



Report for:
ACTION/INFORMATION* (delete as appropriate)

Item Number:

Contains Confidential or Exempt Information	NO
Title	Tri-Borough Leisure Contract Procurement
Responsible Officer(s)	Peter George, Strategic Director of Economy & Sustainability
Author(s)	Chris Bunting, Assistant Director of Leisure
Portfolio(s)	Cllr Polly Knewstub, Cabinet Member for Thriving Communities
For Consideration By	Cabinet
Date to be Considered	17 April 2024
Implementation Date if Not Called In	30 April 2024
Affected Wards	All
Keywords/Index	Tri-borough, Leisure, Contract, Procurement, Tender, Leisure Centres, Operations

Purpose of Report:

This report seeks authority to tender for a Tri-Borough Leisure Contract, (with the London Boroughs of Brent and Harrow) for a period of 10 years plus a 5 year extension option from 1st September 2025.

1. Recommendations for DECISION

1. Authorise the Strategic Director of Economy & Sustainability, following consultation with the Strategic Director of Resources, the Director of Legal & Democratic Services and the Portfolio Holder for Thriving Communities, to commence a collaborative procurement of the Council's Tri-Borough leisure contract with the London Boroughs of Brent and Harrow with an approximate annual value of £1m across the three authorities which is payable to the councils from the operator in the form of a management fee.
2. Authorise the Strategic Director of Economy & Sustainability, following consultation with the Strategic Director of Resources, the Director of Legal & Democratic Services and the Portfolio Holder for Thriving Communities, to finalise the services, the contract terms and facilities within the scope of the procurement of the council's Tri-Borough leisure contract.

3. Authorise the Strategic Director of Economy & Sustainability, following consultation with the Strategic Director of Resources, the Director of Legal & Democratic Services and the Portfolio Holder for Thriving Communities to agree formal collaborative governance arrangements between the three boroughs to manage the procurement and the contractual arrangements for the leisure services and enter into an inter authority agreement.

2. Recommendations for NOTING

- 2.1 Note that the Contract Procedure Rules adopted by Harrow as the Lead Authority for procurement will apply to the collective procurement.
- 2.2 Note that Harrow have commissioned FMG on behalf of the three councils to assist the councils with the procurement of a new tri-borough leisure management contract.
- 2.2 Note that a report will be brought back to Cabinet for a decision to award the contract in due course.

3. Reason for Decision and Options Considered

- 3.1 The Brent, Ealing and Harrow Strategic Cultural Partnership was established in 2012 for the purposes of procuring a joint leisure management contract. The 10-year contract was signed with Everyone Active (SLM Ltd) (EA) to operate leisure facilities for the three respective councils commencing on the 1st September 2013 and running until the 31st August 2023.
- 3.2 The contract with EA resulted in projected savings of c.£30m for the three boroughs compared with previous arrangements.
- 3.3 The current contract was extended for up to 2 years from the 1st September 2023 to 31st August 2025 to facilitate a sector recovery from the pandemic.
- 3.4 Each council is now considering its strategic approach and options for future delivery of its leisure services. A new management contract (or alternative management arrangement) will need to be in place by 1st September 2025.
- 3.5 The Sport, Leisure and Culture Consultancy (SLC), a specialist public leisure sector consultancy was commissioned by the Brent, Ealing and Harrow Strategic Cultural Partnership to independently support and provide a review of the future service delivery options and support in shaping and refining an emerging optimal approach. SLC has completed a focused scoping exercise to identify the current state of readiness, gaps in key data, insight and key future workstreams required to support the Tri-Borough partnership in developing an approach and associated work programme including:

- Strategic Clarity / Future Direction of Leisure Services
- Facility Condition and Future Investment
- Future Service Scope
- Affordability
- Service Delivery Options (assumed Procurement)

3.6 Under the terms of the original contract, a net annual income has been paid to the council. However, due to the impact of the Covid-19 pandemic, the council provided a financial subsidy to EA for financial years 2020-21 to 2021-22.

3.7 The leisure contract with EA has performed well up to and post the Covid-19 pandemic. In 2022/23 there were a total of 1,908,672 visits (including Gunnersbury Sports Hub) to the leisure centres with approximately 10,000 gym memberships.

