

## REPORT TO EXECUTIVE

## LEISURE TRUST



<b>DATE</b>	<b>02/04/2013</b>
<b>PORTFOLIO</b>	<b>Leisure and Culture</b>
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## PURPOSE

1. To consider options for the future delivery of Sport and Culture services in the Borough

## RECOMMENDATION

2. The Executive are recommended to:
  - a) Approve "in principle" the setting up of a Leisure Trust with a start date of 1 April 2014.
  - b) Approve the draft Project Plan shown in Appendix 2 of the report.
  - c) Approve that Standing Order 18 (advertisement) is waived and that the Head of People, Law and Regulation is authorised to seek quotes and accept the most economically advantageous tender from relevant legal and consultancy firms including those from the North West Legal Consortium to provide specialist legal and financial advice for the development of a charitable leisure trust.
  - d) That further reports are brought to the Executive to confirm areas such as the length of the agreement, the level of grant or management fee, support services, staffing, governance, building leases, etc.
  - e) Recommend to Full Council that a Leisure Trust Project Implementation budget of £70,000 is established funded from the Modernisation Reserve.

## REASONS FOR RECOMMENDATION

3. The previous consideration of options as shown in sections 5 and 6 of this report had highlighted that the move to a Leisure Trust scored the highest against the assessment criteria. There is now clarity on the impact of the changes to the Business Rate regime and this, along with the further major financial constraints facing the Council, means that the setting up of a Leisure Trust will secure the longer term sustainability of core leisure facilities whilst realising significant savings to the Council.

4. The leisure trust route will also best secure jobs within the Borough and avoid any redundancies in the Unit.

<b>SUMMARY OF KEY POINTS</b>
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5. **Background**

Between 2002/03 to 2013/14, Sport and Culture Service Unit have made approximately £2 million savings. However, in order for the Service Unit to make the further necessary saving required as a result of the further significant reductions in Government grant funding, there is a need to consider a major strategic intervention.

6. This matter was considered at Community Service Scrutiny in September 2011 where it was reported that preliminary work had been undertaken to assess a number of broad options available to the Council to meet its savings targets. The options were assessed against the following criteria:

- Impact on service provision and service quality
- Level of savings that can be generated
- Capital investment required
- Impact on staff
- Ability to undertake partnership working
- Risk to the council

7. The results of the overall results of the assessments were:

Option	Score
1. Cease provision at the Mechanics and Cultural Development	17
2. Cease provision of Padiham Leisure Centre and Sports Development	16
3. Move to core facility provision only and cease all development work	18
4. Move to a Leisure Trust	22

It can be seen that the highest scoring option was to move to a Leisure Trust.

8. **What are the Key Features of a Leisure Trust?**

The main characteristics of a leisure Trust are:

- Responsibility for the management of the leisure facilities is transferred to a trust, usually with a contract and specification for services
- The trust would typically be a registered charity with a board of voluntary trustees and is independent of the council
- The Council would lease any facilities to the trust and would typically provide an annual grant to the trust, reflecting the likely operational subsidy of the facilities
- Staff employed to manage and supervise the facilities would be employed directly by the trust under TUPE regulations
- The trust undertakes the management of the facilities, gathering all income generated by the facilities and being responsible for the majority of costs incurred by the facilities
- Typically, the Council retains some responsibilities (usually in respect of structural repairs and maintenance) and incurs costs in respect of these responsibilities
- The operating risk of the service would transfer to the Trust.

9. In light of the above, Pricewaterhousecoopers were commissioned to do a more detailed

financial assessment of the Leisure Trust option. The key points from that assessment were that the core leisure facilities (ie. St Peter's Centre, Padiham Lesure Centre and Burnley Mechanics Theatre) were capable of releasing significant VAT and NNDR savings. At the time of the assessment, these were as follows:

- NNDR - £170k pa
- VAT - £112–213k pa\*

The variance in VAT savings was due to whether the Council's relationship with the Trust was via a grant funding or management agreement mechanism. This was detailed in the PWC report which stated: *"Another key factor to determining the overall VAT position post transfer is the VAT treatment of the payment made by the Council to the trust. HMRC's initial stance was that such payments constituted funding and thus were outside the scope of VAT. However, more recently, HMRC have tended to accept that where the payment is in relation to a management agreement, it is subject to VAT at the standard rate. This is a critical factor as the treatment of the payment from the Council makes a significant difference to the value of the taxable supplies made by the trust which in turn directly impacts upon the amount of VAT the Trust is entitled to recover"*.

10. It should be noted that the above figures also included £30k relating to applying for a cultural exemption for the Mechanics Theatre. The Council made this application as part of the 2012/13 budget proposals, so the net savings calculation based on PWC assessment would at that time have been between £252 – 353k.
11. No decision on a move to a Leisure Trust was made as one of the major financial benefits is through rate relief, and there was a need to further understand what the impact of the Government's proposals for returning business rates to local authority control would be.
12. In light of the above, the Executive previously agreed that the Council would:
  - Take a two year approach to savings for the Sport and Culture Unit.
  - Identify interim savings for the Unit for 2013/14.
  - Make any decision on Leisure Trust once there is certainty on the issue of Business Rates. This would then feed into savings options for 2014/15 when the Unit will need to find a higher level of saving to ensure it makes the appropriate level of financial savings to the Council's overall savings target. If a Leisure Trust is still not an option, there would be a need to pursue one of the other broad options as outlined earlier in section 3 of this report.

### 13. Current Position

The position on Rate Relief is now clear and although the exact amount of savings to the Council arising from rate relief for the St Peter's Centre, Padiham Leisure Centre and the Mechanics does depends on the Business Rate baseline funding level and the safety net. It is estimated that the worst case scenario would mean that the potential saving of £224,379 is reduced by the income foregone through the Business Rate Retention system of £89,752. This leaves a net saving from Rate Relief to the Council of £134,627 per annum.

