

Parkwood Leisure Contract Variation

Final Decision-Maker	Economic Regeneration and Leisure Committee
Lead Head of Service	John Foster, Head of Regeneration and Economic Development
Lead Officer and Report Author	Mike Evans, Leisure Manager
Classification	Public
Wards affected	All wards

Executive Summary

This report provides Members with an update on the Hazlitt Theatre and includes details of a contract variation request from Parkwood Leisure regarding the re-opening of the venue later this year.

Purpose of Report

Decision

This report makes the following recommendations to this Committee:

1. That the Council enters into a Deed of Variation with Parkwood Leisure, as set out at Appendix 1 to the report, and varies the Hazlitt Arts Centre services contract for a period up to 30 September 2021.
2. That the Council pays no additional contract sum to Parkwood Leisure for the delivery of the varied services contract.

Timetable

Meeting	Date
Economic Regeneration and Leisure Committee	20 April 2021

Parkwood Leisure Contract Variation

1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	<p>The four Strategic Plan objectives are:</p> <ul style="list-style-type: none"> • Embracing Growth and Enabling Infrastructure • Safe, Clean and Green • Homes and Communities • A Thriving Place <p>Accepting the recommendations ensures the Council is in a position to resume the fulfilment of these strategic objectives when Covid-19 restrictions are lifted.</p>	Leisure Manager
Cross Cutting Objectives	<p>The four cross-cutting objectives are:</p> <ul style="list-style-type: none"> • Heritage is Respected • Health Inequalities are Addressed and Reduced • Deprivation and Social Mobility is Improved • Biodiversity and Environmental Sustainability is respected <p>Accepting the recommendations ensures the Council is in a position to resume the fulfilment of these cross-cutting objectives when Covid-19 restrictions are lifted.</p>	Leisure Manager
Risk Management	Refer to paragraph 5.1 of the report	Leisure Manager
Financial	The recommendations can be accommodated within existing budget provisions as they do not envisage any payment to Parkwood Leisure above and beyond existing contracted amounts.	Section 151 Officer
Staffing	The recommendations will be delivered with the current staffing.	Head of Regeneration and Economic Development
Legal	Acting on the recommendations is within the Council's powers as set out in the Hazlitt Theatre services agreement.	Team Leader, Contracts and Commissioning

	Formalising the new position via a Deed of Variation gives certainties to both parties.	
Privacy and Data Protection	Accepting the recommendations will increase the volume of data held by the council. We will hold that data in line with our retention schedules.	Policy and Information Manager
Equalities	The decision could result in a change of service, therefore an equalities impact assessment has been completed.	Policy and Information Manager
Public Health	The closure of the Hazlitt Arts Centre has severely affected the health and wellbeing of the theatre staff and its regular patrons. The effects of this will continue until it can re-open.	Public Health Officer
Crime and Disorder	The recommendation will not impact on crime and disorder.	Leisure Manager
Procurement	On accepting the recommendations, the council will conduct further discussions with Parkwood Leisure in line with the contract, procurement law and UK PPN 04/20 principles. We will complete those exercises in line with financial procedure rules.	Head of Regeneration and Economic Development

2. INTRODUCTION AND BACKGROUND

- 2.1 With the UK Government Roadmap announced in early March, along with the announcement confirming the continuation of the furlough scheme until 30 September 2021, Parkwood Leisure wishes to vary the Hazlitt Arts Centre contract for the remainder of the Roadmap duration. The variation will be required until 21 June 2021 at the earliest, and possibly until 30 September 2021 depending on recovery in the theatre sector.
- 2.2 The variation request from Parkwood Leisure requires no additional subsidy from the Council and only requires the regular contract sum to be paid. What is required in the variation is a relaxing of the contract KPIs and obligations to enable operational flexibility in the re-opening period.
- 2.3 The variation request can be summarised as:
- Backdated to 1 October 2020
 - In place until 30 September 2021
 - No additional financial support required
 - Attendance KPIs relaxed for the variation period

Variation dates

- 2.4 A new Deed of Variation will be dated from 1 October 2020 onwards. Even though this date is in the past and the arts centre has been predominantly closed for this period, the Deed of Variation would begin the day after the previous variation letter expired. This would give continuity of contract variation from the period 16 March 2020 until 30 September 2021.