3.8 Gurnell Leisure Centre is currently closed, pending redevelopment and the current programme indicates a 2027 opening of the new facility. It is recommended that the new Gurnell Leisure Centre is included in the procurement package.

3.9 Dormers Wells Leisure Centre is included in scope. The council is currently undertaking a feasibility study for a refurbishment/redevelopment of this site within the scope of the proposed new contract term.

3.10 Five of the facilities are based on school sites and community use is managed through a dual use agreements. Agreement will need to be secured with the schools to agree revised arrangements and dual use arrangements post 31st August 2025 if they are to continue to be part of the contracted portfolio of sports facilities.

3.11 It is proposed that the operation of Brent Valley Golf Course is included within the scope of facilities. The decision to close Perivale Park golf course before the new contract commences removes that facility from the existing managed facilities.

3.12 Therefore, it is proposed that the following leisure facilities would be in the scope of the procurement:

- Everyone Active Acton Centre
- New Gurnell Leisure Centre
- Dormers Wells Leisure Centre
- Northolt Leisure Centre
- Brent Valley Golf Course & Fitness Centre
- Perivale Park Athletic Track
- Elthorne Sports Centre
- Greenford Sports Centre
- Northolt High School Sports Centre
- Reynolds Sports Centre

- Swift Road Outdoor Sports Centre
- Twyford Sports Centre
- A new turnkey sports hall and gym in the Green Quarter, Southall

Plus 3 sites in Harrow and 1 in Brent.

Options considered.

Option A: Tender the council's current Tri-Borough leisure contract (with the London Boroughs of Brent and Harrow).

This option is recommended under Contract Procedure Rules adopted by Harrow as the Lead Authority for procurement applied to the collective procurement.

Option B: Tender the council's leisure contract as a standalone authority.

The approach to developing the Tri-Borough partnership was founded upon a desire to create additional scale and to drive efficiencies.

Ealing has by far the largest portfolio of the three Boroughs and would have therefore benefitted from considerable economies of scale under a separate single-borough arrangement. However, the inclusion of the Brent and Harrow facilities will have extended these economies of scale and potentially attracted stronger financial offers from the operator market on the basis of the size and scale of the portfolio and the 'kudos' of operating such a large and unique contract on behalf of three London Boroughs.

There have been benefits from a non-financial perspective to the Tri-Borough approach through shared contract management and learning / knowledge sharing across the three authorities, although there is scope to take this further if the arrangement continues.

Whilst this option is not recommended above the Tri-Borough option; should the Tri-Borough partnership not proceed for any reason; this would be the next best option.

Option C: Bring the management of the leisure facilities back in-house at the end of the current leisure contract with Everyone Active (SLM Ltd).

Under this management option the council would carry all the operational, commercial, and financial risks.

In preparation for procurement, Harrow commissioned SLC to undertake a "Shadow Bid" exercise to help inform the procurement approach of a new leisure operator. This identified that in Harrow's case there would be approximately £900k additional costs per annum if the service was managed in-house. There would be a significant increase in staff on-costs with staff moving onto full local

government terms and conditions under a TUPE transfer. Compared to the existing leisure contract with EA, the council would also incur increased net business rate costs. EA are currently able to claim 80% relief. The financial assessment also included additional management and administrative staffing costs required to manage the leisure centres. In addition to the ongoing costs that have been identified, there would also be one-off transitional costs including project management resource, HR and legal support, and IT infrastructure purchase costs and data migration costs.

Officers understand that direct delivery by the council would be much more costly and that it would require significant resources to manage such a transformation programme. There are also concerns regarding the lack of internal capacity to manage a commercial service which needs to be agile and responsive in meeting the evolving needs of customers.

This option is not recommended.

Option D: Transfer the management of the leisure facilities into the council's LATCo, Greener Ealing at the end of the current leisure contract with Everyone Active (SLM Ltd).

A LATCo delivery model is seen as being more achievable and affordable, although there would still be significant challenges linked to securing suitable expertise and support in areas such as marketing and potentially significant resource implications associated with the transfer of the service. It is likely it would be less cost effective than an outsourced model.

