

Wiltshire Council

Cabinet

24 March 2020

Subject: Interim Management Arrangements for the Contracted Leisure Centres

Cabinet Member: Cllr Allison Bucknell Cabinet member for Communications, Communities, Leisure and Libraries

Key Decision: Key

Executive Summary

A cabinet decision on 12 December 2017 determined that the previously agreed insourcing of the Places for People Leisure Ltd (PfP) managed leisure sites as of 01 April 2018, was 'paused' pending work to review the facility stock, assess amalgamation and co-location of services, identify where facilities were best located and to agree the most appropriate model of delivery.

In 'pausing' the insourcing cabinet agreed to 'extend the PfP contract by a period of up to three years commencing 1 April 2018'.

Whilst some work has been undertaken to review the community assets, most of the work has not been completed. The consequence of this has culminated in a point where the PfP sites (and/or the Wiltshire Council managed sites) cannot be moved directly into the appropriate Cabinet approved future operating model in time for 1st April 2021, as anticipated. It is essential that the review process follows a sequential programme of works so that the council has a clear direction of travel before agreeing future levels of provision and management model.

In order to ensure the continuation of leisure provision at these sites while progressing with a wider leisure facility review and needs assessment, Cabinet is requested to approve a short-term procurement exercise for the management of the currently outsourced Wiltshire leisure sites.

Of the options assessed the procurement route is the most cost and resource effective and the only one that can be achieved within a twelve month timeframe.

Proposal(s)

This report requests that Cabinet:

- i. Agree to undertake a short-term procurement exercise for the management of the current outsourced Wiltshire leisure sites.
- ii. To authorise the Director of Communities and Neighbourhood Services to enter into an interim contract for the management of the sites on completion of the procurement exercise.
- iii. To progress at pace the Leisure facilities review and determine through Cabinet by no later than January 2021, proposals for the long-term facilities needs and management of all Wiltshire's leisure facilities.
- iv. In making this decision Cabinet is requested to consider the corporate procurement, legal and financial implications of this decision covered in this report.

One additional recommendation is included in Part 2.

Reason for Proposal(s)

PfPs contract for the management of ten of Wiltshire Councils leisure facilities is due to expire on 31 March 2021. It was intended that a full review of community assets and future management models would be completed in sufficient time to enable the transition of sites into the approved management model as of 01 April 2021.

Whilst some work has been undertaken to review the community assets, most of the work has not been completed. The consequence of this has culminated in a point whereby the PfP sites (and/or the Wiltshire Council managed sites) cannot be moved directly into the new model.

A decision is required to determine how the PfP sites will be managed in an interim period to ensure the continuation of leisure services. Of the options assessed the procurement route is the most cost and resource effective and the only one that can be achieved within a twelve month timeframe.

Alistair Cunningham, Chief Executive Director - Place

Wiltshire Council

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Purpose of Report

1. This report sets out consideration to the interim management arrangements for the council's leisure centres currently managed by Places for People Leisure Ltd (PfP).
2. A cabinet decision on 12 December 2017 determined that the previously agreed insourcing of the PfP managed sites as of 01 April 2018, was 'paused' pending work to review the facility stock, assess amalgamation and co-location of services, identify where facilities were best located and to agree the most appropriate model of delivery.
3. In 'pausing' the insourcing cabinet agreed to 'extend the PfP contract by a period of up to three years commencing 1 April 2018'.
4. Whilst some work has been undertaken to review the community assets, most of the work has not been completed. The consequence of this has culminated in a point whereby the PfP sites (and/or the Wiltshire Council managed sites) cannot be moved directly into the appropriate Cabinet approved future operating model in time for 1st April 2021, as a sequential programme of works needs to be implemented.
5. In order to ensure the continuation of leisure services at these sites while progressing with a wider leisure facility review and needs assessment, Cabinet is requested to approve a short-term procurement exercise for the management of the Wiltshire leisure sites that are currently outsourced.

Relevance to the Council's Business Plan

6. The purpose and recommendations noted in the report reflect the following areas of the Business Plan 2017 - 2027:
 - 6.1 Strong Communities: 'We want people in Wiltshire to be encouraged to take responsibility for their well-being, build positive relationships and to get involved, influence and take action on what's best for their own communities

– we want residents to succeed to the best of their abilities and feel safe where they live and work’.

- 6.2 The third goal for Personal Wellbeing (Prevention) references ‘improved leisure provision through new campuses, sports and leisure centres and community hubs (including libraries and community engagement)’ and a ‘healthier population’.

