LEISURE TRUST

PURPOSE

1. To approve the transfer of the delivery of the Council’s Sport and Culture services in the Borough to Burnley Leisure (Leisure Trust) and make recommendations to Council where appropriate.

RECOMMENDATION

2. The Executive recommends the following to Full Council:

   a) The approval of the transfer of the delivery of the following Council Sport and Culture Unit services to Burnley Leisure (Leisure Trust):
      • St Peter’s Leisure Centre
      • Padiham Leisure Centre
      • Mechanics Theatre
      • Sport and Play Development
      • Arts/Cultural Development
      • Healthy Lifestyle

   b) The approval of the following project documents, namely:
      i) The Transfer Agreement;
      ii) The Pensions Admission Agreement.

3. The Executive approves the following:

   a) i) The leases of the Council’s main facilities ie the St Peter’s Centre, Padiham Leisure Centre and the Mechanics’ Theatre;

      ii) The Funding and Management Agreement;
      iii) Support Services Agreement.

4. Delegate any final amendments to the above agreements and leases to the Director of Community Services in consultation with the Head of People, Law and Regulation, Director of Resources, Executive Member for Resources and...
Executive Member for Leisure and Culture.

5. Authorise the Head of People, Law & Regulation to execute all necessary deeds and agreements to give effect to these decisions.

**REASONS FOR RECOMMENDATION**

ii) Further to the Executive’s, in principle, approval, to establish a Leisure Trust with a start date of 1st April 2014, much detailed work has been undertaken by a cross-Unit Project Board and a new Shadow Trust that was established in 2013. As a result of their work and negotiations between the two partners, detailed terms and conditions have been agreed for the Trust to take on the delivery of the Council’s existing Sport and Culture services, with effect from 1st April 2014.

**SUMMARY OF KEY POINTS**

4. The Executive approved in principle the setting up of a Leisure Trust with a start date of 1st April 2014.

5. A Project Board was established with three main Project Teams reporting to it and external legal support was procured to support the project. There has been effective cross-unit working across the Council in delivering the project and the following key main outcomes have been achieved:

- Development and agreement of detailed project documents;
- Assessment of financial implications of establishing the Trust, including the delivery of a £300,000 saving to the Council.
- Recruitment and development of a new Trustee Board, which has been in operation since December 2013, and which comprises eight Community Trustees, two Local Authority Trustees and one Employee Trustee.

6. In addition, as part of the work of the Project Board and through the financial assessment and detailed development of the project documents, it is appropriate to include of the provision of Arts Development, Sports Development and Healthy Lifestyles work within the Leisure Trust. Primarily, this is because the Council can still influence the delivery of these services through the Funding and Management Agreement and the approval of the Trust’s Annual Service Plan and the synergies between those services and the facilities, as well as the span of management control make it appropriate to include the services within the Leisure Trust.

7. The key Heads of Terms for the main project documents, mainly the Funding and Management Agreement, Support Services Agreement and Transfer Agreement were considered at both the Community Services Committee and Resources Scrutiny Committee. These were further developed into detailed project agreements: summaries of which are shown in the appendices to this Report. The key terms are as follows:

    a) **Funding and Management Agreement:**
    
    - 15 year agreement
• Annual review of services
• 3 yearly review of funding settlement
• Sets out the Council’s minimum standards with regards to the provision of services including:
  – Service outputs
  – Opening hours
  – Pricing
  – Programming
  – Usage
  – Customer care
  – Health and Safety
  – Performance monitoring
  – Termination events

b) Support Services Agreement
• Identifies the Support Services to be procured from the local authority
• Initial 3 year term which can be extended
• Sets out the charging and payment arrangements
• Termination events

c) Transfer Agreement
• Identifies the assets to be transferred:
  – Staff
  – Stock
  – Contracts
• Identifies the assets to be loaned or leased:
  – Facilities
  – Equipment
  – Membership database
• The Agreement also deals with the TUPE transfer and pension arrangements (see section 8 of this report)

8. Employees
Terms & Conditions of Employment
Under the terms of the Transfer Agreement, all existing permanent staff within the Sport and Culture Unit will transfer over to the Leisure Trust, on their current terms and conditions (under TUPE) will apply. All necessary statutory consultations with staff and the Trades Unions have been satisfactorily concluded. Whilst TUPE does not apply to casual staff - of which there are currently 110 within the Unit – the Trust has agreed to employ its casual staff on the same terms and conditions they currently have at the Council.

