



Cabinet

8th March 2023

Report of: Councillor Malise Graham MBE, Portfolio Holder for People and Communities (Deputy Leader)

Leisure Procurement

Corporate Priority:	Excellent services positively impacting our communities
Relevant Ward Member(s):	All Wards
Date of consultation with Ward Member(s):	None
Exempt Information:	Partially (Exempt Appendix) By virtue of paragraph(s) 3 of Part 1 of Schedule 12A of the Local Government Act 1972
Key Decision	Yes
Subject to Call In	Yes

1 Summary

- 1.1 The Council's leisure facilities (including swimming pool) are operated by an external partner through a contract management arrangement. The current contract to operate the council's leisure facilities ends on 31st March 2024. A procurement process is required to seek and to secure an operator for Melton Borough Council's leisure facilities from 1st April 2024.
- 1.2 A key requirement to prepare robustly for, and to inform the associated procurement process is to have a clear strategic framework which sets evidence led principles on which a new leisure contract would be based. A leisure procurement framework has been developed to enable this.
- 1.3 The leisure procurement framework will directly inform procurement documentation and provides a set of evidence led recommendations. It seeks to achieve a balance between supporting the council's aspirations to provide high quality leisure and physical activity services, alongside financial and social value requirements, whilst also ensuring the opportunity is attractive to the leisure market.

2 Recommendation(s)

That Cabinet:

- 2.1 **Approve the Leisure Procurement Framework (Appendix A)**
- 2.2 **Delegate authority to the Director for Housing and Communities, in consultation with the Portfolio holder for People and Communities, to make minor amendments to the leisure procurement framework and to finalise the associated procurement documentation**
- 2.3 **Delegate authority to the Director for Housing and Communities to commence a procurement process to seek a leisure operator for the Council's Leisure Facilities from 1st April 2024**

3 Reason for Recommendations

- 3.1 To maintain the provision of leisure facilities in Melton, a procurement process is required to seek and to secure an operator for Melton Borough Council's leisure facilities from 1st April 2024. This process will need to commence before the end of the current financial year. The current contract cannot be extended.
- 3.2 The leisure procurement framework has been developed with the support of sector experts and is informed by market engagement and workshops with a range of officers with experience and expertise in relevant areas (for example property, health and leisure, legal, finance, procurement). It has also been shaped through a workshop with the council's scrutiny committee and with Portfolio Holders.
- 3.3 The leisure procurement framework will directly inform the associated tender and evaluation documents. Approval of the leisure procurement framework is required to enable conclusion of the preparatory work and commencement of the procurement process.
- 3.4 The leisure procurement framework seeks to achieve a balance between achieving the council's financial and social value requirements whilst also ensuring the opportunity is attractive to the leisure market. It provides an important opportunity for the council to test the market, and assess the viability, affordability and quality of proposals from the leisure sector before any decisions on contract award would be made.
- 3.5 Final decisions in respect of contract award would be reserved for Full Council through consideration of a preferred provider following the procurement process (recommendation from Cabinet).

4 Background

- 4.1 The Council's leisure facilities are operated by an external partner through a contract management arrangement. The current contract to operate the council's leisure facilities ends on 31st March 2024. A procurement process is required to seek and to secure an operator for Melton Borough Council's leisure facilities from 1st April 2024.
- 4.2 A key requirement to prepare robustly for, and to inform the associated procurement process is to have a clear strategic framework which sets evidence led principles on which a new

leisure contract would be based. A leisure procurement framework has been developed to enable this.

- 4.3 The leisure procurement framework provides a set of evidence led recommendations. It seeks to achieve a balance between achieving the council's financial and social value requirements whilst also ensuring the opportunity is attractive to the leisure market.
- 4.4 The leisure procurement framework will directly inform the associated tender and evaluation documents.
- 4.5 Approval of the leisure procurement framework is required to enable conclusion of the preparatory work and commencement of the procurement process.

