

Report for: ACTION
Item Number: 8i

Contains Confidential or Exempt Information	Main Report, Appendix A NO – Part I Appendix B, C, D. YES - Part II - Not for publication by virtue of paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972.
Title	Contract Award for Operation of Leisure Centres
Responsible Officer(s)	Andrew Brooker Kevin Mist
Contact officer, job title and phone number	Andrew Brooker, Head of Finance, 796341 Kevin Mist, Head of Leisure Services, 796443
Member reporting	Cllr Quick, Lead Member for Leisure & Libraries
For Consideration By	Cabinet
Date to be Considered	30 October 2014
Implementation Date if Not Called In	4 November 2014
Affected Wards	All
Keywords/Index	Leisure Centres, Leisure Trust; Tender; Contract

<p>Report Summary</p> <ol style="list-style-type: none"> 1. This report deals with the awarding of a contract to operate the Royal Borough's leisure centres. 2. Following a procurement exercise that commenced in February 2014, an attractive bid for the contract was received from an experienced and successful provider in October 2014. 3. The report recommends the contract is awarded and authority to agree the detailed terms and conditions is delegated to the Leader, the Lead Member and Deputy Lead Member for Leisure and Library Services, the Lead Member for Finance and the Strategic Director of Adult & Community Services. 4. The quality of the Borough's leisure centres will improve by awarding the contract and the Council expects a cumulative saving of £2.6m by 2018/19 and further material savings per annum thereafter. This will allow for increased investment in other Borough services. 5. 270 staff will TUPE transfer (90fte this is a 7.29% reduction in the total head count of RBWM). 6. The contractors capital investment programme will help reduce the Council's capital programme and will allow for redistribution of s106 funding to other projects. There will be no transfer of ownership of the leisure centres and/or land.
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If recommendations are adopted, how will residents benefit?	
Benefits to residents and reasons why they will benefit	Dates by which residents can expect to notice a difference
1. A nationally based experienced operator with 76 other centres under contract will be appointed to operate the Council's leisure centres.	From 7 January 2015
2. Financial savings from the tax efficiency position of a Non Profit Distributing Organisation (NPDO) will be achieved to contribute additional savings to help reduce cost to rate payers and invest in other services.	From 7 January 2015
3. Residents will have access to web bookings for courts and courses	From 7 January 2015
4. As part of a national group the contractor will be able to offer residents a wider range of market leading activity programmes	From 7 January 2015
5. Healthy lifestyle schemes will be expanded at the centres to attract greater participation in physical activity targeted at difficult to reach groups.	From 7 January 2015

1. Details of Recommendations

RECOMMENDATION that Cabinet:

- 1.1 Approve the award of a concession contract to operate leisure centres in the Royal Borough of Windsor & Maidenhead to Parkwood Leisure for 10 plus at mutual agreement a further 10 years.**
- 1.2 Approve the issue of a sub contract from Parkwood Leisure to Legacy Leisure Trust under a Service Agreement for operation of the contract.**
- 1.3 Delegate authority to the Leader of the Council, the Lead Member for Leisure & Libraries, the Deputy Lead Member for Leisure and Libraries and the Lead Member for Finance, and Strategic Director of Adult & Community Services to agree the final terms and conditions of the contract.**
- 1.4 Approve the issue of a press release**

2. Reason for Recommendation(s) and Options Considered

- 2.1 The five Leisure Centres being considered are: Magnet Leisure Centre, Windsor Leisure Centre, Cox Green Leisure Centre, Charters Leisure Centre and Furze Platt Leisure Centre (from May 2015).
- 2.2 The decision to procure an alternative provider for these services was agreed by Cabinet Prioritisation sub committee at its meeting on 6 November 2013. Under the public procurement regulations, contracts relating to management of leisure centres are either Part B services requiring some degree of advertising to comply with the European Treaty principle of transparency or a concession contract which is outside the scope of the regulations.
- 2.3 A services concession grants exclusive rights to manage and operate the services in exchange for a significant rental payment to be made to the Royal Borough.

