

RECORD OF EXECUTIVE DECISION

Tuesday, 17 September 2024

Decision No: (CAB 24/25 45766)

DECISION-MAKER:	CABINET
PORTFOLIO AREA:	Cabinet Member for Compliance and Leisure
SUBJECT:	Leisure Service
AUTHOR:	Katie Renouard

THE DECISION

- (i) To approve an extension of the Agreement by up to three years, bringing the latest end date of the Agreement to 31st August 2028 (“the Extension Period”).
- (ii) To delegate authority to the Executive Director – Resident Services and Executive Director – Enabling Services, following consultation with the Cabinet Member – Compliance and Leisure, to take the necessary actions to give effect to this decision including, but not limited to, agreeing relevant commercial and financial terms and the utilising the contractual mechanisms contained in the Agreement to implement the Extension Period.

REASONS FOR THE DECISION

1. A few options have been considered as outlined in the “Alternative Options Considered and Rejected” section of this report.
2. An extension of the Agreement by of up to three years will provide the Council with sufficient time to complete the “Stage 4” of the Strategic Outcomes Planning Model (“SOPM”), relevant business cases and operating proposals for the future leisure strategy, including any procurement activities and the implementation of any associated contract(s) and arrangements.
3. The without-prejudice commercial negotiations between the Council and the Provider to date indicate that the Council can (subject to formal agreement) secure a General Fund revenue saving of approximately £500,000 per annum (i.e. a saving of circa £1.5M for the full three year Extension Period), in respect of operating the leisure facilities on a like-for-like basis for the duration of the Extension Period, when compared with the cost to the Council in Financial Year 2023/24. These savings would not impact on service levels but would require the Provider to reduce its costs, increase income and operate more efficiently.

4. The Council's City Services team will continue to provide the grounds maintenance of the Outdoor Sports Centre, Lordshill Recreation Ground, Mayfield Recreation Ground, Green Park, Millbrook Recreation Ground, Veracity Ground, Riverside Park and Hoglands Park. This approach is being reviewed through the Leisure Strategy adapt | grow | thrive transformation project.
5. As part of the commercial discussions with the Provider, the Council has requested the inclusion of an optional "break clause" which can be utilised by the Council from month 18 of the Extension Period onwards, providing the reason is as a direct result of implementing the Leisure Strategy. This will provide the Council with the ability to exit the Agreement, in full, earlier than August 2028 if/as required to align with the implementation of the future Leisure Strategy. The optional nature of this clause also provides sufficient flexibility to continue the Agreement for the remaining period, if additional time is required. Cabinet are asked to note that existing contractual remedies contained in the Agreement, such as for breach of contract, would continue to exist and be unaffected by the "break clause". The Council would be able to activate the break clause by formally giving the Provider a minimum of six months' notice of its intention to do so.
6. Whilst the "break clause" will allow the Council to exit the entire Agreement during the Extension Period as a result of implementing the Leisure Strategy, the current contractual terms also allow the Council to request removal of facilities (sites) from the Agreement. This would allow for the removal of Southampton Water Activities Centre ("SWAC") and Woodmill Activity Centre from the Agreement at an appropriate time during the Extension Period if the business cases and impact assessment for ceasing Council-funded leisure provision at these sites - which is being considered through the Council's adapt | grow | thrive transformation programme - determines this as the preferred option. The removal of SWAC and Woodmill Activity Centre would be likely to result in additional General Fund revenue savings to the Council in addition to the saving quoted in paragraph 3 of this report.
7. Remaining in contract with the Provider until August 2028 will also provide continuity and certainty in terms of service offering and relative cost - excluding the impact of indexation' which would likely be the case with any replacement contracting arrangement - until implementation of the future Leisure Strategy.
8. The recommended approach will also mitigate rising supply costs by referencing the original pricing model for the Agreement rather than establishing a new pricing model based on prevailing market conditions, the cost of which operators would invariably seek to pass on to the Council as part of new contracting arrangements. The saving referenced in paragraph 3 has been negotiated based on this original pricing model.
9. Recent soft engagement with leisure market suggests that procurement opportunities within the leisure sector are currently plentiful and that providers are being selective concerning the opportunities for which they choose to bid. It is therefore important that the Council approaches the market at the appropriate time, with an attractive opportunity, with a firm and clear strategy and with

clarity regarding the facilities included and the future intentions regarding these facilities. If the Council does not undertake a procurement process on this basis, it is likely to result in a limited competition, higher prices, bidders for the contract building in risk premiums, lower quality solutions and a poorer commercial position for the Council.