This option is not recommended.

4. Key Implications

4.1 Ealing's strategic objectives for the leisure contract

As part of the contract specification documentation, the 3 boroughs are developing their own strategic objectives and a detailed active communities programme. The council's will be based upon the following strategic objectives:

- Protecting and enhancing the physical and mental health of all
- Increasing participation especially amongst low participant groups
- Provide support and services to older residents and those with a disability and/or limiting long term illness to enable them to remain healthy, independent and resilient for longer
- Provide facilities and activities for women to be active in an appropriate environment
- Provide facilities and activities for young people to become and stay active
- Improvement of public health and wellbeing especially contributing towards tackling health inequalities

- An inclusive service that reduces cost barriers to participation and is accessible to all
- Where possible, providing employment opportunities for local people
- Contribute as applicable, towards tackling the climate emergency by the way services are delivered.

4.2 SLC identified a slow and stagnating rate of recovery being experienced across the leisure sector, particularly by older leisure sites. The council has a range of older and newer facilities and some that are in development. Data collated since the pandemic indicates the usage and membership of the council's sport and leisure centres has returned to pre-pandemic levels. Whilst leisure operators are bidding for new contracts, they are being more selective and will generally not bid for contracts where they feel the balance of risk is not seen as favourable or provide the same level of management fee to clients and are less able to invest significantly in facilities using their own capital. Whilst this is currently not deemed to be a significant risk for the council, projected income included in recent financial submissions from bidders for new leisure contracts for health and fitness has been lower than pre-pandemic, although typically projecting higher income on swimming and swimming lessons. Financial submissions for new contracts are, therefore, likely to be more cautious with a significant gap in income of approximately 10%-15%. Significant increases in energy costs, increased staffing costs and other costs of living increases means that the next couple of years remain uncertain for the leisure market with operators likely to continue to take a more cautious approach. Maintenance risk largely depends on the age and condition of buildings, with the operator's general preference being to share the maintenance risk with the council particularly for older buildings.

5. Financial

- 5.1 The contract extension from September 2023 included applying the Real Living Wage, this was funded by the council. These costs would be transferred to any new operator from September 2025.
- 5.2 Many public sector leisure operators are asking clients to review the management fees to take account of the impact of the pandemic on income levels, staffing costs, supply chain issues and, critically, utility costs.
- 5.3 The level of risk leisure operators that are prepared to take is at a significantly lower level than historically, encompassing a wide range of areas including income, asset responsibilities, utilities, etc. Bids are being developed more conservatively from a financial perspective and operators are turning down opportunities to bid for contracts where previously acceptable risk allocations are judged to be too heavily weighted towards them.
- 5.4 The unprecedented levels of inflation, utility cost increases and additional issues such as supply chain costs (such as pool chemicals, staffing costs) are

all impacting on the financial submissions that bidders are willing to commit to for contracts coming to market under the current climate.

- 5.5 Pre-pandemic, the council were being paid a net £322,000 per year for operation of its portfolio of facilities, some of which generated a positive management fee (primarily the core leisure facilities in Acton, Northolt and Dormers Wells) and others, including the golf courses, outdoor sports and dual use centres typically requiring a subsidy.
- 5.6 As part of the contract extension variation, there was a small reduction in the management fee paid to the council arising from the post pandemic recovery, cost of living crisis and increase in utilities costs challenges. This is a positive position for the council and not one enjoyed by many local authorities across the UK, including Brent and Harrow who are continuing to provide support funding or accept a less beneficial management fee arrangement.
- 5.7 The council has a clear understanding of the specific financial arrangements for each facility in the current contract, both in terms of the management fee paid to/from EA but also details of council-retained costs and PFI payments for Greenford and Reynolds Sports Centres. This gives clear visibility on the relative financial strengths and weaknesses of all facilities within the portfolio which will be critical to inform the strategic approach to the future delivery of services and scope of any new management arrangements moving forwards.
- 5.8 Affordability of future services is critical given the ongoing financial pressures faced by the council.
- 5.9 Affordability of the future services will depend upon the scope of facilities (core leisure, golf courses, outdoor sports and dual use sites), the potential for future investment and the way in which services are to be delivered, both in terms of strategic priorities and management model.
- 5.10 In March 2023, HMRC announced a significant change to the VAT treatment of local authority leisure services. Prior to March 2023, local authorities managing in-house leisure centres were required to treat services such as gym memberships and other facility visits as business activities for VAT purposes and pay VAT to HMRC from the income. Now, a revised treatment of VAT states these services are classified as non-business supplies for VAT purposes. This means local authorities pay no VAT on their income, as well as reclaiming all the VAT they incur on the related costs (revenue and capital) unconditionally.
- 5.11 In consideration of this change, several operators who manage centres on behalf of local authorities are considering how this VAT ruling could also improve the VAT position between themselves and their local authority clients.
- 5.12 Many are not for profit and therefore gain no further benefit on income, as they account for no VAT on activity income, however, they must pay corresponding irrecoverable VAT on expenditure. Some are considering a