5 Main Considerations

- 5.1 The council has already used its legal powers to extend the existing operational contract as far as possible due to the uncertainties arising from the covid pandemic. To ensure continuation of leisure services in the borough the Council now must now go to market and procure a new service operator.
- 5.2 Soft marketing testing with the leisure operator market has been carried out and identified 5 potential interested parties in the bidding process.
- 5.3 The leisure procurement framework is included at Appendix A of this report. It is an exempt appendix due to the commercially sensitive information contained within it. This document provides considerations as to what the specification for this procurement exercise should include to enable the market to be fully tested.
- 5.4 The Procurement and contracting timeline can be seen below and is considered to be achievable to enable continuation of the leisure service
 - March 2023: Cabinet consideration and approval / endorsement of leisure procurement framework and approval to commence procurement process
 - March 2023: Commence procurement process.
 - March / April 2023: Bidders Day
 - June 2023: Evaluate first stage tender submissions / negotiation
 - July 2023: Commence second stage of tender process / negotiation
 - September / October 2023: Evaluate second stage tender submissions
 - October to November 2023: Identification of preferred provider, and progress through council governance process
 - November 2023: Council approval to award contract / standstill period
 - January to March 2024: Contract mobilisation
 - April 2024: New contract operational

6 Options Considered

- 6.1 Not to approve the leisure procurement framework. This is not recommended as it would prevent or delay the commencement of the procurement process, which could impact on continuity of leisure provision. The leisure procurement framework is evidence led and its development has been guided by sector experts. It has been developed over a period of

time and is informed by engagement with lead officers in relevant work areas, portfolio holders and scrutiny committee members. It provides a meaningful and robust framework upon which to test the leisure market and to secure an operator for the council's leisure facilities from 1st April 2024.

6.2 Delay the procurement, this is not recommended due to the timescales required to undertake a procurement exercise of this nature. Any further delay in the proposed start date could have the potential to create a gap in provision with centres being closed whilst the procurement is finalised and a new contract is being agreed and entered into.

6.3 Extend the existing contract, this is not a viable option due the council already maximising the length by which it could legally extend the contract due to the covid pandemic

7 Consultation

7.1 The leisure procurement framework has been developed over a period of time and is informed by engagement with lead officers in relevant work areas, portfolio holders and scrutiny committee members. A project group has overseen the development of the framework.

7.2 Key points of engagement during its development include:

- Service Specification Officer Workshop: 13th February 2023
- Cabinet Workshop: 8th February 2023
- Scrutiny Committee Workshop: 5th January 2023
- Officer and Portfolio Holder Workshop: 13th December 2022

7.3 The decision to award a contract is reserved for Full Council (anticipated November 2023)

8 Next Steps – Implementation and Communication

8.1 Further to approval of the leisure procurement framework, the associated procurement documentation will be prepared to enable the procurement process to commence.

8.2 External legal expertise is currently being secured to develop and draft the Terms and Conditions that will be used to secure an operator for the provision of the Council's Leisure Services from 1st April 2024.

8.3 When the tender process has commenced, a bidders day will be held to enable prospective providers to learn more about the contract and to visit the council's leisure facilities.

9 Financial Implications

9.1 Under the previous contract the council received a management fee from the contractor of £250k per annum. Whilst support was provided to the Contractor during Covid-19 as we transitioned post pandemic back to fully opened and unrestricted service delivery, it had been assumed that the previous management fee would be paid in full for 2023/24.

9.2 However, given the financial pressures being faced by the leisure industry the council has recognised moving forward there could be a lower management fee and built in £125k income into the MTFS for 2024/25 onwards. This has impacted on the overall deficit of the Council and been a contributing factor of why future years remain unbalanced. Therefore,

the outcome of the tender process will have a significant impact on the Council's future finances.