Background

Previous Related Cabinet Decisions

7. Wiltshire Council currently operates a mixed management model for its stock of 21 Leisure Centres. Ten are managed in house, ten are outsourced to Places for People Leisure Ltd (PfP) and one is managed by a community trust (Cricklade Leisure Centre). The recommendations contained in this paper relate to the PfP managed sites only.
8. On 10 November 2015 Wiltshire Council’s Cabinet considered three options for the future management operation of the Council’s leisure centres:
- a. Option 1 – all facilities managed in house, resulting in the eleven* leisure centres managed and operated by PfP to be in-sourced. (*Now ten leisure centres due to the closure of Christie Miller Sports Centre on 19 October 2018).
 - b. Option 2 – all facilities outsourced, resulting in a procurement exercise to contract out all 21 leisure centres (excludes the community trust managed facility).
 - c. Option 3 – a mixed model based on the current outsourced facilities, resulting in a procurement exercise to re-procure the contract for the eleven contracted facilities and retaining in-house management for the other ten facilities (excludes the community managed facility).
9. Cabinet approved Option one, which would result in the in-sourcing of the PfP sites, effective as of 01 April 2018. Leisure Services proceeded to work towards this insourcing with the fixed transfer date occurring on 1 April 2018.
10. Over the two years following this decision, financial pressures and provision of several Campus facilities required that the Council reassess its assets and services. A further paper was presented to Cabinet on 12 December 2017 that requested the insourcing of the PfP managed sites was ‘paused’ pending work to; review the facility stock, assess amalgamation and co-location of services, identify where facilities were best located; agree the most appropriate model of delivery.
11. Cabinet resolved:

‘To agree to pause the insourcing of the eleven leisure centres managed by Places for People Leisure Management Ltd for a period up to 3 years,

commencing 1 April 2018, on the understanding that the review referred to in paragraph 4.1 (of the attached Cabinet Report dated 12 December 2017) and any procurement resulting from it will be undertaken in the shortest period achievable with strict project governance, including oversight by a member and officer task group and regular reporting of progress to cabinet, the first progress report to be made in 6 months from the date of this decision.

To agree to extend the Places for People Leisure Management Ltd contract by a period of up to three years commencing 1 April 2018 subject to negotiation of revised terms taking into account the council's financial position for this period;

12. It was also noted by Cabinet that 'agreeing to pause the previous Cabinet decision was not considered to be a reversal of that decision'.
13. Following the 2017 Cabinet decision, a high-level timeline was put in place to deliver the following key objectives:
 - Variations to PfPs contracts
 - Identify and progress all interdependencies
 - Review community assets
 - Review management options
 - Implement the new management model
14. Achieving each of these strands would ensure that the appropriate needs assessments and analysis would have been undertaken in order to inform the future management models. It was the councils' intention to then transition into the agreed management model directly at the end of PfPs contract. (01 April 2021).

Current Position

15. Of the five high level objectives noted above, only the first has been fully completed.
16. Whilst a good amount of background work has been undertaken to review the community assets, the information has not been comprehensively drawn together. The consequence of this has culminated in a point where the Places Leisure sites (and/or the Wiltshire Council managed sites) cannot be moved directly into the appropriate future operating model in time for 1st April 2021, as a robust and sequential programme of works needs to be implemented to inform Cabinets decision making process.
17. A new Director for Communities and Neighbourhood Services started in post in November and to move the programme forward, Max Associates have been appointed to undertake the leisure facility needs assessment. This will identify the number, location and facility mix of leisure centres that is appropriate for the Council to provide to meet the future growth and demand of the Wiltshire population.

18. A set of recommendations will be provided by Max Associates by the end of March 2020. Included in the agreement is funding to produce four detailed business cases which will assess the capital and revenue costs of identified facilities. These are scheduled to be developed by July 2020.
19. Once the council has received a set of recommendations, a review of future management and delivery models can commence. This is envisaged to take six months with final recommendations for both facilities and management models to be taken to Cabinet no later than January 2021.
20. In order to progress the implementation of the agreed future facilities requirements and management model from January 2021, an interim management approach is required for the PfP sites. As noted above, the current contract with PfP ends on 31st March 2021. There is no further option for extension, as the 2017 Cabinet decision extended the contract beyond the contract terms and an extension would now be unlawful.
21. There is now an opportunity for the Council to test the leisure market and work in partnership with a future/existing operator to maximise the income generation of these leisure sites, enhance the physical activity benefits to our communities and bring to Wiltshire the latest thinking and ideas for leisure delivery. This will also benefit how the council operates or procures its leisure facilities in the future.