new 'agency' model, whereby they collect income on behalf of the local authority so income remains 'non-business', which would mean they too would not have to pay irrecoverable VAT on expenditure.

Financial impact on the budget

- 5.11 The Council's Medium Term Financial Strategy (MTFS) currently assumes no change in relation to the leisure services. The level of management fee and therefore impact on the leisure budget will not be clear until the procurement exercise is completed.
- 5.12 Harrow have commissioned FMG on behalf of the three councils to assist the councils with the procurement of a new tri-borough leisure management contract. The council's contribution for the commission is £15,000 which will be met from the service revenue budget during 2024/25.

6. Legal

- 6.1 The procurement will be conducted in accordance with the Public Regulations 2015 in particular Regulation 38 which permits local authorities to jointly procure contracts. The three authorities will enter into one contract with the successful bidder.

7. Value For Money

- 7.1 This proposal has given due consideration to Value for Money throughout and will help provide a long-term sustainable approach to the future management and operation of the council's leisure facilities. The procurement of this contract will seek to build upon a comprehensive and significant contribution to the council's current social value offer.
- 7.2 The contract specification is being developed to support the aim of increasing participation by the whole community, with programmes that are inclusive and affordable to all. Through a wide and varied programme of centre-based and outreach programmes, an appropriate pricing policy and partnership working, it will support the partnership aims of increasing participation from the following groups:
- Children and young people
 - People with disabilities and/or additional needs
 - Ethnically diverse and minority communities
 - Women and girls
 - People on low incomes
 - Older people

8. Sustainability Impact Appraisal

8.1 The successful bidder will be required to supply information pertaining to environmental performance as part of the tender documents to demonstrate a clear responsibility for minimising the environmental impact of the contract, including targets relating to the reduction of carbon dioxide emissions, energy efficiency, noise pollution, waste minimisation, water conservation and green travel behaviour.

9. Risk Management

A full risk log for the project has been developed. The key risks identified are:

Risk	Mitigation
Breakdown in cross-borough working; risk that during the duration of the project, the alliance between the three boroughs breaks down, due to changed political or business drivers.	There is a strong track record of collaboration across West London and a commitment by senior officers, endorsed by Chief Executives and Leaders.
Boroughs unable to agree contract or specification details. In principle, there will be a core contract with borough specific contract 'lots'.	Each borough will be able to specify what is included and excluded from the contract and when services and / or facilities would be included.
Lack of capacity to deliver.	Each borough has committed to the process and agreed governance arrangements, including an officer working group and steering committee. Harrow have commissioned FMG to assist the councils with the procurement of a new Tri-Borough leisure management contract.
Reduction in Management Fees	Ensure that Tender pack includes accurate data to reflect the strength of the financial performance of the current contract. Ensure information relating to buildings and utility costs are up to date; including undertaking condition surveys including the significant investment in decarbonisation at three centres.
Insufficient Market Interest	Programme includes soft market testing and use of Prior Information Notice (PIN) notice which sets out the authority's purchasing intentions.

10. Community Safety

10.1 There are no implications for community safety arising from this report.

11. Links to the 3 Key Priorities for the Borough

The council's administration has three key priorities for Ealing. They are:

- fighting inequality
- tackling the climate crisis
- creating good jobs.