- 2.4 European case law has indicated that although concession contracts do not require the full European procurement process or any advertising, to minimise any risk of challenge it was decided to advertise this opportunity on the South East Business Portal.
- 2.5 Following this advertisement eight organisations responded to a Pre-Qualification Questionnaire (PQQ) which was evaluated. The purpose of this evaluation was to shortlist those organisations that had met RBWM's minimum criteria and to make recommendations as to whom would then proceed to the formal bid stage. These organisations were Greenwich Leisure Ltd (GLL), Vision, RBWM Leisure Trust, Freedom Leisure Ltd (Wealden), Serco, Leisure Connection, SLM Leisure and Parkwood Leisure.
- 2.6 The initial PQQ scorings led to negotiations with a locally based charitable trust, which failed to produce an acceptable financial return to the Council. Following failure to agree terms with the local trust, the PQQ hurdles were reduced to invite all 7 qualifying bidders to enter the bidding stage. Only one organisation entered a compliant bid and this was evaluated. The detail of the financial bid is set out in the Part II Appendix B to this report.
- 2.7 The contract is a concession with a range of identified service outputs as contractual obligations; these are attached as Appendix A.
- 2.8 The contract proposed follows a Sports England recommended format with input from RBWM officers and Shared Legal Service. The contract has a 10 year break clause accessible to either party.
- 2.9 The contract repairs and maintenance matrix transfers much of the equipment capital replacement programme to the contractor. The Council remains only responsible for the maintenance and replacement of items relating to the building and the fabric of the building.
- 2.10 In addition to the business rates and VAT trading benefits available to the contractor they have identified a number of operational changes that will enable them to sustain the annual rental payments. These are listed in Appendix C
- 2.11 The contractor has a long track record of operating leisure centres and is part of a larger national group the Parkwood Group of Companies, which includes operators of Theatres, Grounds Maintenance contracts, Health care and a consultancy arm. Parkwood Leisure has a turnover of £135m and 4,000 employees. Parkwood Leisure work with 25 local authorities operating leisure centres mainly in the South and Midlands including Banbury, West Berks, Ruislip and Southend.
- 2.12 The contact will be monitored by a qualified Council officer in the Leisure team who will be responsible for monitoring quality outputs based on target Key Performance Indicators identified in the contract documentation. Mystery shoppers are used regularly by Parkwood, and feedback from them as well as regular centre inspections by the monitoring officer (or a third party appointee) will ensure quality, programming and performance are improved.

Option	Comments
1. Award the contract to Parkwood Leisure subject to the agreement of terms and conditions. Delegating authority to agree these Terms & Conditions as specified. Recommended	Enables transfer of operation, achieving budget budget savings and service improvements.

2. Do not award, reconsider requirements of PQQ and re-issue.	Delays commencement of contract and the achievement of anticipated savings and service improvements.
3. Do not delegate authority to agree detailed T&Cs, but await completion of all contract terms & conditions	Delays commencement of contract and the achievement of anticipated savings and service improvements.
4. Not to proceed with procurement.	Savings and service improvements will not be realised.

3. Key Implications

Defined Outcomes	Unmet	Met	Exceeded	Significantly exceeded	Date they should be delivered by
Savings delivered by the end of the 2015/16 financial year	Less than £225k	£225k-£250k	£251k-£300k	More than £300k	31 March 2016
Levels of customer satisfaction with Leisure Services improve	By less than 5% <i>(Measured by annual customer satisfaction survey)</i>	By 5%-10% <i>(Measured by annual customer satisfaction survey)</i>	By 11%-20% <i>(Measured by annual customer satisfaction survey)</i>	By more than 20% <i>(Measured by annual customer satisfaction survey)</i>	31 March 2016 <i>(Measured by annual customer satisfaction survey)</i>

4. Financial Details

4.1 Financial impact on the budget

The approved net controllable cost revenue budget for the four transferring leisure centres is £2.26m (credit to RBWM) in 2014/15. This consist of £5.71m gross spend and £7.97m revenue. Responsibility for some of these budgets will remain with the Council, including building insurance, major capital investments, roof, wall and basic fabric costs. Income from car parking will also remain with the Council. The contractor will be given guarantees that their business will not suffer due to unreasonable changes in parking arrangements.

