

Meeting of:	<b>Cabinet</b>
Date of Meeting:	<b>Monday, 19 July 2021</b>
Relevant Scrutiny Committee:	Healthy Living and Social Care
Report Title:	Leisure Management Contract Extension
Purpose of Report:	Extension of the Leisure Management Contract between Parkwood Leisure and the Council.
Report Owner:	Report of the Cabinet Member for Leisure, Arts and Culture
Responsible Officer:	Miles Punter – Director of Environment and Housing
Elected Member and Officer Consultation:	<p>Account Environment and Housing</p> <p>Legal – Committee Reports</p> <p>Operational Manager Property</p> <p>Operational Manager Accountancy</p>
Policy Framework:	This report is a matter for Executive Decision by Cabinet.
<p><b>Executive Summary:</b></p> <ul style="list-style-type: none"> <li>• Further to previous Part I and Part II reports considered by Cabinet at its meeting on 21<sup>st</sup> June, 2021 (Minute Nos. C598 and C608 respectively), Cabinet is asked to confirm their decision having regard to the need for a further report regarding the extension of the Leisure Management Contract between Parkwood Leisure and the Council.</li> <li>• The report was referred to the Healthy Living and Social Care Scrutiny Committee for consideration at its meeting that took place on 6<sup>th</sup> July, 2021. There were no comments received from that Committee to be reported back to Cabinet and therefore Cabinet are requested to authorise the work on the detail of the contract extension.</li> <li>• It was proposed in the previous reports to extend the contract by a period of 7 years and 5 months that allows both the Council and the Contractor to compensate for the time lost due to the pandemic. Due to the commercial sensitivity of the financial information involved this matter was considered on the agenda under Part I and II.</li> </ul>	

## **Recommendations**

1. That Cabinet notes the Report and considers alongside the linked Part II Report later on this Agenda so that a decision on this matter can be taken under Part II of this Cabinet Agenda.
2. That Cabinet approves the use of the Urgent Decision Procedure as set out in Section 14:14 of the Council's Constitution.

## **Reasons for Recommendations**

1. To explain the background to the proposals to extend the Leisure Management Contract.
2. To expedite the contract with Legacy Leisure having regard to the matter already having been considered by Scrutiny and for a final Cabinet decision based on the Cabinet resolution that a further report be presented prior to the recess.

## **1. Background**

- 1.1** Cabinet of 21<sup>st</sup> June, 2021 (Minute C608), having considered the Leisure Management contract extension resolved:

(1) T H A T the current position with regard to the negotiations of the Leisure Centre contract extension, as resolved previously by Cabinet on 16th December 2019 (Minute C181 refers) be noted.

(2) T H A T the Director of Environment and Housing be authorised, in consultation with the Managing Director, the Leader and the Cabinet Member for Leisure, Arts and Culture, to activate and negotiate the terms of a 7 year 5 month extension to the Leisure Management contract, subject to agreement being reached with Parkwood Leisure Limited, currently sub-contracted to Legacy Leisure.

(3) T H A T the Director of Environment and Housing be authorised, in consultation with the Managing Director, the Leader, the Head of Finance / Section 151 Officer and the Cabinet Member for Leisure, Arts and Culture, to negotiate the terms of 2 year 5 month reversionary leases of the Leisure Centre facilities with Parkwood Leisure Limited, subject to agreement being reached in respect of Resolution (2) 2 above.

(4) T H A T authority be granted to the Monitoring Officer / Head of Legal and Democratic Services to prepare execute and complete all legal documentation required to facilitate completion of the contract extension and reversionary leases set out in Resolution (2) and (3) respectively.

(5) T H A T the report be referred to the Healthy Living and Social Care Scrutiny

Committee and that any references received from that Committee be reported back to Cabinet prior to the summer recess or that Cabinet receives a final report before any contract extension is completed.

(6) T H A T the Neighbourhood Services and Transport reserve be used to fund any additional costs that arise in 2021/22 and 2022/23.

- 1.2 There were no comments received from the Healthy Living and Social Care Scrutiny Committee from the 21<sup>st</sup> June, 2021 to be reported back to Cabinet.
- 1.3 Cabinet had however, previously resolved to receive a final report before any contract extension was completed and following the consideration by Scrutiny Committee.
- 1.4 Cabinet is advised that recent discussions have been held between the Operational Manager and Parkwood Leisure Limited, currently sub-contracted to Legacy Leisure having regard to the Cabinet decisions as outlined in the report of 21<sup>st</sup> June 2021 and it is requested the Cabinet resolutions as intended be expedited with Legacy Leisure as soon as possible.

