Leisure Management contract, change in law, have submitted a financial claim. Following negotiation with the Council and OCL this report sets out the details of the claim and the payment required.

Reasons for the decision(s)²

As part of the leisure management contract if a qualifying Change in Law occurs or is shortly to occur, then either party may write to the other to express an opinion on its likely effects, giving details of its opinion of:

- any necessary change to the Services; whether any changes are required to the terms of this Agreement to deal with the Qualifying Change in Law;
- whether relief from compliance with obligations is required, including the obligation of the Contractor to meet the Services Specification and/or the Service Delivery Proposals during the implementation of any relevant Qualifying Change in Law;
- any loss of or increase in Revenue that will result from the relevant Qualifying Change in Law; and
- any Estimated Change in Project Costs that directly result from the Qualifying Change in Law;

¹ If the decision is Key Please use Key Decision Template.

² Reasons for the decision must be given.



- any Capital Expenditure that is required or no longer required as a result of a Qualifying Change in Law,

OCL have written to the Council and set out Law Changes which they believe impact as a loss of or increase in revenue that will result from the relevant Qualifying Change in Law (Clause 49.2). In year 1 17/18 the total amount payable is £47K with subsequent amounts set out up to 2021-22. It has been agreed that the costs associated with Changes in Law will be applied to reduce the OCL loan liability in relation to the Chadderton Health & Wellbeing utilities costs which are capped at a value of £130,000 plus Vat at 20%, OCL therefore owe the council £156,000 in relation to 2016-17 and a further £156,000 for 2017-18. If the estimations of the future cost of the legal claim are accurate, and assuming no further addition to the loan facility, the loans for Chadderton Health & Wellbeing utilities will be fully paid off in the year 2021/22, the agreed charges will then be payable directly to OCL up to the end of the initial contract period in 2022/23.

Options/Alternatives considered

Given this context, there is a limited range of options available to the Council, including:

Option 1 - Do nothing and do not agree to the Law Changes. This option is not recommended as these Law Changes relate direct to the contract and have been subject to verification and clarification. The Council would also be open to challenge.

Option 2 – Agree that compensation is payable for Changes in Law as set out in Table 2 and the financial implications section. This is the recommended option.

Conflict of Interest declared

None

(Signature of Executive Director/Director)

A handwritten signature in blue ink, appearing to read 'R. Sutcliffe'.

(In consultation with relevant Cabinet Member if required)

Decision made pursuant to:

- a) General delegation under the Council's officer scheme of delegation. Non-contract decisions up to £250k.**