Pension Arrangements
Subject to approval by the Lancashire County Pension Fund (the Fund), the Trust will have ‘Admitted Body Status’. This means that all transferring staff who are currently contributing members of the Local Government Pension Scheme (LGPS) will be entitled to continue as members of that scheme following transfer to the Trust. Arrangements have also been made for new employees of the Trust post transfer to have LGPS membership as well, provided they are eligible under the Scheme rules.

Supported by the advice of the Fund’s actuary, a risk assessment has been carried out by the Director of Resources and she is satisfied that pension arrangements which
are open to new employees of the Trust, whilst retaining the pension deficit associated with the transferring staff, does not increase the Council’s exposure to financial liabilities arising from its obligations under the LGPS. If the risk profile changes, the Council will be able to call on the Trust to arrange an insurance backed bond to protect the Council’s interests.

9. **Leases**

Leases have been developed for the main leisure facilities with the key features being:

- The facilities are leased to the Leisure Trust on a peppercorn rent.
- The main structural repairs and maintenance responsibilities lie with the Council.
- Small-scale maintenance and decoration transfers over to the Leisure Trust.

10. **Ongoing Service Delivery and Monitoring and Review**

As stated earlier, the terms of the Agreement with Burnley Leisure are for a period of 15 years and the Trust has developed a Business Plan for the first three years of operation. Although there is still a need for a final review as the new Trust develops its final detailed plans, officers are satisfied that the current Plan is satisfactory for start up of the Trust on 1 April 2014. In addition, going forward, the Trust will prepare Annual Service Plans which will be approved by the Council’s Executive.

As part of the review process, there will be regular meetings between the Chair of the Trust and the Trust’s Chief Executive and the Director of Community Services and the Executive Member for Leisure. These will initially be on a monthly basis, however, this will be reviewed as the Leisure Trust develops. In addition, an Annual Report will be produced for the Council and it is recommended that this should be presented to the Council’s Scrutiny Committee once a year.

**FINANCIAL IMPLICATIONS AND BUDGET PROVISION**

11. The detailed work undertaken by the Project Board’s Finance Team, has identified that savings of over £300,000 will be delivered through establishing the Trust, however, there is a need for the Council to set aside part of the savings to assess the possible impact of other leisure providers reducing the number of gym memberships within the Leisure Trust and to ensure there is a budget for the replacement of larger pieces of equipment. Irrespective of this the new Trust will deliver the predicted savings of £300,000 to the Council. Subject to a final review being undertaken, the current estimated grant for 2014 for the Trust is £619,000 of which £227,000 will be paid back to the Council to cover the cost of a range of support services being provided to the Trust, eg finance, HR, legal, IT, etc.

12. In respect of the next two years, employees costs will be uplifted at the rate of the national Pay award and other costs will be increased by CPI. An efficiency reduction of 3% will then be applied to the grant (net of support service charge). It is likely that this will equate to an efficiency saving of approximately £11,000 for 2015/16 and £11,000 for 2016/17.
POLICY IMPLICATIONS

13. The transfer of Sports and Culture service to Burnley Leisure will see the Council move from being a provider of core leisure facilities and services, to an enabler. However, the Council will retain strategic control of leisure provision through its contractual and funding relationship.

DETAILS OF CONSULTATION

14. None

BACKGROUND PAPERS

15. None

FURTHER INFORMATION
PLEASE CONTACT: Mick Cartledge, Director of Community Services.
ALSO: