

Executive 26 August 2021

Report Title	Procurement of the Leisure Management Service
Executive Director	David Watts, for Adults, Communities and Wellbeing
Executive Member	Cllr Helen Howell, Executive Member for Sport, Leisure, Culture and Tourism

Key Decision	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Is the decision eligible for call-in by Scrutiny?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Are there public sector equality duty implications?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information (whether in appendices or not)?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Applicable paragraph number for exemption from publication under Schedule 12A Local Government Act 1974	Not applicable.

List of Appendices

Appendix A – Purchasing Gateway Group Report
Appendix B – Risk Matrix

1. Purpose of Report

- 1.1. This report requests that the Executive consider the procurement of the Leisure Management Service (hereafter referred to as “LMS”) in the Kettering locality.
- 1.2. It also seeks delegation of authority from the Executive to the Portfolio Holder for Sport, Leisure, Culture and Tourism in liaison with the Assistant Director, Housing & Communities, to take any further decisions and/or actions required to conclude this procurement and deliver this service.

2. Executive Summary

- 2.1. The Council’s current Leisure Management Contract which includes the management of four strategic leisure facilities: Kettering Swimming Pool, Kettering Athletics Track and Synthetic Pitch, Corn Market Hall, and Desborough Leisure Centre ends on 31st March 2022.

- 2.2. The current contract is in the fifth year of a five-year extension and the cost of the current contract is around £35,000 per annum.
- 2.3. Kettering Borough Council (hereafter referred to as “KBC”) had agreed to initiate a procurement for a new Leisure Management provider, with an option to invest in the refurbishment of the artificial playing pitch on Thurston Drive.
- 2.4. It was agreed to a short-term contract up to five years (3+1+1) so this fits within similar timeframes to existing leisure management arrangements in North Northamptonshire. This would also afford the opportunity for the new North Northamptonshire Council to consider the options for future management of its leisure service.
- 2.5. Following a full and compliant procurement process, the most economically advantageous bid will be accepted, in line with the requirements and guidance issued by the Council following its comprehensive and impartial evaluation and moderation of all compliant bids received.

3. Recommendations

- 3.1. It is recommended that the Executive:
 - 3.1.1. Agree to commence a procurement process for a Leisure Management Contract for the management of Kettering Swimming Pool, Kettering Athletics Track and Synthetic Pitch, Corn Market Hall, and Desborough Leisure Centre for a contract as set out in paragraph 4.11 of the report.
 - 3.1.2. Delegate authority to the Executive member for Sport, Leisure, Culture and Tourism in consultation with the Assistant Director, Housing & Communities, to take any further decisions and/or actions required to conclude this procurement and deliver this service, without the need to return to the Executive.

4. Report Background

- 4.1. The current contract for leisure services in the Kettering locality ends in March 2022, and it is proposed that a short contract for up to five years be procured, to bring the end date for this contract in line with the contracts for the Wellingborough and East Northamptonshire areas. This alignment will allow the new Council to take an authority-wide view of its future leisure provision over the longer term during its first term.
- 4.2. The Leisure Management Contract covering the Kettering locality ends on 31st March 2022, which covers:
 - 4.2.1. Kettering Swimming Pool;
 - 4.2.2. Desborough Leisure Centre;
 - 4.2.3. Corn Market Hall, Kettering; and
 - 4.2.4. Athletics track and associated facilities plus adjacent synthetic pitch.

