

REVIEW OF LEISURE SERVICES CONTRACT WITH GREENWICH LEISURE LIMITED (GLL): PRE-DECISION SCRUTINY

Appendices 1, 2, 5, 6, 8, 9 and 10 of the Cabinet Report attached at Appendix A are not for publication as they contain exempt information of the description contained in paragraphs 14 and 16 of Part 4 of Schedule 12A of the Local Government Act 1972. It is viewed that, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Purpose of the Report

1. To give Members background information to aid the scrutiny of the draft report to Cabinet titled '*Review of Leisure Services Contract with Greenwich Leisure Limited (GLL)*', which is due to be considered by Cabinet at their meeting on 18 March 2021.
2. Members should note that **Appendices 1, 2, 5, 6, 8, 9 and 10** of the Cabinet report attached at **Appendix A** are exempt from publication. Members are requested to keep this information confidential, in line with their responsibilities as set out in the Members Code of Conduct and the Cardiff Undertaking for Councillors.

Scope of Scrutiny

3. On 18 March 2021, Cabinet approval is sought, in principle, to vary the Leisure Services contract with GLL, in respect of Pentwyn Leisure Centre and removal of the Velodrome facility from Maindy Leisure Centre. The report also highlights changes to service specifications from April 2021 and changes to capital programme.
4. During this scrutiny, Members have the opportunity to explore:
 - i) The reasons why variations to contract are proposed;

- ii) The proposed variations to the existing contract, including:
 - a. Transfer of Pentwyn Leisure Centre to Cardiff Blues;
 - b. Removal of velodrome from Maindy Leisure Centre;
 - c. Changes to service specification;
 - d. Changes to capital programme;
- iii) The likely impact on service delivery;
- iv) The financial implications for the Council;
- v) Whether there are any risks to the Council;
- vi) The timeline and next steps for delivering the proposals;
- vii) The recommendations to Cabinet.

Structure of the meeting

5. The Chair will move that this item be considered in two parts: an open session, where Members will be able to ask questions on the issues and papers that are in the public domain; and a closed session, where members of the public will be excluded, where Members can ask questions that pertain to **Appendices 1, 2, 5, 6, 8, 9 and 10**.
6. Members will hear from Councillor Peter Bradbury (Cabinet Member – Culture & Leisure), Neil Hanratty (Director of Economic Development) and Steve Morris (Operational Manager – Sport & Leisure). There will be a presentation taking Members through the proposals and recommendations to Cabinet, followed by Members questions.
7. Members will then be able to decide what comments, observations or recommendations they wish to pass on to the Cabinet for their consideration prior to making their decisions.

Background

8. Leisure Services are discretionary but contribute to the Council meeting statutory obligations set out in the Wellbeing of Future Generations Act (2015). In December 2016, Cardiff Council and GLL commenced a fifteen-year leisure centre management partnership, with GLL contracted to deliver leisure services at

six leisure centres, the STAR centre in Splott and Penylan Library and Community Centre. This resulted in 156 employees (49 FTE) transferring to GLL, via TUPE¹.

9. The contract contains the following:

- i) The Council retains ownership of the facilities;
- ii) The Council provides £3.465m Capital Funding for improvements;
- iii) The Council establishes a client team to oversee contract monitoring and compliance with the service specification;
- iv) GLL utilises surpluses from other contracts to underwrite the initial operating deficit;
- v) GLL are to work with stakeholders to encourage increased participation & reduce health inequalities and to work with partners including community groups to ensure access & participation for all members of the community.

10. The draft report to Cabinet entitled '*Review of Leisure Services Contract with Greenwich Leisure Limited (GLL)*' is attached at **Appendix A** and has **ten** appendices:

- **Confidential Appendix 1:** GLL Contract Financial Analysis
- **Confidential Appendix 2:** GLL Contract Financial Statement
- **Appendix 3:** Audit Wales Report
- **Appendix 4:** Extract from External Audit Tracker (Leisure Services) March 2021
- **Confidential Appendix 5:** Cardiff Blues Proposal & Financial Plan
- **Confidential Appendix 6:** Heads of Terms
- **Appendix 7:** Pentwyn Leisure Centre Capital Investment Proposals
- **Confidential Appendix 8:** Pentwyn Leisure Centre Capital Investment Costings
- **Confidential Appendix 9:** Financial Envelope - Pentwyn Leisure Centre
- **Confidential Appendix 10:** VAT Advice (March 2021).

¹ TUPE stands for Transfer of Undertakings (Protection of Employment) Regulations, which protects terms and conditions.

Issues identified in the Cabinet Report

Reasons for Review

11. In November 2020, Cabinet considered a report on the GLL contract that highlighted an Audit Wales review of Leisure Services in Cardiff had been undertaken and that the coronavirus pandemic has created significant pressure on the current contractual arrangements, as follows:
 - i) Significant decrease in participation levels;
 - ii) It will take longer than originally planned to eliminate the initial operating deficit.

