

**COMMUNITIES, LEISURE AND
ARTS POLICY ADVISORY
COMMITTEE**

3 October 2023

Maidstone Leisure Centre Operator Contract

Timetable	
Meeting	Date
Communities, Leisure and Arts Policy Advisory Committee	3 October 2023
Cabinet	25 October 2023

Will this be a Key Decision?	Yes
Urgency	Not Applicable
Final Decision-Maker	Cabinet
Lead Head of Service	Katie Exon, Head of Property and Leisure
Lead Officer and Report Author	Mike Evans, Leisure Manager
Classification	<p>Public report with exempt appendix</p> <p>Exempt Appendix 1: Maidstone Leisure Centre Contract Extension Proposal</p> <p>This appendix contains exempt information as classified in paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972 in that it contains information relating to the financial or business affairs of any particular person (including the authority holding that information).</p> <p>The public interest in maintaining this exemption outweighs the public interest in its disclosure.</p>
Wards affected	All

Executive Summary

Discussions and negotiations with Maidstone Leisure Trust and Serco Leisure have been conducted during spring and summer 2023. At this stage, agreement has not been reached on a contract extension. Accordingly, proposals for a relet of the leisure services contract need to be put in hand.

Purpose of Report

Recommendation to Cabinet

This report asks the Committee to consider the following recommendations to the Cabinet;

1. That it notes that agreement has not yet been reached with the Maidstone Leisure Trust and Serco Leisure on a contract extension.
 2. That the leisure services contract for Maidstone Leisure Centre, Mote Park Outdoor Adventure and Lockmeadow Health Club for the period August 2024 onwards be let via competitive tender.
 3. That leisure consultants are employed to assist the council with the procurement process and contract award for this contract.
 4. That a procurement strategy and tender documentation for the contract opportunity are developed.
 5. That delegated authority is given to the Director of Finance, Resources and Business Improvement, in collaboration with the Cabinet Member for Communities, Leisure and Arts, to sign off the procurement documentation before it is issued via procurement channels.
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Maidstone Leisure Centre Operator Contract

1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	<p>The four Strategic Plan objectives are:</p> <ul style="list-style-type: none"> • Embracing Growth and Enabling Infrastructure • Safe, Clean and Green • Homes and Communities • A Thriving Place <p>Accepting the recommendations will materially improve the Council's ability to achieve its Thriving Place objectives. We set out the reasons other choices will be less effective in section 3.</p>	Leisure Manager
Cross Cutting Objectives	<p>The four cross-cutting objectives are:</p> <ul style="list-style-type: none"> • Heritage is Respected • Health Inequalities are Addressed and Reduced • Deprivation and Social Mobility is Improved • Biodiversity and Environmental Sustainability is respected <p>The report recommendation(s) supports the achievement(s) of the health inequalities cross cutting objectives by ensuring a continuation of leisure centre services.</p>	Leisure Manager
Risk Management	Refer to section 5 of the report	Leisure Manager
Financial	<p>There will be budgetary implications arising from the end of the current leisure services contract, which are addressed in the report and appendix. Accepting the specific recommendations in this report will demand additional spending for the services of a leisure consultant.</p>	Section 151 Officer & Finance Team

Staffing	We will deliver the recommendations with our current staffing.	Head of Property and Leisure
Legal	Acting on the recommendations is within the Council's powers and ensures that the Council acts in line with its obligations under the Public Contracts Regulations 2015.	Team Leader, Contracts and Commissioning, MKLS
Information Governance	The recommendations do not impact personal information (as defined in UK GDPR and Data Protection Act 2018) the Council Processes.	Senior Information Governance Officer
Equalities	The recommendations could result in a change in service and that may have varying impacts on different communities within Maidstone. We will complete a separate equalities impact assessment as part of preparing the tender documentation.	Equalities & Communities Officer
Public Health	We recognise the recommendations may have varying impacts on the health of the population or individuals within Maidstone. Therefore we will complete a separate health impact assessment.	Leisure Manager
Crime and Disorder	There are no implications to Crime and Disorder	Head of Property and Leisure
Procurement	On accepting the recommendations, the Council will then follow procurement exercises for the re-tender of the leisure services contract. We will complete those exercises in line with financial procedure rules.	Head of Property and Leisure & Section 151 Officer
Biodiversity and Climate Change	The implications of this report have been considered and there are multiple opportunities to greatly reduce utilities and carbon emissions through the minor practical improvements that can be delivered in conjunction with a new leisure operator. This will make a positive impact on biodiversity and climate change in the borough. MBC's longer term aims to achieve net zero by 2030, must be integrated into any new contracts with new operators.	Biodiversity and Climate Change Manager

