

DECISION-MAKER:	Cabinet
SUBJECT:	St Mary's Leisure Centre
DATE OF DECISION:	18 th April 2023
REPORT OF:	COUNCILLOR FIELKER CABINET MEMBER FOR HEALTH, ADULTS AND LEISURE

<u>CONTACT DETAILS</u>			
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STATEMENT OF CONFIDENTIALITY

N/A

BRIEF SUMMARY

This report concerns the approach to procuring the long-term future for St Mary's Leisure Centre ("SMLC").

RECOMMENDATIONS:

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| | (i) | To delegate authority to the Head of Supplier Management to undertake a procurement process to appoint a long-term operator for SMLC. |
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REASONS FOR REPORT RECOMMENDATIONS

1.	The Council intends, subject to the approval of the recommendation of this report, to undertake a procurement process to appoint a long-term operator of SMLC.
2.	Further to the decision by Cabinet on 19 th July 2022 (the "July Report") to recommence leisure services from SMLC for a period of up to 18 months ("the Interim Arrangement"), a 12-week consultation ("the Second Consultation") on the longer-term operation of SMLC took place between 12 th December 2022 and 6 th March 2023.
3.	The Second Consultation indicated that sixty nine (69)% of respondents agreed with the proposal and sixty one (61)% of respondents agreed that it would have a positive impact for SMLC to remain as a leisure facility.
4.	Active Nation ("AN") is the operator of SMLC for the duration of the "Interim Arrangement", as approved in the July Report. This arrangement with AN commenced in August 2022 and is for a maximum of 18 months. The arrangement includes a notice period of 3 months and it is intended that the procurement process and subsequent mobilisation of the long-term operator will

	align with these timescales to ensure there is minimal disruption to services once the long-term operator is appointed.
5.	The procurement process for the long-term operator is expected to last between four and six months – including mobilisation by the new operator - from the date of the Cabinet decision.
6.	Once a preferred operator has been identified in accordance with the Council's Contract Procedure Rules, a further Cabinet report will be brought forward to enable Cabinet to consider the appointment of the new operator.
ALTERNATIVE OPTIONS CONSIDERED AND REJECTED	
7.	To revert to the Cabinet decisions of 21 February 2022 (“the February Report”), which included a decision to “ <i>permanently cease leisure services at SMLC and approve in principle the disposal of the site</i> ”. This option was rejected as it does not meet the Council's objective of re-opening SMLC in order to provide a facility which offers leisure and other community services in an area in which the community is experiencing significant long-term health, wellbeing, social, economic and financial challenges.
8.	Transfer the operation of SMLC to in-house Council management. This option has been considered and at present the Council does not have the expertise or infrastructure to enable provision of quality leisure services and, as such, this option is likely to be more expensive and provide poorer quality of services than the recommended option. Appointing an external operator is likely to bring extensive knowledge and skills of the leisure industry in order to achieve the maximum service and financial benefits for the Council and its customers.
DETAIL (Including consultation carried out)	
9.	SMLC is located in St Mary's Road and consists of a sports hall which is used for activities such as basketball and badminton, smaller rooms arranged around the main hall containing a variety of weights and gym equipment and two squash courts. The facility also contains a variety of other rooms.
10.	An eight-week public consultation regarding the discontinuation of leisure services at SMLC (“the First Consultation”) was undertaken between 30 November 2021 and 24 January 2022.
11.	1,758 responses to the First Consultation were received. 86% of all respondents to the First Consultation reported a negative impact and 7% a positive impact as a result of discontinuation of the services, 6% felt there would be no impact and 1% did not know what the impact would be.
12.	Leisure services operating from SMLC ceased in December 2021 at the conclusion of an arrangement with Solent University (“SU”) to operate these services.
13.	Following the Cabinet decision in February 2022, SMLC closed to the public in accordance with recommendation (i) of the February Report.
14.	Following the July Report, leisure services recommenced from SMLC in August 2022 through the Interim Arrangement with AN who deliver the leisure services and manage the day-to-day operation of SMLC.
15.	Under the Interim Arrangement, the Council have retained most of the repairs and maintenance liabilities associated with SMLC, in addition to insuring the building and responsibility for utility and most statutory compliance costs. The