- 4.3. The contract was awarded to Parkwood Leisure Ltd on 17th January 2007, following a full procurement process, for ten years, with an option to extend the contract for five years to 31st March 2022.
- 4.4. It was agreed in 2015, to extend the contract until 2022 and move it to an alternative model whereby the Council continued to contract directly with Parkwood Leisure, but the operation of the leisure centres is subcontracted to Legacy Leisure, who are an independent registered charity. This resulted in annual savings to the Council of around £45,000. The cost of the current contract is around £35,000 per annum.
- 4.5. The contracts in the previous district boundaries will end in the following timeframes;
 - 4.5.1. Wellingborough- due to end in 2028 (no break clauses remaining)
 - 4.5.2. East Northamptonshire- due to end in 2027 (no break clauses remaining but can be extended for a year or more)
 - 4.5.3. Corby- managed in-house.
- 4.6. Therefore, a proposed three-year contract, with the option of extending for a further two one-year periods for the management of the former KBC leisure management facilities will help align end dates for all existing leisure contracts in North Northamptonshire.
- 4.7. Previous discussions with Legacy Leisure had included refurbishment of the 3G pitch at Thurston Drive as part of the offer, going forward. However, given the impact of the pandemic, the company have been unable to commit to this but are willing to revisit this at an appropriate time. The delivery of the refurbished artificial pitch may therefore form part of any future contractual requirement of the successful provider.
- 4.8. The Council needs to ensure the provision of these services beyond 2022 and needs to start that process as soon as possible, to achieve a continuation of service from 2022. This is true regardless of the procurement route adopted, or whether the services are brought back in-house.
- 4.9. Given the current uncertainty of the sector at the end of 2020, an Early Engagement Notice was published on Contracts Finder, seeking Expressions of Interest in a short-term contract, up to five years. Two Early Engagement Notices were issued, one seeking interest in the provision of a new artificial pitch facility (to replace the existing outdated one), and another Early Engagement Notice without this.
- 4.10. The Council received three expressions of interest.
- 4.11. Given the number of interested parties, a formal procurement exercise for a LMS contract for a period of three years with the option of extending this for a further two one-year extension is recommended.

4.12. Previous discussions under KBC and as part of the Expression of interest exercise at the end of 2020, considered the inclusion of a capital investment option, as part of the submission.

4.13. A report has also been presented to the Purchasing Gateway Group (hereafter referred to as “PGG”) (attached as an appendix to this Report) and approved the requirement for LMS procurement.

5. Issues and Choices

5.1. The procurement will follow a compliant procurement process, run in line with the requirements of the Public Contracts Regulations 2015, the Concession Contracts Regulations 2016 and the Council’s internal rules, processes, and procedures.

5.2. The way in which this contract will be operated is as a Concession Contract. This differs to the standard service contract, as the Council entrust the provision and the management of services to a concessionaire who can exploit the services they provide on behalf of the Council, to achieve an income. Where this is the case, the Council will typically seek an income from the concessionaire.

5.3. Based on the Council’s knowledge and experience of the leisure market and its own existing arrangements, there is a potential that the Council might be required to pay a management fee to the concessionaire either initially, or throughout the term of the contract, to make the offer suitably attractive to a concessionaire.

6. Implications (including financial implications)

6.1. Resources and Financial

6.1.1. The LMS is a concession contract, so its value is determined by the value of the service to the concessionaire (i.e., what the contract is worth), rather than how much the Council will pay for the service.

6.1.2. The anticipated contract turnover for the term of this contract was confirmed as £3,239,442 (or an average of £3,937,378), based on financial data provided by the incumbent provider for the preceding 5 years, between 2016-2021 (inclusive) and as such, significantly exceeds the Key Decision Threshold.

6.1.3. Following evaluation of all compliant bids received, should the Council be required to pay a management fee to the successful concessionaire, the approved budget for this is £35,000 per annum.

6.1.4. The Council retains ownership of all the assets being managed but with the opportunity of securing investment in those assets from time to time by the contractor.

- 6.1.5. The current contract costs a net £35,000 per annum, based on pre-pandemic circumstances. The current contract allows for a variation where government intervention impacts on service delivery; this is usual practise and enables the Council to support the provider.
- 6.1.6. It is recommended to set a fixed management fee from the provider, from the six-month operating point (i.e. starting in September 2022) to allow stabilisation and realisation of income/expenditure.
- 6.1.7. In reaching this decision, consideration was given to the risk associated with requesting a percentage fee from the provider:
- a. the income to the Council could fluctuate based on the market; and
 - b. the provider may 'hide' profits to reduce the amount paid to the Council.
- 6.1.8. Additionally, this is a short-term contract of up to five years and will inform budget setting as a guaranteed fee and mirrors the arrangements with the contract for the leisure services management in East Northants.
- 6.1.9. The management fee consideration will be included in any potential provider's response to the Council's procurement, to enable the Council to undertake appropriate diligence, to ensure a realistic and achievable figure is agreed.
- 6.1.10. Consideration will need to be given regarding the leisure management facilities once alignment of end dates for all existing leisure contracts in North Northamptonshire is within the planning horizon. This is likely to have financial considerations with the possibility of economies of scale to be realised as the previous sovereign Councils leisure offers are considered and reviewed as one.