Agreement has been reached over a 10 plus 10 year contract with two way break clause, “core charges” (majority of charges including swimming and gym charges) will be capped at RPIx (retail prices index minus mortgage costs) and the responsibility for maintenance of buildings (RBWM) and its contents (Parkwood) have been established. There are ongoing discussions on the novation of contracts to Parkwood and responsibilities for any termination costs that might arise. These are not expected to be significant. Delegated authority to resolve these matters is sought in the recommendations.

The Leisure Centre buildings and land will remain in the Council’s ownership.

Parkwood Leisure will sub contract the operation of the centres to Legacy Leisure Trust. Under this arrangement VAT will not be added to charges for certain activities. Legacy Leisure will operate the contract under a Service Agreement between the Trust and Parkwood Leisure. The contract will be held by Parkwood Leisure who will hold all the contractual obligations and risk. RBWM staff will TUPE transfer to Legacy Leisure Trust as the operators of the centres.

The contractor is expected to generate an operating surplus and this will enable them to pay an annual rent to the Council for their use of the leisure centres. The annual rent guaranteed by the contractor will increase gradually over the first 4 years of the contract. After increasing over these 4 years the sum will remain unchanged (subject to CPI uplift – Consumer Price Index) for the following 6 years. The annual rent payable after 10 years will be subject to review see appendix B for rent payments and appendix D for budget impact of rent payments.

The increases in surplus are expected to arise from reduced operating costs, reduced utilities costs and from projected growth in revenues.

Additional rental income v Council leisure centre operation business plan

	2015/16	2016/17	2017/18	2018/19
Net Additional income	Revenue £000	Revenue £000	Revenue £000	Revenue £000
Incremental	225	372	253	67
Cumulative for year	225	597	850	917
Cumulative from 2014/15	225	822	1672	2589

Capital

The contractor has indicated they will invest £150k per year in capital investments to supplement the council's planned replacement programme which will remain in place and be subject to the usual annual capital budget programme prioritisation and selection procedure.

Recharges

The 4 existing Leisure Centres would have attracted approximately £530k in Corporate and Directorate Management recharges in 2014/15. The Council can expect a reduction in the cost of its management budgets; however the marginal cost saving from this externalisation will not deliver the £530k currently shown in the budget. Further work is required to quantify additional central administration savings, but these **additional** budget savings are expected to be in the region of £100k per annum.

2014/15 Financial year

It is anticipated that the contract rental payments for the last 3 months of the financial year from the new contractor, combined with staffing and NNDR changes already taken will enable the Leisure Services budget to achieve its financial targets for 2014/15.

5. Legal Implications

The Council is enabled, by section 111 of the Local Government Act 1972, to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions. The Council therefore has a general power to enter into contracts for the discharge of its functions; including entering into the Contract with Parkwood Leisure as detailed in this report.

6. Value For Money

The savings arising from the tax efficiency of the proposals; revenue growth; reductions in operational costs. The use of electronic marketing will result in progressively improving financial outputs from the contractor.

7. Sustainability Impact Appraisal

The leisure centres will remain in Council ownership and will continue to be included in the "Refit" project in respect of improving their energy efficiency. The contractor has also identified additional energy saving plans to be implemented at a very early stage of the contract.

8. Risk Management

Risks	Uncontrolled Risk	Controls	Controlled Risk
Contractor fails to meet contract payments	High	Full financial checks have been completed on the company. Parkwood is a national based group with a 20 year history and a strong order book.	Low
Unable to make Corporate recharge savings	High	Target savings notified to service managers on a timely basis and delivery of saving closely monitored	Medium, especially in first year

9. Links to Strategic Objectives

This arrangement will assist in the following strategic objectives;

Residents First

- Support Children and Young People
- Encourage Healthy People and Lifestyles

Value for Money

- Deliver Economic Services
- Increase non-Council Tax Revenue

Delivering Together

- Enhanced Customer Services
- Deliver Effective Services

10. Equalities, Human Rights and Community Cohesion

The contractor is experienced in implementing all equalities and human rights legislation. The leisure centres outputs element of the contract includes a wide range of activities. The contractor will continue to provide which relate to equalities and community cohesion.