12. Following consideration of the report, the Cabinet gave approval for the Council and GLL to undertake a fundamental review of the contract to identify the greatest challenges and new opportunities and to consider potential variations to the current contract arrangements.

13. **Confidential Appendices 1 and 2** set out the financial position for GLL, including the coronavirus pandemic lockdowns increasing operating losses.

14. In December 2020, Cabinet approved recommendations to consult on proposals to redevelop and expand Cathays High School. This included the requirement to remove the Maindy velodrome to enable expansion of the school.

15. In December 2020, Audit Wales released their investigation report on Leisure Services in Cardiff. The full Audit Wales report is attached at **Appendix 3**, with the Council's full response attached at **Appendix 4**. The Audit Wales report contains a number of proposals for improvement, focused on:
 - i) Setting clear priorities for leisure services
 - ii) Reviewing the contract with GLL to ensure it supports delivery of these priorities
 - iii) Strengthening Council contract management arrangements to ensure the contract provides value for money
 - iv) Strengthening Council performance management to ensure the contract is sustainable.

Pentwyn Leisure Centre

16. **Points 21-38** set out a summary of the proposed transfer of Pentwyn Leisure Centre to Cardiff Blues Rugby Club, including:

- i) A new 25-metre swimming pool, cross fit gym, 3G pitch and 3G mini-pitch;
- ii) The Council would invest in the upgrades and Cardiff Blues would pay a rent over the term of a lease;
- iii) Funding for the Council investment comes from the disposal of land assets in the Pentwyn ward as part of the Llanrumney Redevelopment Plan²;
- iv) Cardiff Blues would provide community access to their medical and physio services, learning opportunities and apprenticeships and have offered to develop the site as a Community Rugby Hub;
- v) Closure of the site to public to enable the main hall to be used as a vaccination hub, coupled with lockdown regulations currently preventing outdoor sports, means there is a window from now until February 2022 to undertake the improvements detailed; these would not affect the operation of the vaccination hub.

17. **Confidential Appendix 5** sets out the Cardiff Blues proposal, **Confidential Appendix 6** sets out Heads of Terms, **Confidential Appendix 7** sets out the proposed capital investment, **Confidential Appendix 8** sets out the capital investment costings, and **Confidential Appendix 9** sets out the financial envelope.

18. **Point 30** states that GLL is happy to proceed with the transfer to Cardiff Blues.

Maindy Leisure Centre – removal of velodrome

19. **Points 39-41** set out details of the proposed removal of the velodrome from Maindy Leisure Centre to the International Sports Village, including:

- i) Maindy Leisure Centre will not be affected and will remain in situ and open to the public;

² In November 2020, this Committee carried out pre-decision scrutiny of the report to Cabinet re the Llanrumney Redevelopment Plan.

- ii) The proposal is to relocate the velodrome to the International Sports Village, part-funded by a contribution from the 21st Century Schools Programme;
- iii) The new velodrome will be operational before the existing facility is closed.

20. **Point 18** of the report to Cabinet highlights that removing the velodrome will create an operational deficit at Maindy Leisure Centre for GLL, whilst **Point 19** states this will be offset by the removal of the Pentwyn Leisure Centre deficit.

Changes to service specification

21. **Points 42 – 43** list the changes to service specification due to commence 1 April 2021, including:

- i) Removal of receptionists to be replaced by a concierge type service;
- ii) Cashless automated payments only;
- iii) Turnstile entry;
- iv) Targeted programming aligned to the emerging strategy and in response to the Wellbeing of Future Generations Act;
- v) Revised opening hours to reflect the needs of the community each centre serves.

22. The report to Cabinet states, at **Point 16**, that the Council and GLL will continue to review the contract as the leisure sector emerges from lockdown.

23. At **point 20**, the report sets out there may be an issue with GLL's ability to repay capital recently invested and that therefore authority is sought to freeze the current programme of investment until the issue has been fully considered.

24. **Financial Implications** are set out in **Points 45 - 50** and include:

- i) That Cabinet is being asked to agree in principle to proposals to vary the contract subject to further work being undertaken before final decisions are made, with further work to cover the financial and staff impact of the removal of the Maindy velodrome and Pentwyn

Leisure Centre from the contract, the risks associated with the proposals and their level of achievability;

- ii) That it is not yet clear how proposals set out in the report to Cabinet will resolve the financial position;
- iii) That further work is required by GLL to provide a detailed a Recovery Plan covering all the centres that form part of the contract
- iv) A condition of contract is that GLL repay capital funding invested by the Council; any default in these payments will result in a funding gap that would need to be funded from Council financial resources;
- v) Due diligence needs to be undertaken on the Cardiff Blues Rugby financial submission to determine the full level of risks and any liability remaining with the Council;
- vi) Advice has been sought regarding any tax implications arising from the transfer of Pentwyn Leisure Centre, with fuller advice set out in **Confidential Appendix 10**.

