

Chief Officer:

Date: 18 September 2018

Wards: All wards

Subject: Leisure Management Agreement

Lead officer: Christine Parsloe

Lead member: Councillor Nick Draper

Contact officer: Christine Parsloe

Recommendations:

- A. To award a contract extension, for the operational management of the boroughs three leisure centres, to Greenwich Leisure Limited for an additional 5 years of operation (by means of a variation to the terms and conditions of the existing contract), whilst retaining the option to further extend by up to 2 years as currently existing within the contract, subject to there being no substantial challenges to so doing from the published OJEU contract notice. (i.e. contract expiry 30th November 2030 but the 2-year extension is retained as a possible further extension to 30th November 2032).
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1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. To approve the proposed contractual changes to the operational contract of the boroughs three leisure centres – the Leisure Management Agreement – for implementation with operators Greenwich Leisure Limited.
- 1.2. Cabinet considered a number of possible contract changes to the Leisure Management Agreement at their meeting on 19 February 2018. They prioritised their preferences and requested these to be progressed in priority order.
- 1.3. This report seeks to enact Cabinets Option 1 – Preferred option.

2 DETAILS

- 2.1. Cabinet agreed at their meeting on 19 February 2018 to:
 - A. “Members to note the improved financial benefits that have been negotiated and will be available to the council once the new Morden Leisure Centre is open to the public
 - B. Agree the preferred option and the priority order of alternative choice options detailed below, for an extension of the leisure management contract between the Council and Greenwich Leisure Limited (GLL):
 - 1. Preferred Option - 1st Choice

An additional 5 years of operation (by means of a variation to the terms and conditions of the existing contract), whilst retaining the option to further extend by up to 2 years as currently existing within the contract (Option D), subject to there being no substantial challenges to so doing from the published OJEU contract notice (i.e. contract expiry 30th

November 2030 but the 2-year extension is retained as a possible further extension to 30th November 2032)

Alternative Choice Options in Priority Order should the Preferred – 1st Choice Option not be possible.

2. 2nd Choice Option

An additional 5 years of operation, by accepting now the ability to extend the contract by two years and to increase the term, (by means of a variation to the terms and conditions of the existing contract), by a further 3 years with no right to further extend (i.e. contract expiry 30th November 2030) (Option C), subject to there being no substantial challenges to so doing from the published OJEU contract notice (i.e. contract expiry 30th November 2030)

3. 3rd Choice Option

Take up the 2 years extension currently available within the existing contract (Option B), should there being no substantial challenges from the published OJEU contract notice (i.e. contract expiry 30th November 2027)

C. Delegate to the Director of Environment & Regeneration, in consultation with the Lead Member, the authority to finalise the detail of contract extension changes.”

2.2. Appendix 1 – Business Case Relating to the Potential Extension of LBM’s Leisure Management Contract with GLL (exempt) provides the business case detail behind each of the options and the advantages / disadvantages of implementing each of them.

2.3. Since the Cabinet meeting GLL have been finalising their offer and Appendix 1 reflects their offers for the three preference options.

3 ALTERNATIVE OPTIONS

3.1. Cabinet selected three options, detailed in para 2.1 above from a greater list of options at their meeting on 19 February 2018.

4 CONSULTATION UNDERTAKEN OR PROPOSED

4.1. The original Leisure Management Agreement was offered as an opportunity to tender in accordance with procurement procedures via OJEU. In order to extend the contract at this time the council is required to publish a Contract Notice with OJEU stating this so that any companies with an interest can make enquires and comments on the proposals.

5 TIMETABLE

5.1. **Table 1 – Implementation Plan**

When	Activity
04 Sept ‘18	Contract Notice published in OJEU for 30 days
Sept – Oct ‘18	Leisure Management Agreement – contract changes drawn ready for implementation if OJEU Contract Notice responses allow

14 Sept '18	Key Decision Report published
22 Sept '18	Key Decision published
04 Oct '18	30 day notice period for bringing of a damages claim expires at midnight (NB although such claims are not time-barred, they are most likely to be flushed out in this period)
05 Oct '18	Director of Environment & Regeneration reviews any claims made during the Contract Notice period in line with the Procurement Advice received from Blake Morgan LLP
From 05 Oct '18	Deed of Variation including contract extension can be enacted providing the outcome of the Contract Notice has no claims of substance

- 5.2. The timetable will be subject to change as it does not currently allow for any periods for challenge. As and when any challenges are forthcoming the timetable will be extended to accommodate that timeframe.

