

REPORT AMENDED

NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

Cabinet

1st February 2022

Appendix 1 – 4 Not for publication pursuant to Regulation 5(2) & (5) of Statutory Instrument 2001 No. 2290 and Paragraph 14 of Part 4 of Schedule 12A to the Local Government Act 1972. Pursuant also to Paragraph 21 of the Schedule, and in all the circumstances of the case, the public interest in maintaining the exemption is considered to outweigh the public interest in disclosing the information.

**Joint Report of the Chief Executive and the Director of Education,
Leisure and Lifelong Learning**

Matter for Decision

Wards Affected:

All

Future Provision of Indoor Leisure Services

Purpose of the Report

To enable the Cabinet to further consider the options available for the future delivery of indoor leisure services across the county borough.

Background

The Council took a decision to outsource its indoor leisure services in 2002 and currently commissions that service from Celtic Leisure. The Cabinet has initiated work to identify the best value option for the provision of indoor leisure services.

A brief summary of work to date is set out below:

- On 20th March 2020, the Cabinet authorised the then Head of Transformation to embark on a procurement exercise to appoint a replacement leisure provider. The context of this decision was a report by Celtic Leisure to the Council indicating that the company was unable to operate within the existing management fee.
- The procurement exercise was to be supported by RPT Consulting and conducted in accordance with the requirements of the Public Contracts Regulations 2015.
- It was initially envisaged that the successful tenderer would be appointed in January 2021. Delays were encountered as a result of the Covid-19 pandemic. The evaluation of tenders was instead concluded September 2021.
- In March 2020, the Cabinet also authorised the Head of Transformation to negotiate the terms of a surrender agreement with Celtic Leisure. This agreement was necessary to enable the contract with Celtic Leisure to be terminated by agreement before its due date of 31st March 2025 and to facilitate the procurement exercise.
- On 25th November 2020 the then Head of Transformation updated the Cabinet on the terms of the agreement entered into by the Council and Celtic Leisure. As part of the agreement, the Council agreed to provide such financial support as might be required to cover all necessary costs, expenses, obligations and liabilities as well as losses and expenses incurred as a result of certain factual events set out in the agreement. The Cabinet authorised additional expenditure to fund the terms of the agreement, pending the outcome of the procurement exercise.

On 4th November 2021, the Director of Education, Leisure and Lifelong Learning reported to Cabinet identifying the outcome of the procurement process. The report identified opportunity for the Council to improve its indoor leisure offer at a significant financial saving to the Council by appointing a new external provider.

The report also outlined four other options and associated estimated financial implications of those options available to the Cabinet. These included:

- Continuing with Celtic Leisure until 31st March 2025;
- Returning the service to the Council to operate;
- Transferring the service to a Local Authority Trading Company;
- and

- Deferring a decision for 12 months but continuing with Celtic Leisure in the interim.

At the pre-decision joint meeting of the Cabinet and Education, Skills and Culture Scrutiny committees on the 4th November 2021, scrutiny members resolved by majority vote to establish a task and finish group to explore the options in more detail. The joint meeting of the scrutiny committees also requested that the Cabinet defer taking a decision until the end of January 2022 to allow for the task and finish group to carry out this work. The Cabinet agreed to defer their decision on the matter to enable the scrutiny committees to make their enquiries.

The Task and Finish Group has met on two occasions:

- Meeting One, 22nd November 2021 - to agree its terms of reference and a list of additional information that the Group felt should be included in the final report to the Cabinet. A letter was subsequently sent from the Chair of the joint meeting to the Director of Education, Leisure and Lifelong Learning listing a number of questions and asking for additional information (Appendix 1). Officers subsequently provided a response to the scrutiny members (Appendix 2); and
- Meeting Two, January 13th 2022 – to discuss the additional information provided by officers and to clarify certain matters. Following discussion, officers were requested to undertake additional work by scrutiny members, particularly to inform further consideration of the option to return the service to the Council to operate. A list of the additional information commissioned is attached at Appendix 3.

Considerations

The decision of the Cabinet on 20th March 2020 was to embark on a procurement exercise to appoint a new provider. That exercise is complete and the outcome of the tender exercise is available for Cabinet to consider and determine whether to award the tender.