11. Staffing/Workforce and Accommodation implications:

The concession contract will require a transfer of 270 individual full and part time staff to Legacy Leisure Trust under TUPE legislation equivalent to 90fte. This is 7.29% of the total head count for RBWM.

12. Property and Assets

A lease and sub lease will be drawn up between the contractor and RBWM covering the buildings of Magnet, Windsor, Cox Green and Furze Platt Leisure Centres and an agreement will be drawn up between the Charters Leisure Centre Trust and the contractor. It is anticipated that the Centres will be leased for a 20 year lease with suitable break clauses at year 10. A condition survey has been completed in respect of the buildings to inform future maintenance work this will be revisited before award of contract to determine all the equipment requirements at the staff of the contract and provide a benchmark at the end of the contract. Larger capital project work will remain the responsibility of RBWM, with the general day-to-day maintenance contracted to the contractor as part of the legal agreement, identified within a repairs and renewals matrix.

Under the lease agreements provision will be made for any potential relocation of the Magnet Leisure Centre.

The new Furze Platt Leisure Centre is included in the documentation to allow transfer once the centre is completed in May 2015.

13. Any other implications:

There are a number of areas currently operated by the Leisure Centres which will remain within the RBWM Leisure Service team, namely: the Advantage Card and its administration (0.6fte); Strategic Sports Development (1fte); Thames Valley Athletic Centre contract management; SMILE and other health and rehabilitation services (2fte); Parks and Open Spaces management (5.5fte) and Landscape Design (1fte). Responsibility for 4 Marlow Road and the Larchfield Community Centre will transfer to the Youth & Community Service.

14. Consultation

The report will be presented to a joint Corporate Services and Leisure and libraries overview and scrutiny committee on 29th October 2014.

15. Timetable for Implementation

The consultation with staff under TUPE regulations will commence on approval of this report. The contractor will take responsibility for the operation of the Leisure Centres from 7th January 2015. The full implementation plan is attached as appendix C. It is proposed to implement on a Wednesday when all council and contractor staff and systems will be available to complete the necessary IT, TUPE and operational changes and manage any related issues allowing for a seamless transition for staff and centre users.

16. Appendices.

Public	Appendix A: concession outputs
Private (Part II)	Appendix B: rent payable to council
Private (Part II)	Appendix C: implementation plan
Private (Part II)	Appendix D: Financial Analysis

17. Background Information

Report to Cabinet Prioritisation sub committee on 6 November 2013 "Procurement of Leisure Services"

18. Consultation (Mandatory)

Name of consultee	Post held and Department	Date sent	Date received	See comments in paragraph:
Internal				
Cllr Burbage	Leader of the Council	13/10/2014		
Cllr Quick	Lead Member for Leisure & Libraries	10/10/2014		
Mike McGaughrin	Managing Director			
Maria Lucas	Head of Legal Services	13/10/2014		5. Legal
Andrew Brooker	Head of Finance	13/10/2014		4. Financial
Christabel Shawcross	Strategic Director A&CS	13/10/2014		

Report History

Decision type:	Urgency item?
Non-key decision	Yes. The progress of the concessionary contract award process was unpredictable. Only after completion of the scoring of the PQQ and subsequent process could it be determined when a cabinet decision was required.

