
REPORT TO THE MEETING OF THE EXECUTIVE 6 DECEMBER 2022**PORTFOLIO: HOUSING, ASSETS & LEISURE****REPORT FROM DIRECTOR OF ASSETS AND INVESTMENT****SUBJECT: FUTURE LEISURE SERVICE PROVISION****1 DECISION BEING RECOMMENDED**

- 1.1 To undertake the required work in consultation with the Portfolio Holder for Housing, Assets and Leisure to procure a leisure operator partner to deliver the Council's leisure facility provision from 1 April 2025, when the current contract ends.
- 1.2 Subject to 1.1, to allocate up to £25,000 from General Balances to fund external technical advice to undertake a feasibility study of Clements Hall Leisure Centre and Rayleigh Leisure Centre.
- 1.3 Subject to 1.1, to allocate up to £50,000 from General Balances to fund external technical advice to assist in the procurement of the new leisure contract to ensure best value for money is obtained and service objectives are delivered.
- 1.4 Subject to 1.1, to allocate up to £15,000 from General Balances to fund external legal advice to draw up the new contractual arrangements from April 2025.
- 1.5 To allocate up to £15,000 from General Balances to carry out Building Condition Surveys for Clements Hall Leisure Centre and Rayleigh Leisure Centre.
- 1.6 To undertake a community engagement process to support the procurement of a leisure operator partner.
- 1.7 That further reports be presented to the Executive as the process develops.

2 KEY DECISIONS DOCUMENT REFERENCE No: 9/22**3 REASON/S FOR RECOMMENDATION**

- 3.1 With regard to recommendation 1.1, the leisure contract for the management of the Council's leisure facilities ends on 31 March 2025.
- 3.2 To ensure value for money and that the Council's strategic objectives, Business Plan priorities and the priorities of the Leisure and Cultural Strategy are delivered, a decision on the delivery model for future leisure facility provision needs approval.
- 3.3 With regard to recommendation 1.2, the feasibility study will: -

- Identify the market potential for facility investments that will increase capacity and income
 - Identify the capital cost and likely revenue implications and opportunities
 - Identify the capital cost of required refurbishment works
 - Identify the overall scale of investment required by the Council
 - Provide a more informed position to bidders
- 3.4 With regard to recommendation 1.3, to ensure the necessary resource, experience and expertise required to procure the new leisure contract is available to the Council.
- 3.5 With regard to recommendation 1.4, to ensure the necessary legal expertise is available to the Council.
- 3.6 With regard to recommendation 1.5, building condition surveys for both Clements Hall Leisure Centre and Rayleigh Leisure Centre were previously carried out in 2020. As the contract has now been extended new 15-year surveys are required to inform the future service provision.
- 3.7 With regard to recommendation 1.6, a community engagement process will ensure residents and centre users have the opportunity to contribute to and feedback on proposals to help inform the future service provision.

4 SALIENT INFORMATION

- 4.1 The current service provider is Fusion Lifestyle; the current 20-year plus 3-year extension contract started in 2002.
- 4.2 The leisure contract was originally due to end on 31 March 2022. The process to tender for a new contract had started with external technical advisers appointed. The process was halted due to COVID-19 and as outlined in the August 2020 report to the Executive, the Council was forced to reconsider its approach, since procuring a new contract in a commercially uncertain environment was unlikely to allow the Council to achieve value for money or incentivise innovation or investment by a service provider.
- 4.3 The leisure contract with Fusion was extended through a Letter of Variation in December 2020 for a period of 3 years beyond the existing term taking it to 31 March 2025.
- 4.4 It is proposed that the leisure contract from 1 April 2025 will include the management and operation of Clements Hall Leisure Centre and Rayleigh Leisure Centre.
- 4.5 A separate report will be drafted regarding the longer term operation and management of The Mill Arts & Events Centre.

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- 4.6 The Freight House is part of the Council's Asset Delivery Programme with the intention for the Council to manage and operate the community space facilities.
- 4.7 The Council will continue to explore the options for alternative commercial or community use of Castle Hall.
- 4.8 The Council's leisure centres are significant Council assets, providing important services and are very well supported by the community they serve. Early consideration of future options for leisure facility provision is therefore important; this will allow sufficient time for a robust and thorough process to be followed.
- 4.9 The Council has previously identified the following key strategic objectives for the services to be delivered by the Contractor, which are designed to contribute to the priorities set out in the Council's Business Plan 2020-23 and Leisure and Cultural Strategy 2019-24:-
- (1) To continue to re-establish the service in the wake of COVID-19.
 - (2) To improve the physical and mental health and wellbeing of the whole community through increased opportunities for participation in sport and physical activity;
 - (3) To increase participation in physical activity by less active residents through improved access to facilities and activities and through stronger engagement with the community in physical activity beyond core leisure facilities;
 - (4) To deliver high quality, innovative services that meet required service standards and exceed customer expectations;
 - (5) To deliver a financially sustainable service which optimises the Council's revenue position whilst delivering on its priorities;
 - (6) To manage the Council's assets effectively to ensure that they are well maintained, safe and environmentally sustainable;
 - (7) To work proactively with partners and key stakeholders by taking a leading role in collaboratively delivering services that contribute to wider local strategic outcomes, and providing robust evidence of outputs in support of those outcomes;
 - (8) To deliver wider social value through strong and positive engagement with partners.
- 4.10 The above will be considered as part of the future service delivery model.

