

Eden District Council

Executive
16 June 2020

Extraordinary Council
25 June 2020

Extension to Leisure Contract

Portfolio:	Communities Portfolio
Report from:	Assistant Director Commissioning and Technical Services
Wards:	All Wards
OPEN PUBLIC ITEM EXCEPT FOR APPENDIX A which is exempt under paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972	

1 Purpose

- 1.1 To consider extending the current contract with Greenwich Leisure Limited for the next 5 years as permitted under the current contract.

2 Recommendation

It is recommended that the current leisure contract is extended by 5 years.

3 Report Details

Background

- 3.1 In 2012 the Council commenced a new Leisure Management Contract covering the operation of the Penrith Leisure Centre, Appleby Pool and under the new contract the Pavilion located on the Frenchfield Grass pitch facility on the outskirts of Penrith. The grounds function also includes the maintenance of four other grass pitches.
- 3.2 The facilities briefly comprise of:
- Appleby Swimming Pool - 25m x 8.5m 4 lane Main Pool, 8.5m x 4.0m Teaching Pool Gym and associated changing rooms.
 - Penrith Leisure Centre -25m x 10.5m 5 lane Main Pool 13m x 8m Teaching Pool, village changing and group change to support the Pools. A dedicated and highly regarded indoor climbing wall that offers a variety of climbing problems. Multi station Gym with Life Equipment opened in 2005 (equipment will be replaced either before or at the commencement of the new contract). Open plan foyer / atrium with catering outlet and seating area. 6 badminton court size Sports Hall with retractable seating for 614. Dedicated 6 Rink indoor Bowls Hall. Regional Hockey Standard artificial turf pitch. 3 Multi-function activity rooms.
 - Frenchfield Sports Centre Pavilion - The pavilion is sited within a 30 acre site on the outskirts of Penrith, the pavilion provides ten changing rooms, 2 referees changing rooms, ground floor meeting room, kitchen, and open

plan first floor room. Externally there are a series of storage units used by local football clubs.

- The Penrith Leisure Centre is a nominated Civil Emergency Reception Centre and can be used to support the Council's responsibilities with regard to provision in the event of a Major Emergency.
- Within the Contract the day to day maintenance of the Penrith & Appleby Pool, including internal and external decoration is the responsibility of the Leisure Contractor. The structure of the building and major items of plant such as boilers, heat exchangers remain the responsibility of the Council on the basis that the Contractor maintains them to an appropriate standard / or under third party contract. Also included in the contract is sports Pitch grounds maintenance.

3.3 The Contract was initially let for a period of 10 years, expiring 31 March 2022, with an option to extend the initial term for the extension period of 5 years by giving written notice to the Contractor before the extension date, which is before the end of June 2020.

Service Review

3.4 In October 2019 FMG Consulting (FMG) were appointed following a competitive tendering exercise to advise on the most appropriate management arrangements for the delivery of the Councils Leisure Services from 1 April 2022.

3.5 Key drivers for this review included:

- Reducing the net cost of the services
- Increasing commerciality
- Improving the service
- Having greater engagement with partners and communities
- Consideration of co-location of services

3.6 The methodology in undertaking the review was around the following areas.

- a review of local, regional and national market context information of relevance to service delivery to identify strategic priorities that may influence the developing options and funding
- a review of the current operators' performance for each facility utilising The consultants experience and performance database
- a review of the current operators' performance for each facility
- a review of the commercial arrangements of the current services specification and leisure contract against market positions
- identification of improvements to revenue and service quality
- an analysis and evaluation of the available management options in the industry applied to the situation in Eden utilising the results of the above work

- a social and economic assessment of the impact the service is having on the local area
 - recommendation of the most appropriate delivery option for Eden from 1st April 2022 onwards including a delivery plan for implementation
- 3.7 A summary and conclusions from this review is contained at Appendix A. This Appendix is Not for publication by virtue of Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972.
- 3.8 This report focusses on the management option for delivery of the service for the next 5 years.

Management Options

- 3.9 The current contract is outsourced to Greenwich Leisure Limited (GLL), an existing Non Profit Distributing Organisation (NPDO), which is a charitable vehicle. GLL provides the Council with a partner that has the scale, technical expertise, regional presence and economies of scale required to deliver the services on behalf of the Council. This arrangement is managed through a specification and long-term partnership agreement. GLL is able to benefit from tax and rate relief due to it having a charitable element to their organisation.
- 3.10 Most of the established leisure management operators now offer a charitable NPDO or a 'Hybrid' NPDO management model. The charitable NPDO can access full tax and VAT reliefs but the Hybrid model can only access discretionary NNDR benefits but is not a charitable company or provident society and not recognised by the Charity Commission.
- 3.11 As part of the service review the following management options were considered:

Management option	Sub-option
Outsourcing	Private company (hybrid trust) for example Parkwood, Places for People, SLM and Serco etc. Existing charitable company (NPDO) for example GLL, Fusion etc.
In-house Management	All or part of the facilities and services returned to Council direct management
New Company	Local authority Controlled company (LACC) Joint Venture Company (JV)
New NPDO	Non Profit Distributing Organisation (NPDO) Co-operative and charitable incorporated organisation (CIO)
Asset Transfer	Community Asset transfer Long-term lease with restrictions

Management option	Sub-option
	Long term lease without restrictions
Asset disposal	The sale of the assets or facilities to a third party for a capital receipt with the possibility of restricting use to sports and leisure

- 3.12 A comparison of all the options listed in terms of advantages and disadvantages against a set of key features can be found in Appendix B. The table show very few positives from community asset transfer, long lease or asset disposal. Taking the service back in house is shown to have a number of disadvantages when compared to outsourcing.
- 3.13 For each of the options considered the key differentiators were VAT savings, NNDR savings, and operational adjustments and spend to save investments. Further information in relation to these can be found in appendix A and a summary is given below:

	In house	Outsource	New NPDO	LATC
VAT Savings	X (Red)	√ (Green)	√ (Green)	√ (Green)
NNDR Savings	X (Red)	Mandatory or Discretionary (Amber)	√ (Green)	Possible Discretionary only (Red)
Operating Adjustments	Limited swimming savings (Amber)	√ (Green)	√ (Green)	√ (Green)
Spend to Save Investments	√ (Green)	√ (Green)	√ (Green)	√ (Green)

Risk

- 3.14 In considering all of the management options it is important to consider the risks associated with them. These risks include:
- Operating risk
 - Third party income risk
 - Equipment obsolescence risk, and
 - Building and plant risk
- 3.15 Each management option has different levels of risk and associated potential cost to both the Council and the operator.
- 3.16 Operating risk is the level of risk associates with the operation of the sports and recreational facility. The failure to use resources efficiently, managing price sensitivity and programming requirements for users, marketing and

branding and also price changes for services (e.g. utilities) are likely to lead to additional costs on the business.

- 3.17 Equipment obsolescence is the risk associated with the replacement of equipment which may occur at a time earlier than planned and lead to increased cost. In addition the failure to maintain equipment can also lead to poor performance of the facility and result in loss of customers.
- 3.18 Balancing where risk of building and plant sits is important, under most management contract the maintenance and responsibility for structure of the building sits with the Council and all other day to day maintenance and repairs site with the operator of the facility.
- 3.19 For in-house delivery or any company set up by the Council the risks would be higher with the Council taking on most or all responsibility.

Conclusion

- 3.20 The Consultants conclusions were that on balance, when assessing the different options the most favourable option is outsourcing followed by a new LATC marginally behind, with the new NPDO (Property / Grant) in third and the asset transfer last. A key issue to consider from this evaluation is the affordability of the options. The most well-balanced option from the evaluation process and affordability is the Outsourcing Option which is similar to the arrangement the Council has now.
- 3.21 The current contract contains, as stated previously, an option to extend for 5 further years and this option provides the best value for money.
- 3.22 GLL manages over 270 leisure centres in partnership with more than 50 local councils and sporting bodies. This provides a wide range of technical expertise, experience, regional presence and support to the delivery of the leisure services in Eden.

4 Policy Framework

- 4.1 The Council has four corporate priorities which are:
 - Sustainable;
 - Healthy, safe and secure;
 - Connected; and
 - Creative
- 4.2 This report meets our healthy, safe and secure corporate priority.

5 Consultation

- 5.1 Information in relation to the recommendation from the consultant has been shared with the Housing and Communities Scrutiny and the Communities Portfolio Holder.

6 Implications

6.1 Financial and Resources

- 6.1.1 Any decision to reduce or increase resources or alternatively increase income must be made within the context of the Council's stated priorities, as set out in its Council Plan 2019-2023 as agreed at Council on 7 November 2019.

6.1.2 The summary of the impact under each management option per annum is shown below:

	In house	Outsourcing	New NPDO	LATC	Contract extension
Management fee	£706,680	£288,440	£488,440	£474,249	£135,328

6.1.3 This table shows that for the Council the most financially beneficial option is to extend the current contract. Further details can be found in Appendix A.

6.1.4 It should be noted that the business is currently trading at a loss and some operational adjustments and spend to save investments have been identified by the Consultants. These include a reduction to the number of bowls lanes, an extension to the gym and provision of a new studio. These would be considered at a later date working with the leisure provider to look at ongoing costs and possible savings.

6.2 Legal

6.2.1 In accordance with the Contract clause 1.2 commencement and duration, the Contract period commenced on 1 April 2012 and continues in full force until the expiry date unless terminated earlier. In addition the Authority shall (at its sole discretion) have the option to extend the Initial Term for the Extension Period by giving written notice to the Contractor no later than the Extension Date. Unless otherwise agreed by the parties in writing, the Annual sum applicable during the extension period shall be on the same terms as during the initial term.

6.2.2 The extension date is the date falling twenty-one (21) months prior to the expiry of the initial term.

6.3 Human Resources

6.3.1 There are no Human Resources implications arising out of the proposal.

6.4 Statutory Considerations

Consideration:	Details of any implications and proposed measures to address:
Equality and Diversity	There are no equality implications resulting from this proposal
Health, Social Environmental and Economic Impact	There are no Health, Social Environmental and Economic Impacts as this proposal continues the delivery of the services
Crime and Disorder	There are no crime and disorder implication from this proposal
Children and Safeguarding	There are no issue around children and safeguarding resulting from this proposal

6.5 Risk Management

Risk	Consequence	Controls Required
Decision on delivery of service from 2022 is not made in good time	Non delivery of the leisure service	Approval by Council prior to the June deadline
Increase cost to the Council	All of the options with the exception of extending the contract will see increased in the management fee paid by the Council	To extend the current contract on the existing terms
That the current provider is not able to continue the contract on the same terms	The contractor withdraws from the contract	Set up a working group to priorities the operational adjustments and spend to save options highlighted by the consultant Work with provider to minimise costs

7 Other Options Considered

- 7.1 A number of alternative delivery models were reviewed as stated in Management option section of this report.

8 Reasons for the Decision/Recommendation

The extension to the contract is the most financially beneficial option for the Council. On balancing the financial and non-financial factors the Consultant view was that outsourcing, as the current position, was the most advantageous.

Tracking Information

Governance Check	Date Considered
Chief Finance Officer (or Deputy)	
Monitoring Officer (or Deputy)	
Relevant Director	

Background Papers: None

Appendices: **Appendix A – Leisure Services Review Summary and conclusions.**

Appendix B – Comparison of Management Options

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