Full name of report author	Job title	Full contact no:
Andrew Brooker	Head of Finance	01628 796341

SCHEDULE 1 SERVICE OUTPUTS

Service Outputs to be maintained throughout the life of concession contract

Within the operation of the concession provide the Services in such a manner as shall promote and enhance the image and reputation of the Council and Borough in respect of leisure, recreational and sporting activities and in accordance with the law from time to time in force;

Raise awareness of the opportunities and the profile of sport and leisure as a significant contributor to the borough's wider aspirations. Offer a comprehensive range of entry level activities, develop pathways, increase and sustain participation levels. Programmes should be sensitive to market trends and demographics of the community and borough.

The concessionaire should aim to transform the lives of individuals and communities through their participation in a wide and inclusive range of sport and leisure activities that provide positive life experiences and opportunities.

Provide a wide range of high quality services and opportunities increasing community satisfaction across all sport and leisure activities increasing from the base level of services in 2013/14; Provide and develop sustainable, relevant, affordable and accessible opportunities for participation for the surrounding community and wider attracted centre visitors. Make people aware of the opportunities available and benefits of participation, encourage starting and sustaining of participation in activities.

Develop and provide a delivery system that engages with a wide range of partners acknowledging and celebrating the strengths and diversity of different delivery partners who will help engage with different communities.

Co-ordinate with various partners in delivering sport and leisure related services. Recognise that success can require multi-partner delivery systems to ensure opportunities exist can be sustained and excel in performance.

Assist people to be healthy and active, work with partners to address the issues of residents uninterested in being physically active to remove barriers where possible. Whilst recognising that at different life stages, drop out can occur and challenge to social and lifestyle habits is required and encourage the community to 'choose' spend their leisure time being active rather than opting for sedentary pastimes.

Encourage through partnerships the increase of both indoor and outdoor sports and leisure activities by neighbourhood clubs, groups and society infrastructure. Linking with and building on local voluntary and community skills and strengths. Encourage a stronger and more cohesive community providing a friendlier place to life through watching and playing sport and physical activity.

Introduce internal systems for monitoring quality assurance performance and outputs. An annual report on performance shall be submitted to the Council each year no later than 1 September in each calendar year commencing in 2014. not act in a manner, whether in the delivery of the Services or otherwise, which could reasonably be viewed as bringing the Council into disrepute;¹¹

Ensure that appropriate health and safety measures are put in place and carried out within all land and premises (including the Properties) from which the Services are delivered;

Only utilise, in the provision of the Services, such personnel as shall possess the appropriate experience, skills and qualifications necessary for the Services to be performed in accordance with this Agreement;

Ensure that all staff employed by or otherwise working on behalf of the concession holder and who are or may undertake work with vulnerable groups in delivery of the services, are suitable for the performance of the duties they will undertake, and that all staff are not according to current relevant legislation, deemed to be a risk either to the service users, the Trust, the Properties or the Council.

The concession holder must employ sufficient staff to ensure that the Services are provided at all time and in all respects in accordance with the Services Specification and within relevant Health and Safety guidelines.

Ensure that no advertising shall be displayed at the Properties or in relation to the Services which could reasonably be expected to cause offence or which has been prohibited by the Council, and no advertising of a political nature and no material which could be considered indecent, racial or obscene may be displayed;

Ensure that all of its stationery and signage and all advertising, publicity and promotional material relating to the Services clearly indicates in a manner approved by the Council in writing the relationship between the Trust and the Council in relation to the provision of the Services.

The operators of the concession will have regard to all reasonable requests by the Council to act in a manner which assists the Council to meet its legal obligations, except insofar as such request may involve significant expenditure of resources or may otherwise prevent the Trust from delivering the Services or meeting its wider obligations.

Services

The Leisure Centres will continue to be hub sites for activity ensuring that all parts of the community are given the opportunity to access high quality physical activity provision, minimising any barriers to participation by ensuring hard to reach target groups, groups identified through the JSNA (Joint strategic needs analysis) and leisure centre's established long term user groups continue to access the centres and that this is continually supported and honoured.