5 POTENTIAL LEISURE FACILITY PROVISION OPTIONS

- 5.1 A number of potential leisure facility provision options and the advantages and disadvantages of each are set out in the Sport England Leisure Services Delivery Guidance.

A - Multi-site leisure operator partner (existing model)

B - Local Charitable Not for Profit Distributing Organisation (NPDO) / Community Interest Company (CIC)

C - Local Authority Trading Company (LATCo)

D - In-house management

E - Asset transfer

- 5.2 These delivery options and the advantages and disadvantages of each are detailed below.

Table 1

Delivery option	Advantages	Disadvantages
Multi-site leisure operator partner (current model)	<p>Significant buying power, economies of scale and standardised systems of work</p> <p>Experienced in maximising income streams, controlling costs and targeting investment to improve sustainability</p> <p>Typically operate under a charitable trust / social enterprise model so benefit from rate relief and VAT benefits</p> <p>Normally able to spread risk transfer from the Council and have more resilience in the event of one of its contracts under-performing financially</p> <p>When procured competitively can provide protection from</p>	<p>One-off costs of making significant changes would typically need to be borne by the Council where they are instructed by the Council and have a detrimental impact upon commercial operation</p>

Delivery option	Advantages	Disadvantages
	<p>financial pressures facing Councils</p> <p>The Council will retain influence over the service through the contract and services specification</p> <p>The Council is able to transfer some or all of the operational and commercial risk to the operator partner</p>	
Local Charitable Not for Profit Distributing Organisation (NPDO) / Community Interest Company (CIC)	<p>Can attract both mandatory rate relief and VAT benefits</p> <p>Often bespoke to an individual Council, aligned to the community needs at the time of inception to deliver local outcomes</p> <p>Local charitable NPDOs can be commercially focused and able to optimise income generation, which can enable cross-subsidy to resource community interventions</p>	<p>Reduced economies of scale compared to multi-site leisure operator partners</p> <p>Potential limited access to capital funding</p> <p>The Council will potentially retain financial risk</p> <p>Comparatively low number of mainstream physical activity, sport and wellbeing services run through CICs</p>
Local Authority Trading Company (LATCo)	<p>Can be commercially and socially focused enabling cross-subsidy to resource community interventions</p> <p>Can manage facilities and services that are not commercially attractive effectively as part of a broader portfolio of facilities and services</p>	<p>Unable to offer economies of scale</p> <p>LATCo's in leisure are relatively uncommon</p> <p>The Council will carry all the risk as the LATCo is underwritten by the Council</p>

Delivery option	Advantages	Disadvantages
In house management	<p>Offers greater strategic and operational flexibility over all aspects of the service</p> <p>Can manage facilities and services that are not commercially attractive effectively as part of a broader portfolio of facilities and services and often can invest greater levels of management time into these services</p> <p>Council retains all revenue</p>	<p>Likely to have significantly higher staffing costs due to local government terms and conditions</p> <p>Lacks the benefits of economies of scale</p> <p>All commercial, property and operational risks lie with the Council</p> <p>As the Council would be taking service back in-house after a previous outsourcing arrangement, there would be set up costs and timescale implications</p> <p>The Council would have to make arrangements for providing support services such as HR, ICT and asset management</p> <p>Unlikely to enable the Council to have financial certainty in relation to the cost of the service due to the lack of a contractually fixed cost or management fee.</p>
Asset Transfer	<p>The assets normally run at a revenue surplus or break even, and the local authority does not subsidise them</p>	<p>Asset transfers are not typically used or appropriate for larger leisure service portfolios due to their complexity</p> <p>The Council will have very little control over the assets and services delivered and be unable to use the land they occupy for other purposes for the duration of the lease</p> <p>The Council will have limited influence over the service,</p>

Delivery option	Advantages	Disadvantages
		<p>programming and overall outcomes</p> <p>Risk that the Council may miss opportunities to deliver key health and wellbeing programmes to vulnerable residents and those on low incomes</p>

6 OTHER CONSIDERATIONS

- 6.1 The NPDO option would lead to the Council potentially retaining the financial risk and few leisure service operations are run through CICs.
- 6.2 Delivering the services via a separate LATCo would involve significant additional resources to set up and provide appropriate oversight, which the Council does not currently have the capacity to deliver. As set out in the table above, there are specific opportunities and risks associated with a separate trading company model, but ultimately the Council still retains responsibility for the successful delivery of services and the risks cannot be fully transferred away from the Council.
- 6.3 Similarly the Council does not have the capacity to take on in-house management of its leisure centre services and associated staff. If it were to do so, this would also significantly increase the financial and other risks the Council would be exposed to; for these reasons this option is not recommended for the Council.
- 6.4 Asset transfer would relinquish the Council of any direct control of its leisure services and would severely limit the influence the Council has over the delivery of services and associated outcomes, and therefore this option is not preferred.

