

REPORT TO THE MEETING OF THE EXECUTIVE 4 SEPTEMBER 2019

PORTFOLIO: COMMUNITY

REPORT FROM: ASSISTANT DIRECTOR, ASSETS & COMMERCIAL

SUBJECT: FUTURE LEISURE SERVICE PROVISION

1 DECISION BEING RECOMMENDED

- 1.1 To procure a leisure contractor to deliver the Council's leisure facility provision from 1 April 2022, when the current contract ends.
- 1.2 To procure an external technical advisor to assist in the procurement of the new leisure contract to ensure best value for money is obtained and service objectives are delivered.

2 KEY DECISIONS DOCUMENT REFERENCE No: 11/19

3 REASONS FOR RECOMMENDATION

- 3.1 The Leisure Contract for the management of the Council's leisure facilities expires on 31 March 2022.
- 3.2 To ensure value for money and that the Council's strategic objectives, Business Plan priorities and the priorities of the Leisure & Cultural Services Strategy are delivered, a decision on the delivery model for future leisure facility provision needs approval.
- 3.3 To ensure the necessary resource, experience and expertise required to procure the new leisure contract is available to the Council.

4 SALIENT INFORMATION

- 4.1 The Council's Leisure sites 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.
- 4.2 The current service provider is Fusion Lifestyle; the current 20-year contract started in 2002.
- 4.3 As set out in the report to Executive on 5 December 2018, given the long contract term it was important that the potential service delivery models were explored and that the market was tested through a soft market testing process to understand the current and emerging market trends, operating and financial models and to explore the potential for innovation across the service to ensure that future leisure provision at the Council facilities addresses the priorities of the Leisure and Cultural Services Strategy.

4.4 The Leisure & Cultural Services Strategy was approved by The Executive on 10 July 2019. One of the four identified priorities within the Strategy was Leisure Service Provision.

This identified the following:

Resident (User) Focus

- Implement clear benefits for Rochford District residents
- Provide opportunities and benefits for identified groups
- Provide innovative pay and play provision for non-members
- Innovative use of technology to improve the Customer experience and responding to new industry trends
- Effective community and partner consultation

5 POTENTIAL LEISURE FACILITY PROVISION OPTIONS

5.1 A number of potential leisure facility provision options are available and those listed below have been appraised. The advantages and disadvantages listed under each has been compiled using Sport England Guidance (the national body with the remit to drive up sport and physical activity levels), investigation with local partners and the knowledge and experience of Officers.

A In House Management ('in-sourced')

B Contract (current delivery model)

C New organisation (Local Authority Trading Company – LATCo)

D Asset Transfer

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

Table 1

Delivery option	Advantages	Disadvantages
In House Management	<p>The Council has complete strategic and day to day control of services</p> <p>Direct control of relationships with other Council services</p>	<p>The Council retains liability for the operational performance of the services</p> <p>The Council retains liability for the capital maintenance costs associated with the facilities and any capital funding requirements</p> <p>Limited access to the benefits of developing new</p>

		<p>opportunities and from economies of scale and also to the wider knowledge gained by other operators for innovation and development</p> <p>The present Contractor currently employs approximately 125 staff, which would result in a significant increase to the Council's current workforce.</p>
Contract (current model)	<p>Opportunity for operator to bring economies of scale and efficiencies</p> <p>Broader expertise and experience of the operator</p> <p>The Council has greater certainty of revenue and capital costs or returns</p> <p>Council can set out its requirements through a specification</p>	<p>The Council does not have direct control over the service</p> <p>Operator may prioritise commercial rather than social objectives e.g. profit (unless stipulated in the contract)</p> <p>Potential loss of community focus (unless stipulated in the contract)</p>
New organisation (LATCo)	<p>The Council retains ownership of the Company</p> <p>Group Structure already established</p> <p>Operational risks can be transferred to the new company</p> <p>The Council are represented on the Board of the Company by Council Officers to ensure Council's strategic outcomes are delivered</p>	<p>Limited expansion of the business to create economies of scale</p> <p>The Council does not have direct control of the day to day operation of the business</p> <p>Insufficient expertise and resource of Council Officers</p> <p>The current Contractor currently employs approximately 125 staff, which would result in a significant increase to the Council's current workforce</p>
Asset Transfer	<p>The Council receives a capital receipt (long lease).</p> <p>The Council transfers all the</p>	<p>The Council has no leisure facilities under its control from which to provide public</p>

	risks of operating the facilities to the new owners	<p>leisure services</p> <p>New owners may seek to remove any leisure facilities and services in the future and replace with more commercial focus (unless built into the agreement)</p> <p>Likely to be unpopular with users on lower incomes as new facilities may incur a premium price</p>
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6 PREFERRED OPTION