Existing Partnerships and commitments to be maintained unless agreed by the Councils Concession Manager

- Continue all the following schemes:
- GP Referrals co-ordinated in Bodyzone gyms with the aim of prescribing physical activity to enhance a person's wellbeing – developing new sessions with C.C.G and local GPs.
- New cancer rehab provision, stroke rehabilitation, cardiac rehabilitation phase 3 and 4
- Smoking Reduction- Smoking cessation programme in Bodyzone gyms.
- Charging reduced prices under the Advantage plus subsidised scheme for qualifying classes
- Generations scheme, Mend project/ Green room supporting young people with educational difficulties and offer the sensory zone for young people with disabilities.

- To promote a physical activity action plan- Offering choices through, Advantage, Advantage plus, SHINE/SMILE programmes and 13-19 activity. Including annual events like the SMILE Christmas Party.
- SMILE exercise classes run at the leisure centres, 50+ Clubs and other targeted activities on the older age market.
- First Responder Scheme; maintain defibrillators at all 5 sites.
- To provide reduced rates in hall for blood donor sessions.
- Time out memberships to carers to enhance their quality of life.
- To operate regular NPLQ/Swim teaching courses at least 2 courses per site per year.
- Emergency Planning – Retaining their role as emergency rest centres in the events of incidents in RBWM.
- To run swimming lessons available at all levels and age groups to the public.
- Continue to support local community groups such as the Rotary and Lions Club to support events such as the annual Swimathons.
- To continue to clubs time for all swimming club including Maidenhead Marlins, Windsor Swimming Club, Starfish, Electric Eels and SportsAble including gala Competitions I.E one whole weekend in January etc.
- To offer the British Olympic Association scheme to offer free gym membership to athletes recognised as representing their country.
- To support the work of the three year Community Sport Activation Fund project through Sport England and run through the Sports Development team in way of supporting with facilities and additional activities.

- To offer awards for the STARS schemes through the councils transport team in rewarding young people walking to school with leisure centre offers.
- Continuing to offer subsidised school holiday schemes for young people through social services and low income families as well as supporting young disabled people to attend these schemes with support needed.
- To continue issuing Advantage cards the Council will remain the owner of the Advantage card database.
- To continue the Kidwells Park netball league over three evenings.
- To continue all historic regular bookings with local groups – Claires Court School, Maidenhead Synagogue etc
- Continue to offer money off swimming vouchers for the Green Waste scheme operated by the Councils waste disposal agents.
- Provide free use at Braywick A.T.P for education use upto 5pm Monday to Friday, term time.
- To operate a 50% maximum of block bookings for all sports hall peak times.
- To maintain the Magnet as a competition pool for local, regional and national competitions.
- To honor all long term club bookings in halls, pools, pitches etc, Windsor Swimming Club and Marlins Swimming Club, Maidenhead

Site	Centre		BodyZone		Swim	
	Weekday	Weekend	Weekday	Weekend	Weekday	Weekend
Magnet Leisure Centre	Mon – Fri 6am – 11pm	8am -10pm	Mon – Fri 6am – 11pm	8am – 6pm		
Windsor Leisure Centre	Mon – Thurs 6.30am – 10pm Friday 6.30am – 9pm	Saturday 8am – 6pm Sunday 9am – 6pm	Mon – Thurs 6.30am – 10pm Friday 6.30am – 9pm	Saturday 8am – 6pm Sunday 9am – 6pm		
Charters Leisure Centre	Mon, Tues, Wed, Fri 4.30pm – 10pm Thursday 4.30pm – 11pm	9am – 6pm	Mon, Tues, Wed, Fri 4.30pm – 10pm Thursday 4.30pm – 11pm	9am – 6pm		
Cox Green Leisure Centre	Mon – Thurs 4.30pm – 10pm Friday.30pm – 9pm	9am – 6pm	Mon – Thurs 4.30pm – 10pm Friday 4.30pm – 9pm	9am – 6pm		
BodyZone Braywick	Mon – Thurs 12.30pm – 9.30pm Friday 12.30pm – 8pm	9.30am – 3pm	Mon – Thurs 12.30pm – 9.30pm Friday 12.30pm – 8pm	9.30am – 3pm		

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