25. **Legal Implications** are at **Points 51-57**. These highlight, at **Point 51**, that the Cabinet is being asked to make the decisions '*in principle only so, amongst other things, detailed legal consideration can be given to the various legal issues raised.*' **Point 51** states that appropriate consultation, equality impact assessment and evaluation in relation to the Council's wellbeing objectives will need to be undertaken and that the outcome of these considerations must be taken into account when deciding whether to implement the in principle decision.

26. **Points 52-57** detail that decisions about the recommendations need to be made in the context of the Council's public sector equality duties and duties arising from the Equality Act 2010, the Well-Being of Future Generations (Wales) Act 2015, the Welsh Language (Wales) Measure 2011 and Welsh Language Standards as well as that the proposals need to be within the policy and budgetary framework of the Council; otherwise, the proposals must be referred to Council.

27. **Property Implications** are set out at **Points 58-60**, including the need to agree suitable commercial terms with Cardiff Blues, preferably including a new property

agreement with Cardiff Blues to ensure the Council does not have responsibility for the up-keep of the site and building.

28. Human Resources Implications are set out at **Point 61**, including that it is the Council's position that TUPE will apply and that consultation will take place with recognised trade unions

Proposed Recommendations to Cabinet

29. The report to Cabinet contains the following recommendations:

- i) *Note the Audit Wales report attached as Appendix 3 and the Council's initial summary response set out in Appendix 4.*
- ii) *Agree in principle to the proposed variation to the GLL contract as set out in this report namely the removal of the Pentwyn Leisure Centre and the Maindy Velodrome from the contract and delegate authority to the Director of Economic Development in consultation with the Cabinet Member for Culture & Leisure, the Legal Officer and the S151 Officer to:*
 - a) *Complete the contract variation subject to the detailed legal due diligence set out in this report and consideration of the outcome of the Equality Impact Assessment;*
 - b) *Enter into the proposed lease at Pentwyn Leisure Centre as set out in this report, in line with the proposal attached at Confidential Appendix 5 and substantially in the form of the draft Heads of Terms attached as Confidential Appendix 6, and subject to: satisfactory conclusion of point a); detailed legal due diligence as set out in this report; detailed financial due diligence; and an independent valuation.*
 - c) *Subject to a) and b) above, deal with all aspects of the procurement and implementation of the proposed improvements to the Pentwyn Leisure Centre subject to the financial envelope set out in Confidential Appendix 9 and in line with the scheme presented at Appendix 7 and the estimated costings presented at Confidential Appendix 8.*

Previous Scrutiny

30. In November 2020, this Committee considered the impact of the coronavirus pandemic on leisure services in Cardiff and carried out pre-decision scrutiny of a report to Cabinet on the contract with GLL.

31. In the resulting Chair's letters Members recognised the impact of the coronavirus pandemic on GLL and the whole of the leisure sector and reiterated their support for leisure and sport activities. Full copies of the letters are attached at **Appendix B**.

Way Forward

32. Councillor Peter Bradbury (Cabinet Member – Culture and Leisure) will be invited to make a statement. Neil Hanratty (Director of Economic Development) and Steve Morris (Operational Manager – Sport & Leisure) will attend to give a presentation and answer Members' questions on the proposals.

33. All Members are reminded of the need to maintain confidentiality with regard to the information provided in **Appendices 1, 2, 5, 6, 8, 9 and 10**. Members will be invited to agree the meeting go into closed session to enable discussion of this information.

Legal Implications

34. The Scrutiny Committee is empowered to enquire, consider, review and recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters, there are no direct legal implications. However, legal implications may arise if and when the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any legal implications arising from those recommendations. All decisions taken by or on behalf of the Council must (a) be within the legal powers of the Council; (b) comply with any procedural requirement imposed by law; (c) be within the powers of the body or person exercising powers on behalf of the Council; (d) be undertaken in accordance with the procedural requirements imposed by the Council e.g. Scrutiny Procedure Rules; (e) be fully and properly informed; (f) be properly motivated; (g) be taken having regard to the Council's fiduciary duty to its taxpayers; and (h) be reasonable and proper in all the circumstances.

Financial Implications

35. The Scrutiny Committee is empowered to enquire, consider, review and recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters, there are no direct financial implications at this stage in relation to any of the work programme. However, financial implications may arise if and when the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any financial implications arising from those recommendations.

RECOMMENDATION

The Committee is recommended to:

- i) Consider the information in this report, its appendices and the information presented at the meeting;
- ii) Determine whether they would like to make any comments, observations or recommendations to the Cabinet on this matter in time for its meeting on 18 March 2021; and
- iii) Decide the way forward for any future scrutiny of the issues discussed.

DAVINA FIORE

Director of Governance & Legal Services

10 March 2021