- 6.1 The Contract 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.
- 6.2 The Council does not have the capacity to take on in-house management of its leisure 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 at this time.
- 6.3 Similarly, 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 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.
- 6.4 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 SOFT MARKET TESTING

- 7.1 Following the report to The Executive on 5 December 2018 regarding future leisure service provision, a Soft Market Testing exercise (SMT) was carried out between March and May 2019 with support from the Council's Procurement officers.

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- 7.2 The exercise was not the commencement of any formal procurement process. It allowed providers to outline their views and ideas and to provide information to the Council with no commitment to themselves or The Council. The information received was intended to be used to help inform the options appraisal and subsequent decision-making process.
- 7.3 Potential bidders were given background information on the Council, including information and links to The Council’s Asset Strategy and Business Plan; Leisure & Cultural Services; and the Leisure facilities that are part of the current Leisure Contract. They were asked a series of questions relating to experience, finance, investment, contract terms, innovation, operational arrangements and marketing.
- 7.4 The opportunity to undertake site visits and meet senior officers was offered.
- 7.5 A healthy response to the SMT process was received from industry leading contractors, each well-known within the sector and with extensive portfolios and experience nationally, including Essex.
- 7.6 A summary of the responses received are detailed below under the headings that were within the SMT questionnaire that each completed:

Experience

All potential bidders detailed their extensive experience of delivering local authority leisure contracts across multiple venues and local authority areas.

Financial (revenue)

SMT is not designed to establish definitive contract pricing or the commercial structure of a new contract. Potential bidders outlined how they had delivered substantial savings for local authorities through delivery of new contracts.

The degree of savings differed based on the contract specification and term as well as the source and level of investment.

All would recommend some form of profit share arrangement to benefit both parties.

Investment (capital)

Potential bidders gave examples of their preferred investment model of Local Authority investment (given Public Works Loan Board (PWLB) rates) and how this resulted in an improved revenue position for the Local Authority.

One example given of a circa £2million investment at a Leisure Centre included an enlargement of the gym, creation of two studios, a new health suite as well as improvements to the reception area and exterior of the Centre

It was noted by potential bidders that both Rayleigh Leisure Centre and Clements Hall Leisure Centre were in good condition for their age. Investment required in both sites, particularly Clements Hall Leisure Centre, was highlighted. One preferred bidder's preferred model is Design, Build, Operate and Maintain (DBOM) contracts.

It should be noted that if additional Council capital investment is agreed by Members as a preferred option, the funding for this would need to be identified either from existing reserves, or via borrowing (noting that the Council's current Capital and Treasury Management Strategy does not endorse any borrowing and Members would therefore need to agree to amend this before any borrowing was undertaken).

Contract Terms

The preferred contract term would be dependent on the scale of any investment made. The consensus was a ten-year contract with some indicating a preference for a potential five-year extension (plus five) to be included within this. A DBOM contract would require a longer term with one potential bidder indicating this would be 25 years plus five.

There was a consensus that Contractors would be willing to operate under a full repair and maintenance arrangement, however it was stated that this would be built into any tender price and therefore a shared risk agreement might be more beneficial for both parties. However, this would need to be balanced with the level of certainty required for the MTFS.

Innovation

Detail was given as to how existing technology was utilised. This included the use of apps, data, cashless and fast track systems to improve the customer experience. Energy saving initiatives and general health & safety were highlighted as areas that have benefitted from innovation and using new technologies.

Operational

It was stated that it was important that the Council's strategic objectives were clear. The Council can provide this clarity and assurance through the Leisure & Cultural Services Strategy that was approved by The Executive in July 2019.

Commitment was made to undertaking outreach work in the local community.

Concessionary pricing could be included but in some cases more flexibility and freedom with other pricing was requested.

Detail was given as to how companies would increase participation and deliver against the priorities within the Castle Point & Rochford Health & Wellbeing Strategy.

Partnership working was seen as being important to complement the work of National Governing Bodies for Sport, Education partners and other key organisations.

There was a commitment to delivering an outcomes-based contract.