The scrutiny committees, by majority vote, have asked the Cabinet to defer their decision on this issue to enable members of the scrutiny committees to undertake more detailed consideration of the options. The Cabinet resolved to defer their decision until the end of January 2022.

Additional detail was provided to scrutiny committee members following receipt of the letter from the Chair of the Task and Finish Group. Officers attended a meeting of the Task and Finish Group on 13th January 2022 to discuss and clarify that information.

Following discussion at the Task and Finish Group on 13th January 2022, officers have been asked to provide further information, particularly in relation to the option of returning the service to the Council's operations and including work to explore links to the Council's revised corporate plan, links to partner agencies and fuller comparisons with other indoor leisure services delivered by local authorities across Wales.

Additional legal advice on the Transfer of Undertakings and Protection of Employment issues has also been requested by scrutiny members. Furthermore, scrutiny members have asked for at least a week to read and prepare prior to any pre-decision scrutiny meeting that would be called in advance of the Cabinet reaching a final determination on the options available.

An assessment of the work involved in bringing forward the additional detail requested has been carried out by officers. Whilst some of the additional information is available, other detail will require research and an extension of time.

If the Cabinet is minded to support the Task and Finish Group's request for further detailed information to be secured to inform further consideration of the options, the Cabinet would need to agree to defer a final decision to a new date.

As part of its tender process, tenderers engaged in the process have agreed to keep their bids open to acceptance by the Council for a period of 12 months until the date of submission. The tenders were submitted in September 2021, so the Council has until September 2022 to accept such offers.

Officers have also had assurance from Celtic Leisure that they can continue to operate, in line with the terms of the Surrender Agreement.

If the Cabinet wishes to commission the additional information before making a decision on the options available, an extension of the decision making timetable to June/July 2022 would need to be considered to

allow officers to undertake the work and to factor in the pre-election period. The additional work would further inform the Cabinet's consideration of the non-financial benefits of an in-house option and to benchmark against other in-house provision across Wales.

The Council's draft budget for 2022/23 is currently subject to public consultation and there is no reference in the proposals for additional investment in indoor leisure services. If the Cabinet wish to determine the matter this financial year, there is now an urgency in taking the decision in order for the option to be factored into final budget proposals for 2022/23. Cabinet is scheduled to finalise the budget for 2022/23 on 28th February 2022 and Council is scheduled to meet to set the Council Tax for 2022/23 on 1st March 2022.

Members are also advised that the Council will need to set a new Medium Term Financial Plan (MTFP) in early 2022/23. That exercise will necessitate a review of the Council's investment priorities against the funds expected to be available over the term of the MTFP (five-year period). The exercise will be overseen by the new administration elected in May 2022. The decision on the future of indoor leisure services will represent a long-term financial commitment with consequential financial implications for investment in other services and functions.

Financial Impacts

There are different financial impacts associated with each of the options set out in the private papers at Appendix 4.

Currently the Council has a base budget of £1.5m to fund the delivery of indoor leisure services – i.e. the subsidy provided to Celtic Leisure. The financial impacts of the options before Members are summarised below with more detailed financial analysis included in the private papers at Appendix 4.

Option A – Continue with the current contract with Celtic Leisure until its expiry in 2025

Prior to the coronavirus pandemic, the Council were advised by Celtic Leisure that they could no longer deliver services within the financial envelope available from the Council. As a result of the rising costs of continuing to deliver indoor leisure services through Celtic Leisure, the Cabinet authorised officers to undertake a procurement exercise to appoint a new operator to run leisure services.

If Cabinet are minded to continue to deliver indoor services through Celtic Leisure until the end of the current contract in 2025, there will be a recurring increase in cost as the £1.5m currently budgeted for is not sufficient.

Option B – Award the contract to the highest scoring operator

This option is the lowest cost option which will deliver significant savings to the Council over the lifetime of the contract when compared to the £1.5m base budget provision. Financial savings delivered through the contract would become available to support other Council priorities.

This option also includes substantial capital investment and improvements to facilities which are not included in any of the other options.