### 14. So what are the Total Savings?

A move to a leisure trust would therefore result in:

- VAT savings of between - £82–183k
- Net Business Rate saving to the Council £135k

**Total savings are therefore estimated at £217 - £318k\*\* per annum**

\*\*Again, the variance is whether the Council's relationship with the Trust was via a grant funding or management agreement mechanism.

**15. Summary and Next Steps**

In light of the future significant financial challenges facing the Council and confirmation of Business Rate savings, it is recommended that in order to maintain the core sports and leisure facilities and services, the Council establishes a Leisure Trust from 2014/15.

16. In order to facilitate this, any decision needs to be made ideally 12 months in advance to enable the Trust to be established in a planned manner. An outline draft project plan is shown in Appendix 1 of this report.

**17. Services To Be Included**

Experiences of other Leisure Trusts have shown that the range of services operated by the Trust can change over a number of years. Initially, it is envisaged that the following facilities are included:

- St Peter's Leisure Centre
- Padiham Leisure Centre
- Mechanics Theatre.

18. These services all currently fall within the Sport and Culture Unit and have the ability to realise the highest level of Business Rate and VAT savings. Other services within the Unit include Sports Development, Arts Development and the Healthy Lifestyles Team. Any decision on whether to include these services will be assessed over the coming months.

19. In order to facilitate a new Trust, an "in principle" decision is required 12 months in advance to enable the Trust to be established in a planned manner. The outline project timetable is shown in Appendix 1 of this report.

<b>FINANCIAL IMPLICATIONS AND BUDGET PROVISION</b>
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20. As stated in section 14 of this report, the Council will realise savings of approximately £318,000 per annum. However to be prudent, the Council would at this moment in time work on a budget saving going forward of £300,000 per annum from 2014/15.

21. As part of the Trust Agreement, the Council will be required to make a financial contribution to the charitable trust. Payment of a management fee or grant will be tied to the delivery outcomes. Both the management fee or grant and the agreed outcomes will be reviewed and may be adjusted annually. In addition, the Council would retain some responsibilities (usually in respect of structural repairs and maintenance) and incurs costs in respect of these responsibilities

22. A charitable trust will also have access to some funding streams that are not open to local authorities and may be better placed to negotiate funding from partners.

23. There will be a need to bring in external support to support the transition. In particular,

this will cover expert legal and financial advice. It is estimated that these will cost £70,000. This will be funded from the Modernisation Reserve.

#### **POLICY IMPLICATIONS**

24. The establishment of a Leisure Trust will see the Council move from being a provider of core leisure facilities to an enabler. The Council however will retain strategic control of the Trust through its contractual and funding relationship.

#### **DETAILS OF CONSULTATION**

25. None

#### **BACKGROUND PAPERS**

26. None

#### **FURTHER INFORMATION**

**PLEASE CONTACT: Mick Cartledge**

**ALSO:**

## Appendix 1

### LEISURE TRUST OUTLINE PROJECT PLAN

Stage	Key Outcomes	Target Date
<b>Stage 1: Project Planning</b>	<ul style="list-style-type: none"> <li>• Outline Project plan</li> <li>• Staff consultation plan</li> <li>• Community engagement plan</li> <li>• Marketing Plan</li> </ul>	<ul style="list-style-type: none"> <li>• May 2013</li> </ul>
<b>Stage 2: Establishment of Newco</b>	<ul style="list-style-type: none"> <li>• Drafting the constitution for NPDO</li> <li>• Registration of NPDO</li> </ul>	<ul style="list-style-type: none"> <li>• June 2013</li> </ul>
<b>Stage 3: Recruitment of Trustees</b>	<ul style="list-style-type: none"> <li>• Recruitment and selection of trustees</li> <li>• Induction of trustees</li> </ul>	<ul style="list-style-type: none"> <li>• Appointments made September 2013</li> </ul>
<b>Stage 4: Business Planning</b>	<ul style="list-style-type: none"> <li>• Preparing outline Business Plan</li> <li>• Preparing detailed Business Plan</li> <li>• Preparing Annual Service Plan</li> </ul>	<ul style="list-style-type: none"> <li>• December 2013</li> </ul>
<b>Stage 5: Development and Negotiation of Project Documents</b>	<ul style="list-style-type: none"> <li>• Developing Heads of Terms for project documents</li> <li>• Drafting project documents</li> <li>• Negotiating project documents</li> </ul>	<ul style="list-style-type: none"> <li>• December 2013</li> </ul>
<b>Stage 6: Applying for Charity Registration</b>	<ul style="list-style-type: none"> <li>• Preparing application</li> <li>• Progressing application</li> <li>• Securing registration</li> </ul>	<ul style="list-style-type: none"> <li>• July 2013</li> <li>• Ongoing</li> <li>• April 2014</li> </ul>
<b>Stage 7: Preparing for Transfer</b>	<ul style="list-style-type: none"> <li>• Business start up actions</li> <li>• Finalise transfer documents</li> <li>• Finalise business plan</li> <li>• Notify third parties</li> <li>• PQE Communication</li> </ul>	<ul style="list-style-type: none"> <li>• December 2013</li> </ul>
<b>Stage 8: Final approvals</b>	<ul style="list-style-type: none"> <li>• Approvals/ consents</li> <li>• Shadow Trust</li> <li>• Live</li> </ul>	<ul style="list-style-type: none"> <li>• January 2014</li> <li>• January 2014</li> <li>• April 2014</li> </ul>