2. INTRODUCTION AND BACKGROUND

- 2.1 In February 2023 Cabinet resolved that it would advance minor practical improvements to the leisure centre and pursue a contract extension with Maidstone Leisure Trust (MLT) and Serco Leisure Ltd for the continued operation of the centre until 2031. The Council's contract is with MLT, which is an independent not-for-profit community benefit society. By contracting with MLT, Maidstone Borough Council has access to significant tax exemptions and other benefits. The Trust is comprised of a number of volunteer trustees, all of whom have an active interest in sport and active leisure in the borough of Maidstone. Day to day running of the leisure centre is carried out by Serco Leisure who operate as the agent for MLT to enable the Trust to fulfil the obligations of the leisure centre contract. Beyond the leisure centre, MLT also supports sport and active leisure locally with grant funding for sports clubs and individuals.
- 2.2 Since the meetings of the Economic Regeneration and Leisure Committee and Cabinet in February 2023, the council has acquired Lockmeadow Health Club and central Government has announced capital funding for swimming pool upgrades to combat the rising cost of managing public swimming pools. These two new factors have been integrated into the contract extension talks and into the council's plans.
- 2.3 Discussions and negotiations have been held with MLT and Serco Leisure over the spring and summer of 2023. These included incorporating the delivery of the minor practical improvements aspects as part of the extension because of the disruption it will inevitably cause. It also builds upon the experience Serco Leisure has of delivering similar cost-saving and income-generating schemes in other leisure centres, and how the council can submit a bid to the new Sport England Swimming Pool Support Fund.
- 2.4 It is envisaged that the contract, if extended, would continue to include the Lockmeadow Health Club, which has been operated under the contract, and shares the same termination date for services as Maidstone Leisure Centre, since June 2023.
- 2.5 The details of the latest proposal from MLT are included in the exempt appendix. These cannot be accommodated within the Council's budget framework, so plans now need to be put in place for either a contract relet or an in-house operation in order to ensure that arrangements are put in place at the end of the current contract in August 2024, when the current contract expires. If the contract cannot be extended on commercially satisfactory terms, it would be appropriate to test the market.
- 2.6 A contract re-let would involve an open tender and an invitation for other leisure providers to operate the leisure services. There is also the alternative of bringing the service back in-house. An in-house operation would involve transferring the staff and operations back under council control. The council would be responsible for all aspects of the daily

operation. Consultants have advised on the likely impacts of bringing the leisure services in house and they forecast a number of negative impacts:

- Private sector operators tend to generate more income from leisure services because of their more enterprising approach,
- Staffing costs are higher when leisure centre staff are employed directly by the local authority,
- Leisure operators can buy utilities on a national scale and benefit from better unit prices,
- Leisure operators have technical expertise in salaried positions in their business, councils cannot justify these positions for a small number of centres and have to draw upon external expertise when needed,
- Business rates become payable when leisure centres are run in house. The business rates at Maidstone Leisure Centre are more than £200k per annum. At Lockmeadow they are more than £120k per annum,
- VAT is treated differently and the council's VAT position would negatively affect the annual outturn.

2.7 These factors have been estimated as equating to additional annual costs in the region of £400,000 for Maidstone Leisure Centre, £30,000 for Mote Park and more than £350,000 at Lockmeadow. The option to bring the leisure services in house would give the council more control over its service, but at the current time it would bring significant additional costs and risks.

3. AVAILABLE OPTIONS

3.1 **Accept the current proposal from MLT and Serco Leisure and extend the existing contract**

The offer includes the council funding the minor practical improvements to the centre in 2023/24 so that the benefits from reduced costs and increased revenue can materialise as soon as possible. This will maximise the potential of the period 2024 to 2031 for the residents and centre users, and also for the council and its partners. In so doing, the council would need to make additional spending and make significant changes to its budgets and forecasting, which would impact other priority areas across the council.

This option is not recommended at this stage.

