

**AGENDA ITEM: 15**

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<b>Meeting</b>	Cabinet Resources Committee
<b>Date</b>	27 September 2011
<b>Subject</b>	<b>Leisure Contract Review</b>
<b>Report of</b>	Cabinet Member for Customer Access & Partnerships
<b>Summary</b>	To seek authority to negotiate terms, with the Contractor, Greenwich Leisure Limited, for termination of the current Leisure Management Contract

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Officer Contributors	Matthew Gunyon – Leisure Contracts Manager Matt Waters – Project Manager Commercial Services
Status (public or exempt)	Public
Wards affected	All
Enclosures	None
For decision by	Cabinet Resources Committee
Function of	Executive
Reason for urgency / exemption from call-in (if appropriate)	Not applicable

## **1 RECOMMENDATIONS**

- 1.1 That approval is granted to negotiate termination of the current leisure contract with Greenwich Leisure Limited (“GLL”), such negotiations being subject to final approval by this committee;**
- 1.2 That the, proposed, terms for termination of the contract be reported back to CRC for approval prior to final agreement, with GLL**

## **2 RELEVANT PREVIOUS DECISIONS**

- 2.1 Cabinet, 9 September 2002 (Decision 8) – agreed to award preferred Partner Status to Greenwich Leisure Ltd (GLL) to manage and operate the Council’s Leisure Facilities; and approval to negotiate and finalise the contract.
- 2.2 The Leader of the Council approved by means of delegated powers report on 31 December 2002 that the partnership with GLL should commence on 1 January 2003 and that the necessary financial and budgetary provisions be made.
- 2.3 Cabinet, 22 February 2011 (Decision 6), Council 1 March 2011 (Decision 9)- agreed budget reductions to the current leisure contract to facilitate a zero cost provision following contract review
- 2.4 Cabinet Resources Committee 28<sup>th</sup> July 2011 (Decision 5), Approval for the movement of £0.500m from Contingency to Environment & Operations for 2011/12 as a one off transfer to fund the Leisure budget pressure.

## **3 CORPORATE PRIORITIES AND POLICY CONSIDERATIONS.**

- 3.1 The Council’s Corporate Plan 2011 – 2013 sets out how the authority will respond to the challenges facing Barnet over coming years. The service has already committed to the withdrawal of subsidy from the leisure service. This proposed strategic review of leisure will make significant contributions to deliver *Better Services with Less Money*, and support delivery of other strategic objectives. It recognises that without review and reform, the long-term performance, value, and sustainability of the service would be compromised.
- 3.2 *A Successful London Suburb*: The review will identify models ensuring that the right facilities and services are in the right locations within the borough. It will also identify the most appropriate delivery method for the need in respective areas, making certain that facilities and services are run and managed by those who are best placed to do so. The review will identify opportunities for supporting the health agenda and helping to promote a more preventative, rather than a reactive, approach to dealing with health needs.
- 3.3 *Sharing Opportunities & Sharing Responsibilities*: The review will develop a new relationship with citizens through engagement with residents and will provide a better understanding of needs and how such needs can best be met. The engagement will mean that citizens are able to have greater involvement in shaping how leisure can be best delivered within the borough.

## **4 RISK MANAGEMENT ISSUE**

- 4.1 The planned reductions to the revenue budgets for 2011/12 and 2012/13 are not achievable due to the contract management fees payable to GLL. Negotiations are ongoing with GLL in order to reduce / understand this risk

- 4.2 Under the current contract the Council is responsible for any repair, refurbishment or replacement relating to roofs and structure for each of the seven facilities. There is no long term investment or refurbishment plan for the leisure facilities so all reactive repairs have to be funded from either the revenue budgets or through a Capital bid.
- 4.3 All risks relating to any termination will be fully investigated and reported back to CRC for final approval as noted in Recommendations 1.2. This will include, any risk of financial liability, on the part of the council; any potential impact on the general public and on the Council's reputation. There will be no termination or implementation prior to further approval..