7 RECOMMENDED OPTION

- 7.1 The multi-site leisure operator partner model (current model) as set out above would enable the Council to specify its services and commercial outcomes via a competitive procurement process and should provide the optimum balance of control and certainty through ongoing contract oversight/management, to ensure best value is delivered.
- 7.2 This is the option that was previously agreed by the Executive in September 2019.

- 7.3 This option would also enable opportunities to work in partnership with Brentwood Borough Council to be explored and efficiencies to be identified, potentially via a joint procurement process. A separate governance decision would be required to be taken by Brentwood Borough Council at the appropriate time.

8 SOFT MARKET TESTING

- 8.1 To support and inform the process a soft market testing exercise with leisure operators will be undertaken. Areas to be covered include: investment, financial, contract terms, innovation, operation and marketing.

9 PROJECT RESOURCE

- 9.1 The leisure contract is a key Council contract and the procurement of a new contract will afford the opportunity to identify both efficiencies and service improvement.
- 9.2 Officers have spoken with other Local Authority areas in Essex to learn from their experiences of procuring a leisure contract. The need to bring in external technical advice was a clear recommendation from all.
- 9.3 Officers will continue to utilise Sport England guidance documentation throughout this process.
- 9.4 Within Sport England's Leisure Services Delivery Guidance it recommends the use of external advisors for key aspects of the process. If external support is used, it is recommended that specific task lists are developed against which quotations can be sought, in order to minimise expenditure on external advisor fees and ensure all aspects of the process are covered.
- 9.5 Subject to recommendation 1.1 being approved, a project resource in the form of an external technical advisor is therefore required to assist in the procurement of the new leisure contract.
- 9.6 The external technical adviser would report to the Director of Assets & Investments and operationally to the Senior Leisure & Cultural Services Officer on a day-to-day basis.
- 9.7 The work to draft the contract specification and other related tasks would be developed in consultation with the Portfolio Holder for Housing, Assets & Leisure.

10 INDICATIVE TIMELINE

- 10.1 Subject to the agreement of the recommendations contained within this report, some indicative key dates are listed in Table 2 below. Progress reports will be provided to the Executive.

Table 2

Action	Date
Secure external technical advisor	Winter 2023
Feasibility study of Clements Hall and Rayleigh Leisure Centre	Winter / Spring 2023
Soft Market Testing	Summer 2023
Start of procurement for new leisure contract	Summer / Autumn 2023

11 ALTERNATIVE OPTIONS CONSIDERED

- 11.1 Alternative options have been included and considered within the body of the report.

12 RISK IMPLICATIONS

- 12.1 Failure to agree a future delivery model and associated resources will significantly impact service delivery when the current contract ends.
- 12.2 Risks of each operating model are set out in the report.
- 12.3 Not undertaking a feasibility study of both sites could result in opportunities for investment not being maximised.
- 12.4 Not undertaking Building Condition Surveys of both sites would result in potential bidders not being fully informed.

13 ENVIRONMENTAL IMPLICATIONS

- 13.1 A requirement to support the Council's commitment to work towards becoming carbon neutral by 2030 for its own operations will be built into the new delivery model and included within the feasibility study.

14 RESOURCE IMPLICATIONS

- 14.1 £105,000 is requested to be allocated from General Balances to fund external advice required to inform the future operating model for the Council's leisure facilities. This money will be transferred to an earmarked reserve and drawn down as required for the purposes set out in recommendations 1.2 to 1.5.
- 14.2 Any decision about the future operating model of the leisure facilities, following completion of the procurement process, will be subject to a separate report which will set out the full resource implications of awarding a new contract.

15 LEGAL IMPLICATIONS

- 15.1 Specialist legal advice will be required to draw up the new contractual arrangements from April 2025 as set out in recommendation 1.4.

16 EQUALITY AND DIVERSITY IMPLICATIONS

- 16.1 An Equality Impact Assessment (EIA) has been completed and found there to be no impacts (either positive or negative) on protected groups as defined under the Equality Act 2010.

A further EIA will be carried out as part of the tender process.

I confirm that the above recommendation does not depart from Council policy and that appropriate consideration has been given to any budgetary and legal implications.



CLT Lead Officer Signature: _____

Phoebe Barnes
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Background Papers:-

None.

For further information please contact Phoebe Barnes on:-

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