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

- 6.1. This section contains exempt information and has therefore, been moved to the attached Appendix 1 - Business Case Relating to the Potential Extension of LBM's Leisure Management Contract with GLL.
- 6.2. In accordance with their statutory obligations under section 123 of the 1972 Act the Council are also required to publish Notices of their intention to grant a lease under section 123 to GLL of Morden Leisure Centre. This notice was duly published on 9 March 2018 and 16 March 2018 and no objections were received, thus a lease may be granted within this operational management contract.
- 6.3. The new Morden Leisure Centre is currently occupied by GLL under a Licence to occupy, whilst they fit-out the facility ready for opening to the public.

7 LEGAL AND STATUTORY IMPLICATIONS

- 7.1. The existing contract with GLL is being varied under Regulation 72 of the Public Contract Regulations 2015 (PCR). In accordance with Regulation 72 of the PCR the Contract Notice was published in accordance with Regulation 51. The Notice was published on 4 September 2018.
- 7.2. The effect of the Deed of Variation for the Leisure Management Agreement (which was dated the 1 December 2010) will be to remove the operational management of the Morden Park Pools from GLL and to enable GLL to operate Morden Leisure Centre, as well as extending the contract term by 5 years, should no significant challenge be forthcoming from the published Contract Notice.
- 7.3. The Morden Leisure Centre cannot be opened to the public until this variation to the original agreement is entered into.

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

8.1. None for the purposes of this report.

9 CRIME AND DISORDER IMPLICATIONS

9.1. None for the purposes of this report.

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

10.1. There are no health and safety implications for the purposes of this report.

10.2. Risk, assumptions, issues and dependencies are being actively managed as part of the programme

10.3. **Table 2 – Risk Assessment of the Options**

	IMPACT ->	1- Negligible	2- Minor	3 - Moderate	4 - Major	5 - Severe
Likelihood	1 - Rare	INSIGNIFICANT	LOW	LOW	MODERATE	MODERATE
	2- Unlikely	LOW	MODERATE	MODERATE	MODERATE	HIGH
	3 - Possible	LOW	MODERATE	MODERATE	HIGH	HIGH
	4 - Likely	MODERATE	MODERATE	HIGH	HIGH	EXTREME
	5 - Almost Certain	MODERATE	HIGH	HIGH	EXTREME	EXTREME

Option	Details:	Likelihood	Impact	Risk	Risk	Recommended Management Strategy and Response	Likelihood	Impact	Risk	Residual Risk	Current Status
1	Grants a 5-year extension without enacting the 2-year extension clause. Contract expiry 30 th November 2030 but the 2-year extension is retained as a possible further extension to 30 th November 2032	3	3	9	M	Publish an OJEU contract notice and wait 30 days before reviewing any claims and progressing any contract extension	3	2	6	M	Await outcome of any claims from published Contract Notice prior to progressing Cabinet awarded this decision to be taken under delegated authority
2	Grants a 5-year extension (i.e. the 2-year extension clause plus a further 3 years) Contract expiry 30 th November 2030	3	3	9	M	Publish an OJEU contract notice and wait 30 days before reviewing any claims and progressing any contract extension	3	2	6	M	Await outcome of any claims from published Contract Notice prior to progressing Cabinet awarded this decision to be taken under delegated authority
3	Enact the two-year extension. Contract expiry on 30 th November 2027	2	1	2	L	Could enact this decision and add two year extension into the Deed of Variation	2	1	2	L	Cabinet awarded this decision to be taken under delegated authority

11. APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

11.1. Appendix 1 – Business Case Relating to the Potential Extension of LBM’s Leisure Management Contract with GLL

11.1.1. Exempt from publication by virtue of paragraph(s) 3 of Part 1 of Schedule 12A of the Local Government Act 1972

11.2.1. Exempt from publication as it contains information relating to the financial or business affairs of any particular person (including the authority holding that information)

11 LINKED DOCUMENTS

11.1. Cabinet Report – Leisure Management Agreement – 19 February 2018

11.2. Cabinet Minutes – 19 February 2018

12 BACKGROUND PAPERS

12.1. Project Files