## **5 EQUALITY AND DIVERSITY ISSUES**

- 5.1 The Equality Act 2010 came into force on 5 April 2011. Under the Act, the council and all other organisations exercising public functions on its behalf must have due regard to the need to:
- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
  - b) advance equality of opportunity between those with a protected characteristic and those without;
  - c) Promote good relations between those with a protected characteristic and those without. The relevant protected characteristics referred to in s149 are:
    - age;
    - disability;
    - gender reassignment;
    - pregnancy and maternity;
    - race;
    - religion or belief;
    - sex
    - Sexual orientation.

It also covers marriage and civil partnership with regard to eliminating discrimination

- 5.2 Comprehensive Equalities impact assessments will be carried out and revisited at each phase of the process and the results taken into account in arriving at a decision with respect to changes in the provision of leisure services within the borough.
- 5.3 The strategic review of leisure must incorporate a well-designed insight, consultation and engagement programme, to identify and understand the varied needs of the diverse communities and user groups within the Borough. Officers will ensure that consultation events and activities are established as required. In addition, the appropriate equality impact assessments will be completed and included in the decision-making process.
- 5.4 The effects of the proposals upon all groups, protected by equalities legislation, including the disabled and those from minority ethnic groups, will be evaluated and taken into account in arriving at any decisions about the provision of leisure services. It is essential that a comprehensive equalities impact assessment is completed with

respect to all options presented by the strategic review. The corporate plan 2010-2013 sets out a commitment that major policies, functions and activities should be assessed for their equalities risks.

- 5.5 The strategic review will also need to link in with the Joint Strategic Needs Assessment (JSNA) for health in the Borough. The JSNA identifies that there are differentials in health outcomes between various communities and that therefore any equalities review will also need to take these impacts into account.

## **6 USE OF RESOURCES IMPLICATIONS (Finance, Procurement, Performance & Value for Money, Staffing, IT, Property, Sustainability)**

### **6.1 Finance**

- 6.1.1 In 2003 the Council and GLL entered into a 15 year contract.
- 6.1.2 Capital and maintenance costs are frontloaded into the contract therefore the annual management fee was higher previously than it is now.
- 6.1.3 Under the current contract the Council is responsible for any repair, refurbishment or replacement relating to roofs and structure for each of the seven facilities; all other aspects of maintenance, management, activity programming, pricing and staffing are the responsibility of GLL. GLL have a Planned Preventative Maintenance (PPM) Schedule for each of the Leisure facilities in order to ensure they are maintained sufficiently as the contract requires. There is an allocation within the Best and Final Offer ("BAFO") – which was submitted by GLL - for the funding of the PPM Schedule. This is part of the contract and allows GLL to programme the purchase or upgrade of larger items such as Boilers, Air Conditioning etc.
- 6.1.4 The current savings plan for the Leisure revenue budgets is a reduction of £1.2m by £733k in 2011/12 and £467k 2012/13.

### **6.2 Property**

- 6.2.1 With an ageing stock of leisure facilities and no long term investment plan the cost of repairs to the Council could increase year on year.

### **6.3 Planning Issues**

- 6.3.1 There are no known planning implications presently identified.

## **7 LEGAL ISSUES**

- 7.1 As part of the proposed budget savings it was intended that the reduction could be delivered by GLL through a process of negotiations, which GLL were keen to explore.
- 7.2 An external legal firm, Bevan Brittan, carried out an analysis of the current contractual arrangements and the proposals for varying the contract. Having done so, Bevan Brittan, have advised that alteration of the contract, in the manner proposed, would, for the purposes of European procurement law, constitute a material change to the content and nature of the original opportunity such as to amount to a 'new' contract. Without a competition, in accordance with the European procurement rules, such a material change would carry a risk of challenge from tenderers who were unsuccessful when the contract was tendered, previously, as well as from others, currently in the market.

- 7.3 To enable the Council to maintain control with a prescriptive service specification for leisure services, and combine this with any new arrangement, the Council will need to conduct a European compliant public procurement exercise.
- 7.4 In order for the Council to conduct a public procurement exercise for a new leisure service it must first agree the terms of a termination in order to ensure the exercise is done so on a competitive basis.

