

NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

CABINET

28th July 2022

**REPORT OF THE DIRECTOR OF EDUCATION, LEISURE AND LIFELONG
LEARNING**

MR A.THOMAS

Matter for Decision.

Wards Affected: All wards

INSOURCING OF LEISURE SERVICES

1. Purpose of Report.

1.1.1 To provide members with a detailed project plan for the transfer of Indoor Leisure Services into the Council.

2. Executive Summary.

2.1.1 The report outlines the work programme, and resources required, including timescales, to implement the decision to return Indoor Leisure Services back to the Council.

3. Background.

3.1.1 At the meeting of the Cabinet on the 1st February 2022, the Cabinet took the decision to return the provision of indoor leisure services back into the Council. This report sets out the approach to the delivery of the insourcing by the 1st April 2023. The aim is to deliver a successful transfer of the service to an in house operating model, which supports the Councils corporate plan, its vision, and strategic priorities, and the objectives the Council wishes to achieve.

3.1.2 The aim is to ensure the Centres are the local public health improvement solution. Investing in the facilities, and working alongside the Councils NERS and PASS Teams, will put the centres at the heart of the post Covid-19 recovery, and future community wellbeing planning, contributing towards 'a vibrant and healthy place to live, work and enjoy recreational time'.

3.1.3 The facilities to transfer are:-

- Aberavon Leisure and Fitness Centre (ALFC)
- Neath Sports Centre (NSC)
- Neath Leisure Centre (NLC) (along with the replacement Neath Leisure Centre opening in summer 2022)
- Pontardawe Swimming Pool (PSP) (along with the replacement swimming pool)
- Pontardawe Leisure Centre (PLC)
- Vale of Neath Leisure Centre (VNLC)
- Gwyn Hall (GH)
- Port Talbot Bowls Hall (PTB)
- Aquasplash Aberavon Beach (open Easter to September only) (AA)

4. **Project plan:**

4.1.1 A detailed project plan has been developed and is appended as **Appendix 1**, this will be reviewed and developed by the project team on a regular basis. The project plan sets out the approach to the delivery of the insourcing of the County's Indoor leisure services to be operated directly by the Council by the 1st April 2023.

4.1.2 The project objectives and desired outputs, are to deliver a successful transfer, which delivers:-

- Improved services to the customer through improved facilities and the quality of service.
- Capital investment in the facilities to deliver an improved revenue position for the Council.
- A smooth transfer of services and people to ensure a seamless transition for staff and customers.
- Development of a business case to identify the future financial cost to the Council for the in house operation.

5. **Project Board:**

5.1.1 The delivery of the transfer will require a project board, which includes the following key levels of expertise. It is important to emphasise that the board members are going to have to deal with a high volume of work and they must allocate time and resources for

this, even if it means reprioritising existing workload.

- **Leisure Service lead** will set out the structure and approach for the future delivery of the service, including investment and customer relationship management.
- **Financial lead** will identify the costs and overall approach to the future budget. This will include internal audit.
- **Legal lead** will undertake legal advice on the proposed transfer back along with undertaking detailed work on data protection/information governance and contractual arrangements.
- **Property & Assets will lead** future management of the property and equipment.
- **HR will lead** on staffing issues and TUPE transfer.
- **HSE Lead** will undertake a health and safety audit to ensure the systems are up to date such as risks assessments and operating procedures. Statutory inspection logs should be reviewed to ensure the annual inspections have taken place and that any required remedial works have been completed. HSE will also lead on occupational health.
- **Digital Services** will oversee the transition of the current Celtic Leisure digital services (including hardware and software (membership / booking), support the integration with the Council's systems such as finance and HR.
- **Communications lead** will manage the marketing and communications associated with the transfer and development of the marketing plan.

5.1.2 Other officers e.g. Payroll and trade unions will be involved as and when required at the appropriate time.

5.1.3 The project board will meet monthly to check on progress and problem solve.

5.1.4 Each of the work streams will have a separate project team and will develop their own project plan to deliver on the key outputs required for the delivery of the transfer, and will meet in accordance with their project plan. The individual project teams will report monthly to the project board. The work streams will include continued dialogue with Celtic Leisure.

6. Future Reports.

6.1.1 As the project develops, the following reports will be presented to the Education, Skills and Culture Cabinet Board.

- Update/ Progress reports.
- Indoor Leisure Strategy.
- Indoor Leisure Business Plan.
- Investment proposals.
- Communications Strategy

7. Financial Impact

7.1.1 The Cabinet report of 1st February 2022 detailed the fact that the estimated cost of returning leisure services back to the Council to operate would be c£3.9m per annum recurring.

7.1.2 The report also detailed the fact that the current base budget provision for leisure services is £1.5m giving a funding gap of £2.4m.

7.1.3 The February report also set out the following in terms of options for closing this funding gap:

- 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)

7.1.4 Since the February report was prepared there has been a significant increase in the cost of energy. A recent survey carried out by the Local Government Association in England reported that energy bills had increased in the leisure sector by 113% compared to prior to the Covid Pandemic noting that some leisure centre providers are "teetering on the financial brink".

7.1.5 Since the February report was prepared there has also been an increase in the National Minimum Wage from £8.91 per hour to

£9.50 per hour and this is likely to increase again in 2023/24 to c£10.30.

- 7.1.6 The impact of the above is likely to increase the current operating cost by £700k meaning that the funding gap of £2.4m referred to above will be a minimum of £3.1m.

8. Integrated Impact Assessment

- 8.1.1 A first stage impact assessment has been undertaken to assist the Council in discharging its legislative duties (under the Equality Act 2010, the Welsh Language Standards (No.1) Regulations 2015, the Well-being of Future Generations (Wales) Act 2015 and the Environment (Wales) Act 2016. The first stage assessment has indicated that a more in-depth assessment is not required. Appended as **Appendix 2**.