Financial support

- 2.5 Through discussion with Parkwood Leisure it has been confirmed that no additional financial support is required to support the re-opening of the venue. The Council had previously provided additional support to Parkwood Leisure in the period April to September 2020, as reported at previous ERL meetings. The finalisation of the accounts for the Hazlitt showed that this additional support was not required after all, and it has since been returned to the Council. In addition, the Council has also received a profit share payment of £6,225 from Parkwood Leisure for the period April 2020 to March 2021.

Re-opening and the roadmap to recovery

- 2.6 The first milestone date for the re-opening of indoor theatre venues is 17 May 2021. On this day the Hazlitt auditorium will be allowed to re-open with a 50% maximum capacity. This will be a total audience of 175 people. Five weeks later, on 21 June, the roadmap to recovery (roadmap) enables the Hazlitt auditorium to be open to its full capacity. At present the roadmap is on track, but there is the possibility that these dates for the Hazlitt auditorium reopening are moved later in the year by the government.
- 2.7 An events research pilot programme is being undertaken in Liverpool, where risk minimisation measures and Covid status certification (commonly known as vaccine passports) are being trialled. The findings from this pilot will inform industry requirements from 21 June 2021 onwards.
- 2.8 The Hazlitt acts as a receiving house for touring companies' productions and besides the annual pantomime it does not produce its own in-house work. The lifting of restrictions on 17 May 2021 does not guarantee the availability of shows able to be staged at the Hazlitt. The current programme contains only three professional shows between 17 May 2021 and 21 June 2021, with many promoters choosing instead to utilise the furlough scheme and wait for 100% capacity venues and full consumer confidence to be available to them.
- 2.9 The same period of 17 May 2021 to 21 June 2021 contains four community shows. The summer period at the Hazlitt traditionally sees a majority of community groups and dance groups performing in the main auditorium. This year they will have an increase in available stage time, however they have not been able to meet and rehearse since November 2020 so the majority of them are not in a position to bring performances to the stage in time for May 2021 and make use of the auditorium availability.

- 2.10 The autumn programme and the 2022 programme at the Hazlitt for the main auditorium and the Exchange Studio are due to be very busy, if the lifting of restrictions progresses as intended.
- 2.11 The Hazlitt Dance and Youth Theatre groups are planning to return for members who are under-18 on 19 April 2021 after the Easter holidays. They will be running four nights per week and are able to operate in a Covid-secure way as they did in the summer of 2020.
- 2.12 The obligations in the services contract at the Hazlitt Arts Centre do not give sufficient operational flexibility to Parkwood Leisure to manage the period 17 May to 30 September 2021, as the theatre and live performances sector reacts to the re-opening of venues and the ending of the furlough scheme. To give flexibility the Council can agree to vary the KPIs for a period up to 30 September 2021.

Culture Recovery Fund

- 2.13 Parkwood Leisure's bid to the Culture Recovery Fund (CRF) for its four theatres has been successful in being awarded £620k. The award was made based on the CRF criteria, which were set before the roadmap and the furlough extension were announced. As such, the funding award includes sums for staffing costs, which are now covered by the furlough extension; and outdoor performances and other activities to be delivered from 1 April onwards, which are now in conflict with what is permissible under the dates in the roadmap. Parkwood Leisure, along with many others in the sector, are awaiting clarification from Arts Council and DCMS on any updated CRF terms and conditions and will endeavour to draw down and utilise as much of the total CRF award as possible.
- 2.14 Officers have discussed the Deed of Variation with Parkwood Leisure and have a common understanding on how it will assist in enabling a successful re-opening of the venue in the period of 17 May 2021 to 21 June and beyond.

3. AVAILABLE OPTIONS

3.1 Do nothing

The Council can choose to do nothing and not enter into a Deed of Variation. This would give no flexibility to Parkwood Leisure in managing the re-opening of the Hazlitt venue. This could result in Parkwood failing to meet its KPI obligations and triggering a breach notice in the contract. **This option is not recommended.**

3.2 Agree to varying the KPIs for a period up to 30 September 2021

The Deed of Variation can be structured to give the right amount of flexibility while it is needed but not beyond the end of the contract year, which ends on 30 September 2021. This date also includes a three-month period beyond the current date for the easing of indoor restrictions (21 June) and gives sufficient time for the industry to respond, without

committing to an open-ended variation. If there is a delay in the roadmap of more than three months the Council can revisit this issue and choose to agree another extension to this in collaboration with Parkwood Leisure.