## **8 CONSTITUTIONAL POWERS**

- 8.1 Constitution Part 3, Responsibility for Functions – Section 3, Responsibilities of the Executive - To agree externalisation contracts including any proposal to appoint external cash investment managers.

## **9 BACKGROUND INFORMATION**

- 9.1 The Council currently owns seven leisure centres and one athletics stadium within the borough; the sites currently managed by GLL on behalf of the Council include
- Hendon Leisure Centre
  - Barnet Burnt Oak Leisure Centre
  - Finchley Leisure Centre
  - Cophall Leisure Centre
  - Church Farm Swimming Pool
  - Compton Sports Centre
  - Queen Elizabeth Sports Centre
  - Barnet Cophall Stadium
- 9.2 Barnet Cophall Stadium is managed by GLL under separate arrangement.
- 9.3 A review is required to present options that will make a significant contribution to an overall savings target of £1.2m, whilst improving service provision and continuing to meet local needs.
- 9.4 As part of the proposed budget savings it was intended that the reduction could be delivered by GLL through a process of negotiations, which GLL were keen to explore. Legal and procurement advice clearly state that this is not a viable way forward.
- 9.5 The Council therefore needs to identify alternative opportunities (which could involve a new procurement process) and assess whether this could achieve better value for money than the current model for service provision.
- 9.6 In order to deliver the required budget savings the current arrangement for the management of the Council's assets is unsustainable. It is therefore vital that a strategic review is completed so that the Council can assess its priorities and that of its residents to ensure that changes to the way that leisure is provided in the borough are appropriate and evidence based. A report was presented to Cabinet in September, detailing the Leisure Service Review and seeking approval to continue. Below is a list of Key Milestones for this project;
- Leisure Service Review report to Cabinet – September 2011.
  - Public Consultation – October 2011 – February 2012.
  - Agree final terms of contract termination with GLL – February – March 2012
  - Review Consultation to complete an Options Appraisal with Equalities Impact Assessments – March 2012
  - Seek Approval for preferred option from CRC – May 2012

- Consultation on preferred option – September 2012
- Approval to initiate proposals – October 2012

9.7 The review will be wide ranging, evaluating the current service model, assessing the needs of users and a range of options to reduce expenditure, while modernising the service, meeting needs and improving performance. The review will also consider the wider impact of how a new leisure service could be linked to improving residents' general fitness, health and wellbeing. The review will involve work with a range of different partners, community groups and public service organisations to improve the quality of services offered

9.8 The review will be guided by a robust Media Plan that will be designed to keep Residents informed and involved in meeting the Aims, Objectives and Content of the review from the beginning to end. The review will cover the following key areas;

- Setting the Scene – setting out a clear message of what the Review is and providing Background Information, Aims and Objectives which will be used at every stage to ensure the review is open and honest with residents.
- Phase 1 Consultation – asking the question of what a modern Leisure service looks like.
- Review of Phase 1 Consultation – to develop a strategy and Options appraisal of next steps.
- Options Appraisal put to Cabinet for approval – to agree a preferred option and next steps.
- Phase 2 Consultation – to seek views on the preferred option and next steps.
- Review of Phase 2 Consultation – review feedback on the preferred option and next steps
- Closing report to Cabinet – to seek approval to launch the preferred option and next steps e.g. procurement, negotiation etc.

9.9 In the interim the Council has asked GLL to investigate how it might find efficiencies in the current contract in order to aid the Council in meeting its long term goal of a self sustainable Leisure Service. Such efficiencies may include changes to the opening hours, pricing, activity programming etc. Full details of these will be available for evaluation once they have been compiled by GLL. Any efficiencies that GLL propose will be assessed by an Equalities Impact Assessment.

9.10 The Compton and Queen Elizabeth Sports (QE) Centres are both attached to Schools and they have use of the facilities during school hours. Both of the schools have become or are in the process of becoming an Academy and the sports centres are to be included as part of their academies transfer; therefore the Council and GLL are in the process of varying the leisure contract to remove these sites from the GLL contract. The council and Compton School are working to agree a timeline for the transfer to take place

## **10 LIST OF BACKGROUND PAPERS**

10.1 None

Legal – SS

Finance – JH/MC