6.2. Legal

- 6.2.1. Under the existing contract there is no option to extend the current service.
- 6.2.2. The Legal Services team have been engaged, to ensure a full and appropriate contract is prepared for this requirement.

6.3. Risk

- 6.3.1. There is a risk to the timely conclusion of the procurement and start of service if delegated authority is not authorised, to enable further decisions and/or actions, without the need to return to the Executive. Depending on the Committee schedule, this may add upwards of one month to the timetable.
- 6.3.2. The Council faces significant reputational risk if there is a delay to the procurement process as outline in 6.3.1. which additionally could result in there being no provider in place to manage the public facilities.

- 6.3.3. A Risk Matrix has been produced to identify to identify the risk associated with the procurement process and is attached as an appendix to this Report.
- a. The main risk identified [LMS1, Risk Register] is that through this procurement exercise a contract is not awarded.
 - b. The Concession Contracts Regulations do not explicitly provide guidance on awarding contracts where no responses have been received, however the Public Contracts Regulations do, defining a procedure at Regulation 32 for use of the negotiated procedure without prior publication, which could be considered to use, to enable continuation of the service.

6.4. Consultation

- 6.4.1. There has been no consultation with user groups or key stakeholders in the development of the specification, due to the tight timescales associated with the procurement process.
- 6.4.2. Consideration has been given in taking the opportunity to strengthen the terms around Customer Service Excellence and stronger management of all facilities.
- 6.4.3. In preparing the specification, the most recent NNC LMS Specification covering facilities in the East Northants locality has been used as a basis for developing a relevant service specification.

6.5. Consideration by Scrutiny

- 6.5.1. The procurement process and/or any part of the requirement may be selected for consideration by Scrutiny.

6.6. Climate Impact

- 6.6.1. Through the new contract, the Council is committed to ongoing improvements to combat climate change implications and will continue to seek to use on-going investment in facilities to reduce carbon footprint where possible.
- 6.6.2. The successful provider will support the Council in collating energy data to report on annual Green House Gas emissions.
- 6.6.3. The successful provider will be required to work with the Council to realise future opportunities for energy efficiency savings.
- 6.6.4. The successful provider will support biodiversity strategies such as pollinating friendly regimes in within grounds maintenance.
- 6.6.5. The successful provider will be required to consider any items being purchased for future works, in respect to being 'environmentally friendly', for example, using recycled plastic to create new benching.

6.7. Community Impact

- 6.7.1. An Equality Screening Assessment has been completed and was included in the report presented to the PGG.
- 6.7.2. The improvement outcomes to the local economy, social and environment under the Social Considerations (Public Services (Social Value) Act 2012) allow for:
 - a. Employment of local people to jobs offered by the successful provider;
 - b. Access to services available for all;
 - c. An all-inclusive pricing schedule; and
 - d. Supporting the Council's priority outcomes for its sport, leisure and physical activity facilities and services, including:
 - i. Improving general health and reducing obesity amongst young people;
 - ii. Ensure sport and leisure facilities are physically and financially accessible to all residents, including those from low socio-economic groups and/or with limiting illness or disability;
 - iii. Improving health and wellbeing of older adults; and
 - iv. Appropriate waste management of hazardous chemicals used for water purification.

7. Background Papers

- 7.1. Kettering Borough Leisure Services Contract, submitted to North Northamptonshire Shadow Authority, Shadow Executive Committee Meeting held on 4 March 2021; and
- 7.2. Decisions of the Shadow Executive Committee at its meeting held on Thursday 4 March 2021.