3.2 **Return the council's leisure services function to an in-house operation**

The analysis from external leisure consultants summarised in paragraphs 2.6 and 2.7 identifies that this option comes with significant risk to the council. Commercial partners benefit from economies of scale and buying power when running leisure sites as part of a larger portfolio. With charity dispensation embedded in their structures, leisure operators also qualify for business rate relief. The council does not qualify for such relief when running services directly. The estimated additional cost if the council ran the service in house is more than £700k per annum across all three sites.

This option is not recommended.

3.3 **Put the leisure services contract for Maidstone Leisure Centre, Mote Park Outdoor Adventure and Lockmeadow Health Club out to tender and invite offers from other operators**

With capital investment identified in the Medium-Term Financial Strategy (MTFS) and a commitment for the minor practical improvements, the opportunity to operate the leisure centre, Mote Park Outdoor Adventure and Lockmeadow Health Club is an attractive proposition. Lockmeadow Health Club adds a new dimension to the leisure services contract and seeking offers from the market for all three sites will deliver the best outcome for the Council. Other operators could include commercial providers and leisure operators with charity status. **This is the recommended option if a more acceptable offer is not received from MLT and Serco Leisure.**

4. **PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS**

- 4.1 Retendering the leisure services contract for Maidstone Leisure Centre, Mote Park Outdoor Adventure and Lockmeadow Health Club will require nine to 12 months to be completed. Timescales are tight for this, but it is achievable with the time that is left before the expiry of the current MLT and Serco agreement.
- 4.2 The tender opportunity can be structured with operators bidding to run all three facilities, and we can also retain the option to invite and accept bids for Lockmeadow Health Club separately if that delivers better outcomes for the council.
- 4.3 Operators will be able to factor the council's commitment to the minor practical improvements into their bids, with scope to amend the plans to suit their own operational preferences and requirements.
- 4.4 Presenting the contract opportunity to the market could result in a bid that is more in line with the council's financial capabilities and appetite, but there is a risk that the bids received do not align with the council's aspirations. There is also the risk that no other leisure operators wish to bid for this opportunity.
- 4.5 The council can appoint a leisure consultant to assist with the marketing and analysis of this contract opportunity. There are several who can help with this, and the council has good links to some via previous projects. Leisure consultants will assist in the preparation of the opportunity and help present it to the market in the best way possible, so that best value for the council is drawn out through the bidding process.

Swimming pool funding

- 4.6 As described in paragraph 2.2, there is now funding available from central Government via Sport England to combat the rising costs of managing public pools. The fund is a competitive fund and the council has no guarantee of receiving funds. The minor practical improvements include some elements that would qualify for the fund and the council is submitting a bid for this fund. Any funding that is awarded will support the delivery of

the minor practical improvements and reduce the operating costs at Maidstone Leisure Centre.

5. RISK

- 5.1 The risks associated with this proposal, including the risks if the Council does not act as recommended, have been considered in line with the Council's Risk Management Framework. That consideration is shown in this report at paragraph 4.4 and identifies some risks assessed rated as "RED" because of the possible financial impact. The report details mitigation strategies for those risks at paragraph 4.5 and 4.6 but they remain assessed as "High". However, we believe the opportunities outweigh the risks.
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6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 6.1 Cabinet and the former Economic Regeneration and Leisure Policy Advisory Committee considered the overall approach to the future of Maidstone Leisure Centre, given the impending expiry of the current operator's contract, the condition of the building and the Council's commitment to promoting health and wellbeing in February 2023.
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7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 7.1 Following the recommendations in this report being recommended to, and approved by, Cabinet the council can work to the following timeline:

Milestone	Action
October 2023	Appointment of leisure consultant and preparation of procurement strategy and all tender documents
November 2023	Issue contract notice
December 2023	Selection Questionnaire Submissions
January 2024	Open days at all sites for bidders
April 2024	Initial Tender Submissions
May 2024	Negotiation with bidders
June 2024	Revised tender submissions
July 2024	Evaluation and contract award
August 2024	Mobilisation
October 2024	Contract start

8. REPORT APPENDICES

The following documents are to be published with this report and form part of the report:

- Exempt Appendix 1: Maidstone Leisure Trust and Serco Leisure proposal summary

9. BACKGROUND PAPERS

- Maidstone Leisure Centre Report, considered by the Economic Regeneration and Leisure Committee at its 7 February 2023 meeting and by the Cabinet at its 8 February 2023 meeting.