12. Equalities, Human Rights and Community Cohesion

An initial Equalities Analysis Assessment (EAA) has been completed. This has identified that to ensure that any negative impact on equalities, human rights and community cohesion is properly considered, the contract with an external provider will include:

- Protection and enhancement of service and targeted provision for protected groups
- Quarterly contract monitoring and annual review to review requirements for protected groups
- Annual user survey to identify protected groups and how they use services, including targeted services.

The EAA will be kept under review throughout the project. A full EAA will be carried out on the specification once it has been finalised.

13. Staffing/Workforce and Accommodation implications

13.1 Colleagues from a wide range of services, including Legal, Finance, HR, Commercial Hub and Property Services will be involved and consulted on the project throughout.

13.2 Consultation with staff and trade unions will take place throughout and will be in line with the requirements related to any TUPE transfer.

14. Property and Assets

14.1 Ownership of the council owned properties involved would remain with the local authority. There are PFI arrangements at Greenford Sports Centre, 25 year term ends 2033, and Reynolds Sports Centre (Acton) 25 year term ends 2032. However, it is anticipated that the new provider would operate under a

lease or licence to operate from the council's facilities for the duration of the contract.

15. Any other implications

None

16. Timetable for Implementation

Section 1 - Planning / Engagement		Schedule Start/Due Date	End/Return Date
1.1	PIN Notice and Market Engagement	01/05/2024	13/05/2024
1.2	Developing the Specification	01/11/2023	29/05/2024
1.3	Invitation to Tender (ITT) Documentation, Specification, Method Statement Questions and Evaluation Criteria	01/11/2023	31/05/2024
1.4	Development of T's and C's of Contract, KPI's, Sub-contracting arrangements	01/11/2023	31/05/2024
Section 2 - Approval Timetable			
2.1	Brent Cabinet	08/04/2024	08/04/2024
2.2	Ealing Cabinet	17/04/2024	17/04/2024
2.3	Harrow Cabinet	01/07/2024	01/07/2024
Section 3 - Procurement Process			
3.1	Issue ITT on London Tenders Portal / Expression of Interests and Registrations (Competitive Procedure with Negotiations)	02/09/2024	02/09/2024
3.2	Shortlisting to 5 Bidders to participate in the tender	27/09/2024	01/10/2024
3.3	Issue of ITT and Invitation to Participate in Negotiation	07/10/2024	06/11/2024
3.4	Tender Deadline	06/11/2024	06/11/2024
3.5	Evaluate Final Tenders	03/03/2025	21/03/2025
3.6	Award Report	27/03/2025	01/04/2025
3.7	Award of Contract	29/04/2025	29/04/2025
Section 4 - Contract Commencement		Schedule Start/Due Date	End/Return Date
4.1	Service "Go Live"	01/09/2025	01/09/2025

17. Appendices

None

18. Background Information

- SLC Tri-Borough Scoping Support Report - July 2022

- FMG support for the procurement of a tripartite leisure management contract February 2024

Consultation

Name of consultee	Post held	Date sent to consultee	Date response received	Comments appear in paragraph:
Internal				
Cllr Knewstub	Cabinet Member for Thriving Communities	13/03/24		Throughout
Peter George	Strategic Director for Economy & Sustainability	13/03/24		Throughout
Emily Hill	Strategic Director for Corporate Resources	13/03/24	27/03/2024	Throughout
Alice Rowlands	Head of Legal (Commercial)	13/03/24		Throughout
Chuhr Nijjar	Senior Contracts Lawyer	13/03/24		Para 6
Yalini Gunarajah	Senior Finance Business Advisor, Housing and Regeneration	13/03/24		Para 5
Adrian Moody	Category Lead – Commercial Hub	13/03/24		Throughout
Julia Robertson	Sports Development Manager	13/03/24		Throughout
Pauline Lawrence	Leisure Operations Manager	13/03/24		Throughout

Report History

Decision type:	
Key decision	
Report no.:	Report author and contact for queries:
	Chris Bunting, Assistant Director, Leisure Services buntingc@ealing.gov.uk