Ideas were put forward as to how the recreation grounds at both Leisure Centre sites could be utilised. These included bootcamps, festivals, 3G pitches, pop up cinemas and green gyms.

There was a consensus that a shared vision is important and that the local authority and contractor need to work in partnership.

Marketing

All detailed their marketing approach emphasising user engagement, digital marketing, social media and use of the Social Value calculator.

8 PROJECT RESOURCE

- 8.1 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.
- 8.2 Officers have spoken extensively with other Local Authority areas in Essex and the East region to learn from their experiences of procuring a leisure contract. The need to bring in an external technical advisor was a clear recommendation from all.
- 8.3 Officers have liaised with and will continue to utilise the expertise of Sport England throughout this process. Sport England provide the strategic lead for sport and physical activity and seek to promote best practice and reduce costs and time for both Local Authorities and Contractors in the procurement of leisure contracts.
- 8.4 Within Sport England's Leisure Procurement toolkit 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. Working with colleagues from Procurement, Officers have already carried out the SMT exercise to help minimise these fees.
- 8.5 Subject to recommendation 1.1 being approved, a project resource in the form of an external technical advisor is therefore required to lead on the extensive work necessary to draft the contract specification and lead the procurement of the new contract.

- 8.6 The cost to fund the resource to progress the procurement of the leisure contract through to contract award will be up to £50,000 [to be drawn from General Balances] and would initiate work in late 2019 /early 2020 in order to meet the programme deadlines. The cost is based on Officer discussions with other Local Authority areas.
- 8.7 A procurement process would be followed to select and secure this resource with the tender documents clearly identifying the roles and responsibilities required of the external technical advisor.
- 8.8 The external technical advisor would report to the Assistant Director for Assets & Commercial Services and operationally to the Leisure & Wellbeing Officer on a day to day basis.
- 8.9 The work to draft the contract specification and other related tasks would be developed in consultation with the Portfolio Holder for Community and the Portfolio Holder for Enterprise.

They would be responsible for the following:

- Development of a procurement plan
 - Development and maintenance of a risk register
 - Production and development of Procurement documentation, including the Contract specification, ensuring the priorities of the Leisure & Cultural Services Strategy and Council's Business Plan are incorporated at all times
 - Management of the procurement process, including evaluation of bids, management of the appointment of the operator
 - Ensuring a smooth transition as required.
- 8.10 The successful external technical advisor would need to demonstrate relevant experience, an understanding of the market, knowledge of procurement regulations and experience of managing projects which result in a high-quality service whilst identifying relevant efficiencies.
- 8.11 The role of the external technical advisor would include forming new and building on existing relationships and partnerships to actively engage and consult with relevant stakeholders including residents and users of the leisure sites.

9 INDICATIVE TIMELINE

- 9.1 Subject to the agreement of the recommendations contained within this report some key dates are listed below:

October – December 2019	Tender for external technical advisor
December 2019 – January 2020	Appoint external technical advisor

Autumn 2020

Official procurement for new leisure contract begins

10 RISK IMPLICATIONS

- 10.1 Failure to agree a future delivery model and associated resources will significantly impact service delivery when the current contract ends.

11 RESOURCE IMPLICATIONS

- 11.1 As per paragraph 8.6 the estimated cost of procuring an external technical advisor is circa £50,000 [to be drawn from General Balances] and best value for this advice service will be obtained via a procurement process. The estimated cost is based on intelligence obtained from other Local Authorities who have been through a similar process recently.
- 11.2 The revenue and capital finance implications of a new leisure contract cannot be quantified with any certainty at this stage, although it is anticipated some revenue savings and/or profit share arrangements should be achievable. Any proposed capital investment in the Council's leisure facilities would need a clear business case to set out the financing model and the additional revenue savings and/or wider value this would bring to the authority, to ensure affordability. As noted in the body of this report the Council's current Capital and Treasury Management Strategy does not endorse borrowing and therefore Members would need to agree to amend this if a strategy of borrowing to invest was to be pursued as part of the Council's Leisure Strategy or wider approach to investment opportunities.

12 LEGAL IMPLICATIONS

- 12.1 The Council will need to comply with the legal requirements under the Public Contracts Regulations 2015.

13 EQUALITY AND DIVERSITY IMPLICATIONS

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

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.



LT Lead Officer Signature: _____

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Background Papers:-

None.

For further information please contact Matt Harwood-White or Mark Aldous on:-

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