## **2. Key Issues for Consideration**

- 2.1 Both the Strategic Leisure report and the proposal from Parkwood Leisure are for consideration in the Part II report on this agenda.

## **3. How do proposals evidence the Five Ways of Working and contribute to our Well-being Objectives?**

- 3.1 In terms of the Council's Corporate Plan, this work links to the Well-being Outcome 4: An Active and Health Vale:

Objective 7: Encouraging and promoting active and health lifestyles. Work in partnership to deliver a range of activities through our leisure and community facilities and parks to increase levels of participation and physical activity. In this regard, the work being undertaken to extend the contract seeks to secure the leisure facilities for future generations to enjoy and participate in physical activity to the benefit of health and wellbeing of users and residents.

- 3.2 In terms of the Five Ways of Working, as set out in the Wellbeing of Future Generations Act, the following applies.
- 3.3 Long Term: The extension of the contract and the provision of an additional loan will assist in securing the long-term future of the Council's leisure centre service. The loan will allow the operator to take account of the growth of smaller exercise opportunities that customers demand and will secure the future use of the facilities as well as the provision of leisure services for current and future generations. By spreading the repayment cost over several years the investment

can have an immediate impact that the contractor could not afford to undertake directly.

- 3.4** Prevention: The Leisure Centres already make a significant contribution to the Council's well-being objectives and future investment will provide new opportunities for residents to take up new physical activities. Remaining fit and healthy is the best prevention known for residents to enjoy healthy lives and this investment would emphasise the Council's commitment to long term health objectives to its residents and visitors whilst at the same time emphasising the commitment to the leisure centres at a time of budget restraint. This clearly links into both the Council's objectives and the objectives of the Wellbeing of Future Generations Act.
- 3.5** Integration: The proposed new facilities fit with many of the Council's health and well-being objectives as well as national objectives of having a healthier population in Wales. The Leisure Centres already link with health services with services such as the GP referral scheme and the new facilities that this loan will facilitate will be utilised by such initiatives, allowing this effective arrangement to continue for a further 5 years.
- 3.6** Collaboration: The Leisure Management Contract is a good example of a collaboration project within the Council demonstrating how an external 'not for profit' organisation, Legacy Leisure, and the Council can work together to provide quality services that are sustainable, accessible and planned for the long term.
- 3.7** Involvement: Legacy Leisure have trailed many of the planned facilities at other sites and have based their suggestions for investment on experiences at other sites.

## **4. Resources and Legal Considerations**

### **Financial**

- 4.1** The details of the finance offer made by Parkwood Leisure are shown in the Part II report on this agenda. These will require further negotiation before being finally agreed.

### **Employment**

- 4.2** An Equality Impact Assessment was undertaken prior to the contract being awarded. The need for a further assessment is being fully considered as part of the work undertaken in progressing negotiations. Although this is an extension rather than a retendering, the specific changes to the contract on the issues will be considered in the context of the need or otherwise for an Equality Impact Assessment which will have regard to the Council's socio-economic duty.

- 4.3** Regardless of the above, Equal Opportunities is however an important element of service delivery with the contractor committed to following the Council's policies.

#### **Legal (Including Equalities)**

- 4.4** The existing contract was entered into under a now repealed public procurement regime. The current law governs the proposed variation of this contract even though the contract was entered into before this came into force. The contract is what is known colloquially as a 'light touch' contract and the light touch regime ("LTR") under the relevant regulations applies. This is less onerous than the full regime. The contract is one where the total value to the contractor of the services which they run on behalf of the Council includes the contractor taking income and other risks. It is therefore what is technically known as a concession contract. This means it is governed by The Concessions Contract Regulations 2016 ("CCR"). As it is a light touch concession contract not all provisions of the CCR apply.
- 4.5** The contract had provision for a five year extension but the impact of the pandemic and the expert advice received from Strategic Leisure provides the commercial rationale for extending the contract by an additional 2 years and 5 months.
- 4.6** The reversionary leases will be required to ensure that Parkwood Leisure Limited are able to continue to provide the Leisure Services.
- 4.7** The Part II Report contains a detailed analysis of the legal issues and implications of the recommendations along with the Strategic Leisure Report.
- 4.8** In view of the legal complexities, the Council is also being supported by the same firm of external solicitors, Léonie Cowen & Associates, which worked with Strategic Leisure on the original procurement and they have advised on these legal implications.
- 4.9** All contact negotiations with Parkwood Leisure will also take account of the new socio-economic duty placed upon Local Authorities in Wales.

#### **5. Background Papers**

None.