10. The Agreement is broadly delivering against performance requirements and obligations in its current form and in line with its current scope.
11. As part of effective planning of Council resources, the use of contractually permissible extension options for relevant contracts is normally considered and, where it is determined that the contract continues to provide best value, recommendations to extend these contracts are being made. This is in the light of the significant procurement activity and pressure on the organisation, the limited resource available, the cost of undertaking successful procurement projects, prevailing market pressures and rising contract costs which may result from many of the re-procuring services.

DETAILS OF ANY ALTERNATIVE OPTIONS

Allow Agreement to expire in August 2025 and close all leisure facilities across the city

Ceasing leisure services at all leisure Facilities within the scope of the Agreement at the end of the current Agreement term in August 2025 would provide the Council with some cost savings associated with ceasing operations, however this approach would come at the expense of significant long-term negative impacts on the community, public health, and the Council's strategic objectives. It is also likely to lead to substantial public dissatisfaction, the loss of valuable services and potential increases in future health-related costs. This option would be inconsistent with the findings from the SOPM work to date which recommended that the Council should continue to provide leisure services in some form. This option would also result in costs to the Council associated with mothballing and/or disposal of the Facilities and sites.

Allow the Agreement to expire at the end of its initial term in August 2025 and reprocur an operator for a period of up to 3 years

Going to market for a new provider through a competitive procurement process would allow the Council to evidence best value, but would also bring risks associated with increased mobilisation and operational costs and costs and disruption related to transitioning to a new provider for a relatively short-term arrangement. In addition, this option may result in duplicated procurement costs and resources in the short term if the recommendations from the SOPM determine that the procurement of a long-term strategic partner(s) for leisure services offers the best strategic, operational and commercial solution; it is likely that such procurement(s) would commence within the next twelve to twenty-four months.

Extend the Agreement by 18 months only

The without-prejudice commercial discussions between the Council and the Provider indicate that a three-year extension (with a break clause from 18 months) provides the optimal financial benefit to the Council as it maximises the opportunity for the Provider to realise a return on investment through capital expenditure, repairs, technology, etc, and with associated efficiencies reflected in the Management Fee payable by the Council to the Provider.

Committing to a fixed 18th month extension would provide no additional financial benefit to the Council when compared with the recommended option and removes the flexibility to implement the SOPM recommendations over a longer-term period. Under this option, the Council would be committed to have implemented the SOPM by March 2027 or risk having to re-procure an arrangement for the short term.

Bring the leisure services associated with the contract into direct in-house delivery by the Council

This option has been rejected as a Management Options Appraisal associated with the first phase of the Stage 4 SOPM commission concluded that the optimum management model for the delivery of the leisure services is by an external provider; this was assessed to cost less than an equivalent in-house model and provide effective and efficient service delivery.

OTHER RELEVANT MATTERS CONCERNING THE DECISION

None.

CONFLICTS OF INTEREST

None.

CONFIRMED AS A TRUE RECORD

We certify that the decision this document records was made in accordance with the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 and is a true and accurate record of that decision.

Date: 17 September 2024

Decision Maker:
The Cabinet

Proper Officer:
Judy Cordell

SCRUTINY

Note: This decision will come in to force at the expiry of 5 working days from the date of publication subject to any review under the Council's Scrutiny "Call-In" provisions.

Call-In Period expires on

Date of Call-in *(if applicable) (this suspends implementation)*

Call-in Procedure completed *(if applicable)*

Call-in heard by *(if applicable)*

Results of Call-in *(if applicable)*

CONFIDENTIAL