- 9.3 In order to provide the maximum return from any contract and the efficient operating of our leisure centres, an investment model will be offered to potential bidders where the council would be willing to provide investment based on a payback, over the life of the asset and in line with our Treasury Management and Minimum Revenue Provision Policy. This would be most likely funded from borrowing and the benefits and implications of this would be considered as part of the procurement process and evaluated accordingly.
- 9.4 In order to support the efficient procurement process and ensure the best outcome for the Council is achieved, we have engaged with external leisure and legal experts to support us on the journey. This is an important procurement and therefore ensuring we have the appropriate level of support is paramount. The cost of this support is expected to be circa £61k (leisure £36k and legal £25k) which has been funded through a combination of underspend within existing budgets and the Corporate Priorities Reserve
- 9.5 Financial Implications reviewed by: **Assistant Director for Resources**

10 Legal and Governance Implications

- 10.1 The procurement, award and subsequent contracts will be subject to the Council's decision making and governance requirements and must be compliant with the Council's contract Procedure Rules.
- 10.2 Specialist legal support will be required to ensure compliance with procurement and contractual arrangements.

Legal Implications reviewed by: Deputy Monitoring Officer 28.02.23

11 Equality and Safeguarding Implications

An equalities impact assessment will be completed prior to contract award / mobilisation. The procurement framework includes specific concessions considerations to increase fair access to leisure services.

12 Community Safety Implications

- 12.1 None arising directly from this report.

13 Environmental and Climate Change Implications

Leisure facilities, particularly those with swimming pools are energy intensive and are significant contributors to the councils carbon production. Reducing carbon emissions associated with the delivery of leisure facilities and services is a consideration and will be included within the tender evaluation.

14 Other Implications

14.1 **Health and Wellbeing Implications:** Whilst not a statutory service / function for the council, leisure facilities and services play a significant role in the health and wellbeing of our communities. The provision of swimming facilities directly support the national requirement for swimming attainment in KS2 children.

14.2 **Procurement Implications:** The proposed procurement route takes into consideration the local context and the challenging leisure sector context. It creates the ability to test the market and assess proposals within a potentially changing context (i.e, changes to energy costs / financial support from Government). The proposed process is compliant with the Council’s Contact Procedure Rules and is achievable within the available timeframe.

15 Risk & Mitigation

15.1 This is a complex procurement. It is made more complex due to the age of the council’s leisure facilities and current financial context for the leisure sector, leading to a different level of risk share appetite and reduced likelihood of a management fee payable to the council.

15.2 Whilst the procurement is complex, and the financial context is challenging, a successful procurement outcome is considered achievable.

15.3 The leisure procurement framework takes key risks into consideration and seeks to mitigate them through the recommendations contained within it. As we move to procurement, a full risk register for the project will be managed in accordance with the Council’s Project Management framework.

Risk No	Risk Description	Likelihood	Impact	Risk
1	Inability to secure an operator for the provision of the council’s leisure facilities from 1 st April 2024	Significant	Critical	Medium
2	Internal, capacity and expertise to oversee, implement and mobilise a new contract	Significant	Critical	Medium
3	Unforeseen delay in procurement process causes delay in getting a new operator in place on time	Significant	Critical	Medium

		Impact / Consequences			
		Negligible	Marginal	Critical	Catastrophic
Likelihood	Score/ definition	1	2	3	4
	6 Very High				
	5 High				
	4 Significant			1, 2, 3	

3 Low				
2 Very Low				
1 Almost impossible				

Risk No	Mitigation
1	The procurement framework is a key document through which risks are mitigated as far as possible. It provides a set of evidence led recommendations and seeks to achieve a balance between achieving the council's financial and social value requirements whilst also ensuring the opportunity is attractive to the leisure market (including taking account of soft market testing findings). Proposed procurement route allows for full market testing.
2	Project team in place, including all relevant teams. External sector expertise in place (SLC / Legal / Procurement). Upon commencement of procurement process, oversee through council's project management structure (Helping People Board).
3	Procurement have formed part of the project delivery group and been heavily involved in the process to ensure it is able to meet the required deadlines for securing a new operator by the end of the existing contract. This will be managed on a daily basis by the project group to ensure it stays on track

16 Background Papers

17 Appendices

17.1 Exempt Appendix A: Leisure Procurement Framework [v7.0]

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