Main Considerations for the Council

22. The contractual arrangements for the ten leisure centres managed by PfP are scheduled to expire on 31st March 2021. Pursuant to contract, an exit plan is to be agreed with PfP that will specify the transfer of the services to the council or to a replacement service provider, including timelines, to ensure a smooth transition of the services. Should an exit plan not be developed, the centres will automatically revert back into the council's direct management at the time of expiry.
23. Prior to moving to the future operating model, it is essential that the council understands not only the leisure facility requirements for the future but has a clear purpose for providing broader sport and physical activity opportunities for and with the community that meet the demographic changes and health, wellbeing and social needs of individuals and communities. The council will also have to determine a clear timeline for any recommended outcomes that impact on the facility stock.
24. It is important that the council understands the future number of facilities that it wishes to operate prior to analysing and testing which management model is appropriate to meet the needs of the community and also provide the most financially sound prospect for the council to ensure the long-term sustainability of the facilities.
25. As this cannot be achieved until at least late 2020/January 2021 it is not possible to implement any subsequent new management model for 01 April 2021.

26. Four options have been considered in making the final recommendation. These options are contained as Part 2 documentation, as the analysis contains sensitive data.
27. Of the four options that have been considered, only the interim procurement option can realistically be achieved within the timeframe and without causing significant staff and financial resource issues.
28. To provide sufficient time for the interim measure to be put in place a decision has to be taken prior to 31 March 2020. In addition, whilst PfPs contract would fall away on 31 March 2021, as a respected operator of our sites, it is only right that they are given 12 months' notice of our intentions.

Overview and Scrutiny Engagement

29. A report outlining the Cabinet proposals and recommendations was taken to Environment Select Committee on 04 March 2020. Feedback and recommendations will be incorporated into this report.
30. Environment Select Committee resolved to:
 - a. Endorse the proposal as presented
 - b. Be engaged at the appropriate time in the process of agreeing the final leisure facility provision for the county and future management options

Safeguarding Implications

31. Under any management, or contractual arrangement, adherence to safeguarding policies, procedures, training and safer recruitment will be expected. Safeguarding clauses are built into the current contract. The requirements will be built into the specification and contract as part of the tender process. Any new contractor will be expected to provide evidence of compliance.

Public Health Implications

32. Leisure facilities provide the opportunities for people to lead healthy and active lifestyles. Increasing physical activity can help to improve the physical and mental health and wellbeing of the population, improve healthy life expectancy and reduce inequalities. As a result, this can alleviate the reliance on health and social care, reduce sickness absence and therefore significantly reduce the cost associated with providing these services.
33. Access to leisure facilities supports the aim of increasing the number of people meeting physical activity guidelines and reducing the proportion of 'inactive' adults and children and young people.
34. Public health aims to increase participation by those people living in quintile 1, the most deprived areas of the county. These residents are also most likely to be the most economically disadvantaged in our community. Targeted work

with priority groups who meet health inequality criteria as defined in the Joint Strategic Needs Assessment will also increase the focus on the use of leisure facilities and services to mitigate ill health and its long-term results in the population.

35. The specification for the contract will include a requirement for any contractor to deliver a range of key health improvement programmes and support the council in engaging with individuals and communities beyond the leisure centre buildings themselves. The specification will be drawn up in such a way that the contractor will be required to meet the council's requirements in relation to Public Health that may not yet be known, or articulated.

Procurement Implications

36. Following discussions with both legal services and procurement, a short-term procurement process is the advised direction. This mitigates the risk of challenge associated with extending PFPs contract. The legal advice indicates that a further extension of the contract would be in violation of the procurement regulations and therefore unlawful.
37. In order to gauge interest from the market and support the development of the specification, a preliminary market consultation will be held in accordance with Regulation 40 of the Public Contracts Regulations.

Equalities Impact of the Proposal

38. An Equalities Impact Assessment has been completed and this will act as a 'living' document to support the proposals. (Attached as Appendix 4).
39. Under any management, or contractual arrangement similar levels of adherence to Equality Duty would be expected:
- a. Due regard to the need to eliminate unlawful discrimination
 - b. Due regard to the need to advance equality of opportunity between those who share a protected characteristic and those who do not
 - c. Due regard to the need to foster good relations between those who share a protected characteristic and those who do not
40. Key equalities clauses will be included in the tender specification.

Environmental and Climate Change Considerations

41. The council has stated its aspiration for the county of Wiltshire to be carbon neutral by 2030.
42. Wiltshire Council pays utilities bills for all leisure centres, including those outsourced to the current contractor. Leisure centres are some of the highest energy users in the building estate due to long opening hours, high footfall, need for air conditioning, lighting, heating and water. The proposal will result

in energy consumption associated with the service are remaining at current levels.

43. Whilst the current contractor is signed up to ISO14001, environmental performance is not a KPI written into current contractual arrangements and there are no financial incentives to reduce energy usage/emissions in centres under their operation. Appropriate revisions will need to be written into the revised specification that demonstrate behaviours and management of and carbon savings targets.
44. Wiltshire Council is also responsible for maintenance and servicing of facilities and as systems are replaced/upgrade, the council will implement more energy efficient systems designed to reduce carbon emissions. A contractor will be required to support the development and implementation of capital projects that enable the council to drive forward this agenda at their sites.