9. Valleys Communities Impacts:

- 9.1.1 There is no direct overall impact on any valley community as a result of this proposal over and above any other potential impacts that might be impacted on, for the following reasons:
- a. There would be no reduction in the facilities currently available.
 - b. Rates of discount to concession users as currently offered will remain along with the Council's concessionary scheme for specific groups and individuals (Passport to Leisure Scheme).
 - c. The Facilities shall be accessible by the full community during opening hours set by the Council.
 - d. A wide-ranging and diverse programme of activities, targeted at encouraging greater levels of community participation across all relevant local social and cultural groups will continue.

10. Workforce Impact

- 10.1.1 At this stage there are no direct impacts on Council staff, but an early appointment of an additional officer to assist in the transfer will be required

However, there would clearly be workforce impacts on Celtic Leisure staff.

10.1.2 The Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) will apply, under rules relating to Service Provision Changes. The Regulations set out who is entitled to transfer, what rights they transfer with them, and how the transfer should be managed. The key elements are:

- Identifying: determine which employees are affected.
- Information: in good time prior to the transfer, the outgoing employer informs and consults with all affected employees, communicating the fact that the transfer is happening and how they can object.
- Consultation with staff: the outgoing employer will consult with all affected employees well in advance of the transfer. This will involve recognised trade unions. The incoming employer must remember to inform existing employees as well.
- Employee liability (due diligence) information: at least 28 days before the transfer of contract, the outgoing employer must make the incoming employer aware of key employee or due diligence information.
- Measures: the incoming employer will inform and consult on any planned measures towards the employees after the transfer considering any implications of the employees' terms and conditions of employment, including pensions.

10.1.3 Liabilities that transfer from the outgoing employer to the new one include all statutory and contractual rights. So, if the old employer did something to trigger claims, liability will pass to the new employer, including claims of, for example, unfair dismissal and discrimination. Responsibilities that transfer include:

- Current terms and conditions of employment
- Continuity of service
- Redundancy payments, both statutory and contractual
- Arrears of pay, holiday pay and sick pay and any accrued holiday entitlement

- Liabilities accruing prior to the date of transfer under employment protection legislation, including liability for unfair dismissal and discrimination
- The terms of any collective agreement incorporated into the employment contract

10.1.4 In addition there are specific arrangements in relation to pensions which will be facilitated to ensure no determinant to any financial position in respect of pension provision.

10.1.5 TUPE affords protection to transferring staff. Effectively, the new employer steps into the shoes of the old employer and it is as though the employee's contract of employment was always made with the new employer. In the event of any proposal that the Council wishes to make to any aspect of terms of conditions this will have to be subject to detailed consultation with staff and trade unions and discussion. A new employer can only make changes because of the transfer if either (1) they improve terms and conditions, for example or (2) there is an 'economic, technical or organisational' (ETO) reason involving a change in the workforce. ETO reasons include essential cost-saving requirements (economic reasons), using new processes or equipment (technical reasons), making changes to the structure of an organisation (organisational reasons)

10.1.6 In addition, it will be contractual requirements that the Council will ensure that when a transfer of staff takes place, any new joiners to the transferred (i.e. those transferred to Celtic Leisure in 2003) are offered terms and conditions which are, overall, no less favourable than those of the transferred staff. This 'no less favourable' formula does not apply to pensions, but under a code of practice, new joiners must also be offered a reasonable pension provision, which may be either membership of the public body's pension scheme (where available) or membership of a pension scheme which meets the auto-enrolment standards under the Pensions Act 2008. This would apply equally to any individuals who were not local authority employees at the time of the initial transfer in 2003 but have since started working with Celtic Leisure

and who may TUPE transfer, thereby allowing protection to current Celtic Leisure staff members.

- 10.1.7 The code of practice will ensure that the provision of quality services is not undermined by poor employment practices in respect to new joiners. It will prevent the damaging 'two-tier' situation where TUPE transferred staff on good conditions work beside other staff on much poorer terms and conditions.

11. Legal Impacts

- 11.1.1 At all stages of the transfer appropriate legal advice will be provided.

12 Risk Management

- 12.1.1 Failure to ensure the transfer will affect the provision of leisure services in the Neath Port Talbot locality.

13. Consultation

- 13.1.1 There is no requirement for external consultation on this report In respect of the provision of leisure services. TUPE Staff consultations will take place, the Council will work with Celtic Leisure to ensure that all staff members within Celtic Leisure are kept updated on arrangements and the Council has sought to liaise with Celtic Leisure at all times to address any particular concerns raised, though to date these has been limited, with timescale being a key focus.

14. Recommendations

- 14.1.1 It is recommended that having due regard to the Integrated Impact Screening Assessment:
- (a) Members note approach to the delivery of the insourcing by the 1st April 2023;
 - (b) Delegated authority be granted to the Director of Education, Leisure and Lifelong Learning to make any decision required to achieve the delivery of the insourcing of leisure services by the 1st April 2023 (providing that such delegation shall not be utilised where there is a proposed change in service delivery and or significant cost to service delivery);

- (c) Members note the future reports that will be brought before the Education, Skills and Culture Cabinet Board.

15. Reasons for Proposed Decision

- 15.1 To ensure suitable arrangements are in place for the transfer of indoor leisure services into Neath Port Talbot County Borough Council.

16. Implementation of Decision

- 16.1 The decision will be implemented after a 3 day call in period.

17. Appendices

Appendix 1 Project plan.

Appendix 2 Integrated Impact Assessment

18. List of Background Papers

None

19. Officer Contact

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