Option C – Transfer the service back to Neath Port Talbot Council to operate

This option is the most expensive option.

It is likely that it will take a year to effect the transition of the service back to the Council. During this period, the Council will need to increase the funding available to Celtic Leisure as set out in Option A. Once the service is returned to the Council, there are further substantial unavoidable increased costs associated with this option. These relate to the fact that business rates relief would not be available to the Council and staffing costs would rise due to the additional pension costs and increased costs resulting from weekend enhancement payments that would then apply.

Option D – Transfer the service to a local authority trading company

There are no obvious financial or operational benefits for this option.

Option E – Delay any implementation for a period of 12 months

The financial impact will be as per Option A, however, the current tenders would no longer be available. Should members wish to pursue an alternative external provider in 12 months' time, a new procurement exercise would need to be initiated.

If the Cabinet are minded to support either option A or C then a strategy will need to be developed as part of the medium term financial planning process to identify how the increased costs would be funded. This will need to involve one, or a combination, of the following:

- Identify permanent savings elsewhere in the Council’s budget;
- Generate additional income or reduced costs within the indoor leisure service itself; and/or
- Increase Council Tax (Cabinet are reminded that a 1% increase in Council Tax generates a net income of £600k (£800k income less £200k increased cost due to the effect on the Council Tax support scheme). The following table exemplifies the amount of net income generated through a range of Council Tax increases:

Council Tax Increase	Net Income Generated £'000
1%	600
2%	1,200
3%	1,800
4%	2,400
5%	3,000

Maintenance of buildings

Members should note that if option B is selected then the Council will enter into a full repair and insuring lease with the operator. This means that all risks related to the leisure assets would transfer to the provider at their cost.

For option C the Council retains the risks associated with the leisure assets and will need to make further capital maintenance and investment provision in budgets. Such costs/investment requirements will be a call on the Council’s capital programme in future years.

For option A the risk would continue to be shared between the Council and Celtic Leisure; but in light of Celtic Leisure’s financial situation and the surrender agreement now in place any additional capital maintenance or investment costs would fall upon the Council.

Integrated Impact Assessment

There is no requirement for an integrated impact assessment for this specific report but members will note that the previous report to Cabinet included at Appendix 4 contains a detailed Integrated Impact Assessment that members should consider as part of decision-making.

Valleys Communities Impacts

There is no direct overall impact on any valley community, as each of the options would be required to sustain/improve service delivery in the current locations.

Workforce Impacts

The workforce impacts of each option are summarised in the private report for the Cabinet to consider.

Legal Impacts

There are no new legal impacts arising from this report.

Risk Management Impacts

Failure to ensure suitable arrangements are in place will affect the provision of indoor leisure services in the Neath Port Talbot area. The administration of the new Council to be elected in May 2022 will need to consider a new Medium Term Financial Plan (MTFP) in early 2022/23, which will necessitate a review of the Council's investment priorities against the funds expected to be available over the term of the MTFP. The options presented to the Cabinet represent a long-term investment decision that will have consequential impacts on other council services and functions.

Consultation

There is no requirement for external consultation on this report.

Recommendations

1. The Cabinet notes the work undertaken by the Task and Finish Group.

2. The Cabinet considers whether further information on the options is necessary to support a decision on the options available for the future provision of indoor leisure.
3. In the event the Cabinet considers sufficient information is available to support a decision, the Cabinet considers the recommendations set out in the private report.
4. In the event the Cabinet consider further information is needed to inform a decision, Cabinet considers deferring a decision to June/July 2022.

Reasons for Proposed Decision

To enable a final, informed decision on the option the Cabinet wish to pursue for the future delivery of indoor leisure.

Implementation of Decision

The decision is proposed for implementation after the three-day call in period.

Appendices

Appendices 1 – 4

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Private Appendix 1	Letter from Task and Finish Group December 2021
Private Appendix 2	Officer Response to Initial Questions Raised January 2022
Private Appendix 3	Further information requested from Task and Finish Group January 2022
Private Appendix 4	Cabinet Report, November 2021

List of Background Papers

None.

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