Risk Assessment

Risks that may arise if the proposed decision and related work is not taken

45. If the proposed decision is not taken, the management contracts with PfP would fall away on 31 March 2021 and the centres and staff would revert to Wiltshire Council management. A significant amount of work goes into transferring staff, systems and customers into any new operating model and this has to be proactively managed. A decision therefore has to be made to commence this otherwise in-sourcing would happen by default and in the absence of any planning, processes, consultation with staff regarding TUPE arrangements, ICT networking and systems, customer engagement and membership transfers.
46. If the proposed decision is not taken, then an alternative interim management arrangement must be agreed so that appropriate measures can be activated.
47. There would be significant risks to the stability of leisure provision in the west and north of the county, resulting in further health inequalities.
48. The current operator would start to make arrangements to exit from the contract.

Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks

49. There is a risk that the market does not return a viable tender, or that a return is less favourable than the current contract value. Keeping the specification as similar to the existing version will mitigate these risks.
50. If a new contractor wins the contract, they will need to work closely with the Council and the current contractor to build strong community relations in a short space of time. There is a risk with any change of operator that memberships and customers may not get transferred onto new systems. However,

contractors are well versed in managing operational transfers within relatively short timescales.

Financial Implications

51. The financial implications of the proposal and recommendations are contained in the Part 2 documentation.

Legal Implications

52. Legal advice confirms that it would be unlawful to enter into a further extension of the contract without re-tendering. This would be a breach of the Public Contracts Regulations 2015 and the risk-management approach as previously agreed in the 2017 Cabinet report would no longer be appropriate.

53. The proposed course of action is consistent with the council's duty to secure 'best value' under the Local Government Act 1999.

Workforce Implications

54. There are no specific workforce implications for the procurement aspect of the proposal. Legal services and the Corporate Procurement Hub are supporting the process.

Options Considered

55. Four options have been considered in making the final recommendation. These options are contained as Part 2 documentation.

56. Of the four options that have been considered, only the interim procurement option can be achieved within the timeframe and without causing significant resource issues in terms of both staff and finances.

Conclusions

57. Following the options appraisal and analysis it is noted that options 1 and 2 are resource heavy both in terms of costs to deliver and officer time to set up and manage the process.

58. Legal advice confirms that it would be unlawful to enter into a further extension of PfPs contract without re-tendering and therefore option 4 has been discounted.

59. Option 3 is therefore the only option that officers consider achievable successfully within the 12-month period and without incurring significant resource costs.

60. Cabinet is therefore requested to:

- i. Agree to undertake a short-term procurement exercise for the management of the Wiltshire leisure sites that are currently outsourced.
- ii. To authorise the Director of Communities and Neighbourhood Services to enter into an interim contract for the management of the 9 sites on completion of the procurement exercise.
- iii. To progress at pace the Leisure facilities review and determine through Cabinet by no later than January 2021 proposals for the long-term facilities needs and management of all Wiltshire's leisure facilities.
- iv. In making this decision cabinet is requested to consider the corporate procurement, legal and financial implications of this decision covered in this report.

Reason for Proposal

61. PfPs contract for the management of ten of Wiltshire Councils leisure facilities is due to expire on 31 March 2021. It was intended that a full review of community assets and future management models would be completed in sufficient time to enable the transition of sites into the approved management model as of 01 April 2021.

62. Whilst some work has been undertaken to review the community assets, most of the work has not been completed. The consequence of this has culminated in a point whereby the PfP sites (and/or the Wiltshire Council managed sites) cannot be moved directly into the new model.

63. A decision is required to determine how the PfP sites will be managed in an interim period to ensure the continuation of leisure services. Of the options assessed the procurement route is the most cost and resource effective and the only one that can be achieved within a twelve month timeframe.

Jessica Gibbons, Director Communities and Neighbourhood Services

Report Author: Louise Cary, Head of Service – Community Development

Date of report: 24 March 2020

Appendices

Appendix 1: Cabinet Report Interim Management Options Report, Part 2, Exempt

Appendix 2: Cabinet Report Interim Management Options Appraisal, Part 2, Exempt

Appendix 3: Indicative Timeline for Interim Management Options of Wiltshire Council Contracted Leisure Sites

Appendix 4: Equality Impact Assessment

Background Papers

The following documents have been relied on in the preparation of this report:

[Cabinet Report: Leisure Provision Part 1, 12 December 2017](#)

Cabinet Report: Leisure Provision Part 2, Exempt, 12 December 2017

Cabinet Report: Management and Operation of Wiltshire Council's Leisure Centres, 10 November 2015 – Part 2 Exempt