- 3.3 A list of the KPIs that will be varied are included as appendix 1. Also included are some KPIs of note that are not being amended. These are included to show the parameters and obligations that will be remaining in place during the variation period. The variation requires no additional financial support to be paid by the Council. Only the contract sum will be paid to Parkwood Leisure. **This is the recommended option.**
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4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 With the success of the vaccine programme known, the UK Roadmap to recovery announced, and the furlough scheme extended, there is more certainty that services in the main auditorium at the Hazlitt Theatre will be possible again. To get back to full resumption in line with the contract specification is going to require a temporary relaxation of the contract KPIs, which the Deed of Variation will do.
- 4.2 The Deed of Variation will support the recovery, by giving flexibility for a temporary period. The end date of 30 September will protect the Council should there be a delay to the Roadmap of greater than three months. Under the Deed of Variation Parkwood Leisure will be taking the financial risk beyond the contract sum. The risk to the Council is that with a delay to the roadmap the varied obligations are suspended at the venue for an open-ended period of time.
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5. RISK

- 5.1 The risks associated with this proposal, including the risks if the Council does not act as recommended, have been considered in line with the Council's Risk Management Framework. That consideration is shown in this report at paragraphs 3.2, 4.1 and 4.2. We are satisfied that the risks associated are within the Council's risk appetite and will be managed as per the policy.
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6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 6.1 A summary of the previous decisions is presented below:

Decision of P&R Committee, 16 September 2020

The Economic Regeneration and Leisure Committee review the contribution of the Hazlitt to the town centre economy and consider

options for its sustainability, with the findings to be reported to this Committee,

Decision of ERL Committee, 12 November 2020

1. It be recognised that subsidy paid to Parkwood Leisure to operate the Hazlitt Theatre is not sustainable under the Council's new Medium-Term Financial Strategy.
2. The Council should seek to reduce its monthly expenditure on the Hazlitt Theatre complex to a maximum of £8,630, that being the amount it would cost for the Council to mothball the building.
3. The Head of Regeneration and Economic Development enter into discussions with Parkwood Leisure and terminate the Hazlitt Theatre contract; and
4. Alternative uses, in the short and medium term, be looked into.

Decision of P&R Committee, 25 November 2020

That the four resolutions of the ERL committee on 12 November 2020 concerning the Hazlitt be substituted with a resolution:

- That the matter be deferred until the ERL Committee meets on 19 January 2021, so as to allow greater clarity on issues such as external sources of funding and Covid-19-related developments and to facilitate further Member and Stakeholder engagement in determining the best method of retaining the Hazlitt for years to come.

Officers are required to:

- Provide greater clarity on issues such as external sources of funding than was provided to the ERLC on 12 November
- Provide greater clarity on the impact of Covid-19-related developments
- Facilitate further member & stakeholder engagement in determining the best method of retaining the Hazlitt for years to come
- Consider options to ensure the sustainability of the Hazlitt Arts Centre.
- Report to the ERL Committee in January 2021

Decision of ERL Committee, 26 January 2021

1. The Council continues to pay its agreed contract fee to Parkwood Leisure for the provision of services at the Hazlitt Arts Centre;
2. Officers continue to monitor Parkwood Leisure's performance with respect to the delivery of the requirements of the Hazlitt Arts Centre Services Contract as defined by the key performance indicators and make further recommendations in April 2021; and
3. Officers prioritise the continuity and capability of Hazlitt operation and ensure, with key partners, that the Hazlitt returns to life when Covid allows it to do so.

7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 7.1 Officers will communicate the outcomes of this meeting to Parkwood Leisure by responding to the contract variation request.
- 7.2 Officers will continue to work in partnership with Parkwood Leisure to ensure the Hazlitt Arts Centre achieves a successful re-opening and continues to provide arts and cultural services to the people of Maidstone.

8. REPORT APPENDICES

The following documents are to be published with this report and form part of the report:

- *Appendix 1: Table of amended Deed of Variation clauses*

9. BACKGROUND PAPERS

- None