	income received from the use of SMLC as a leisure facility is retained by the Council to offset the costs of operating.
16.	The Second Consultation was held between 12 th December 2022 and 6 th March 2023 and asked respondents to confirm agreement or disagreement with the Council's proposals for future usage of SMLC, which were based on feedback provided as part of the First Consultation and at a community event in November 2022.
17.	Appendix 1 is a report summarising the responses to the Second Consultation. In total, one hundred and eighty six (186) responses to the Second Consultation were received. Sixty nine (69) % of respondents to the Second Consultation agreed and twenty four (24) % disagreed with the proposal. Sixty one (61)% of respondents felt there would be a positive impact, eighteen (18)% felt there would be no impact and sixteen (16)% felt that the proposals would have a negative impact on them, their business, or the wider community.
18.	<p>SMLC is located in one of the most deprived parts of the city where health and wellbeing outcomes are poor. The centre is in Bevois ward which has the lowest life expectancy in Southampton; in 2018-20 life expectancy for males was 73.3 years in Bevois compared to the city average of 78.3 and the highest rate of 83.1 in Basset ward.</p> <p>Across the course of their lives, residents of Bevois ward generally have poorer outcomes. For instance, rates of low-birth-weight babies are significantly higher here than the Southampton average (6% in 2018-20 for the former compared to 3% for the latter). Rates of chronic conditions are high and health outcomes for older residents of Bevois ward are poor; for instance, over 65-year-olds are far more likely to have a fall leading to a hospital admission than the city average.</p> <p>Physical activity has well known benefits for both physical and mental health yet adult activity levels in the Bevois ward are amongst the lowest in the city (only 59% were doing 150 minutes of moderate intensity activity per week in 2020/21). The recommendation of this report is made in the context of these significant challenges and with the intention of SMLC contributing to improving health and wellbeing outcomes in the local community.</p>
19.	This report recommends the commencement of a procurement process to appoint a long-term operator of SMLC which will allow the facility to continue to be used as a leisure facility and made available for hire for one off community events.
20.	Transfer of Undertakings (Protection of Employment) Regulations 2006 ("TUPE") will be considered as part of the transfer arrangements to the new operator.
21.	The Service Specification (which will form part of the proposed contract with the new operator) includes several operational requirements to which the successful operator must adhere. These include (but are not limited to) Facility Mix, Operating Model, Opening Hours, Customer Service, Programming for All, Public Health ("We Can Be Active") Strategy, Operating & IT Systems, Building and Maintenance Responsibilities, Cleaning, Pricing Requirements, Reporting Requirements, Equipment and Staff Development.
22.	It is intended that the long-term operator appointed as a result of the procurement process will work closely with the Council's Supplier Management service to ensure that the service specifications and all other contractual obligations are achieved. The contract will include performance measures and

	performance mechanisms linked to the outcomes required from the contract to help ensure compliance and maximise benefits.
23.	It is intended that the appointed operator will work closely with Public Health and align to the “We Can Be Active” strategy to contribute to deliver the goals of providing “opportunities that meet our needs and interests and are accessible and easy to find” and “support to help us get started”. The service offer would be developed around the responses to the Consultation in order to best meet the needs of the community and other users.
RESOURCE IMPLICATIONS	
24.	The precise details of the contract terms and risk profile associated with the contract for the long-term operator will be commercially sensitive and will be contained in the further Cabinet report.
25.	The costs of the procurement process will be met from existing budgets.
LEGAL IMPLICATIONS	
<u>Statutory power to undertake proposals in the report:</u>	
26.	The Council has the necessary statutory powers in the Local Government Act 1972 to proceed with the recommendation of this report.
<u>Other Legal Implications:</u>	
27.	The Council must act in accordance with the Public Contracts Regulations 2015 (“PCRs”).
RISK MANAGEMENT IMPLICATIONS	
28.	<p>The Council has set a balanced budget for 2023/24 via a strong reliance on its reserves, covering a major budget shortfall of around £20.6M. It also is forecasting an in-year deficit for 2022/23 of £10.3M as reported at Cabinet on 21 February 2023, which again will significantly deplete the Council’s uncommitted reserves. The February 2023 budget report to Council commented that “financial resilience is much weakened by depleting the MTFR reserve, and a S114 notice is foreseeable and a major risk during 2023/24”.</p> <p>To help address this financial strain, an Essential Spend only regime has applied during much of 2022/23 and will continue into 2023/24, which is designed to minimise expenditure to meet legal and/or contractual requirements and the avoidance of service failure. Any decision that gives rise to a new commitment adds to the financial strain faced and Cabinet’s attention is therefore drawn to the fact that all decisions to spend, where not essential, further increase the Council’s financial risk by limiting the options to mitigate the forecast deficit or address the future budget shortfall projection.</p>
29.	The Council may be unable to agree acceptable commercial terms and form a contract with a long-term operator. Initial soft market testing has suggested there would be a small number of bidders that would be interesting in bidding for this opportunity. Work is well advanced on this matter, but if this risk were to occur, the Council would seek to make arrangements with an alternative operator in order to deliver the long-term future. This may necessitate the consideration of an exemption from the Council’s Contract Procedure Rules (“CPRs”).

30.	The risks associated with entering a contract as the result of granting an exemption to the Council's CPRs would be reviewed before such an exemption is approved and this review would also consider the PCR's.
POLICY FRAMEWORK IMPLICATIONS	
31.	The recommendation of this report is consistent with and not contrary to the Council's policy framework.

KEY DECISION?	Yes
WARDS/COMMUNITIES AFFECTED:	All wards
<u>SUPPORTING DOCUMENTATION</u>	
Appendices	
1.	Second Consultation Report

Documents In Members' Rooms

1.	N/A
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Equality Impact Assessment

Do the implications/subject of the report require an Equality and Safety Impact Assessment (ESIA) to be carried out.	No
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Data Protection Impact Assessment

Do the implications/subject of the report require a Data Protection Impact Assessment (DPIA) to be carried out.	No
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Other Background Documents

Other Background documents available for inspection at:

Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)
1.	N/A