

<b>Item No.</b> 17.	<b>Classification:</b> Open	<b>Date:</b> 17 March 2015	<b>Meeting Name:</b> Cabinet
<b>Report title:</b>		Gateway 1 – Procurement Strategy Approval: Management of the Council’s Leisure Facilities	
<b>Wards or groups affected:</b>		All	
<b>Cabinet Member:</b>		Councillor Barrie Hargrove, Public Health, Parks and Leisure	

## **FOREWORD – COUNCILLOR BARRIE HARGROVE, CABINET MEMBER FOR PUBLIC HEALTH, PARKS AND LEISURE**

Over the last few years we have invested more than £50 million in our leisure centres. This includes major refurbishments at Dulwich, Camberwell and Surrey Docks Watersports Centre, upgrades at Peckham Pulse and Seven Islands as well as a brand new centre for Elephant and Castle and another planned for Canada Water. This has resulted in a substantial increase in uptake of the service with over 1.4 million visits last year compared to just under 900,000 in 2010/11. We expect to see further increases with the introduction of the free swim and gym pilot in May this year.

Our leisure centres are currently managed though an external contract that expires in June 2016 and a thorough examination of the options has been undertaken to identify the best approach to securing new management arrangements for when the contract expires. This report sets out in detail the relative advantages of both in-house and external management, examining the implications for finance, staffing issues, marketing and communications and most importantly, service development and quality. Consideration of the options has included carrying out a soft market testing exercise to gauge interest in managing our services and the assistance and advice of experts in the leisure field in identifying market trends. The soft market testing exercise revealed strong interest in managing our service as well as cost advantages to the Council in taking this approach. The report identifies other advantages in taking this approach, including economies of scale in implementing new services and in purchasing equipment, easy availability of expert technical advice and wider career development opportunities for staff wishing to follow a career in the leisure industry and access to specialist leisure industry marketing expertise. Based on the findings of this work, it is recommended that the Council goes out to tender to secure external management.

The new contract will bring opportunities to further develop our leisure provision, to continue to improve service quality, to secure greater social value and to encourage greater take-up by people who would most benefit from participation and who are currently under-represented. These issues will be addressed through a robust and demanding service specification that delivers excellent service and is compatible with the Fairer Futures principles and with clear and effective monitoring processes in place to ensure delivery.

## **RECOMMENDATIONS**

1. That the cabinet approves the procurement strategy outlined in this report to go out to tender for the management of the council’s leisure facilities from 21 June 2016 for

a period of seven years with an option to extend for a period or periods of up to a further seven years.

## **BACKGROUND INFORMATION**

2. The council's leisure management contract with Fusion Lifestyle will expire in June 2016 and a decision needs to be taken on future management arrangements for the council's leisure centres.
3. On 7 April 2000 the council, entered into a grant agreement with Southwark Community Leisure Limited (SCLL) for the management of the council's leisure centres. SCLL has since changed its name to Fusion Lifestyle (Fusion). Fusion Lifestyle is a registered charity.
4. On 13 February 2007, the executive received a report on the Leisure Centre Investment Strategy. The council decided to invest £12.3 million of its own capital to refurbish the borough's existing leisure centres. In light of this decision, the Executive asked officers to evaluate all options for management of the leisure centres and report the findings back to the Executive.
5. On July 24 2007 the executive approved the proposal in the Gateway 1 report "Procurement Strategy for Future Operational Management of Leisure Centres" to negotiate a new arrangement with Fusion as sole provider of management of the council's leisure services based on a minimum of five years and a maximum of ten years and then go to the market of service providers at a future date.
6. On the 21 July 2009 the executive approved the Gateway 3 Leisure Investment and Management Programme: Appointment of Leisure Management Contractor to vary the existing contract with Fusion from 31 October 2009 to 20 June 2016.
7. The leisure management contract has never been commercially tendered.
8. The current contractual arrangements involve a fixed management fee being paid to Fusion in return for delivery of a service specification which includes:
  - Day to day operation and management of the leisure centres
  - Service development to increase regular participation in physical activity
  - Health and safety management
  - Maintenance – responsibility for all repairs and lifecycle
  - Marketing – promoting the service to maximise use, including to people from our diverse communities, people on low income and other specific groups of customers, as well as raising the profile of the facilities
  - Customer care.
9. The current agreement covers the following leisure facilities:
  - Camberwell Leisure Centre
  - Dulwich Leisure Centre
  - Peckham Pulse Healthy Living Centre
  - Seven Islands Leisure Centre
  - Southwark Park Sports Centre
  - Surrey Docks Water Sports Centre.

10. The Elephant and Castle Leisure Centre was included in the agreement until June 2012 when partial termination of the agreement was arranged to enable its redevelopment which will be completed this summer. The council is currently in discussion for the centre, now The Castle, to be bought back into the agreement with Fusion until the contract expires in June 2016.
11. Over the last several years, the council has invested more than £50 million in its leisure facilities including a brand new centre at the Elephant and Castle, due to open in 2015; total refurbishment of Camberwell and Dulwich leisure centres and Surrey Docks Watersports Centre and a range of works at Peckham Pulse and Seven Islands Leisure Centre. Southwark Park Athletics Track will be brought back into use in 2015 and there are also plans for a major new leisure centre at Canada Water to replace Seven Islands. £2 million will be invested in the current Seven Islands centre to sustain and improve the service pending the delivery of the new facility.
12. This investment has resulted in a very significant increase in the use of Southwark's leisure centres which now receive nearly 1.4 million visits per year compared to just over 900,000 in 2010/11. The much improved condition of the building stock, provision of new facilities and increased uptake in use combine to make the Southwark contract very attractive to the leisure market and potential providers.
13. Following this investment, the council is keen to further increase the levels of use and to ensure that the service contributes strongly to the health agenda. In view of this, the council is committed to introducing a free swim and gym offer to all residents. This will be piloted with targeted groups from May 2015, with an all residents general offer being introduced from July 2016 – after the life of the current contract.
14. Since 2009, the leisure market has changed considerably. There are now several examples of contracts where the council either receives a fee from the contractor and the contractor retains all or an agreed share of the income, or contracts are managed with a nil or very low subsidy.
15. This report seeks the approval to go out to tender for the management of the following leisure facilities;
  - Camberwell Leisure Centre
  - Dulwich Leisure Centre
  - Peckham Pulse Healthy Living Centre
  - Seven Islands Leisure Centre
  - Southwark Athletics Centre
  - Surrey Docks Water Sports Centre
  - The Castle
  - Geraldine Mary Harmsworth Sports Facility.

### **Options for procurement route**

16. The options that have been considered are;

Option one – Internal service – The council to directly deliver leisure services.

Option two – External contract – The council to competitively procure a stand alone contract.

17. The relative merits of options one and two are explored in paragraphs 23 to 48.
18. Consideration was also given to a shared service provision whereby the council would align with one or more of the neighbouring boroughs to undertake a joint procurement process. A shared service option with other local boroughs was also considered. However this was discounted as the closest boroughs to Southwark are already in long term contracts with external contractors as shown below:
  - Lambeth – Greenwich Leisure Limited (GLL)
  - Lewisham – Fusion
  - Tower Hamlets – GLL
  - City Of London – Fusion.

### **Summary of the business case/justification for the procurement**

19. Taking into account the capital investment in the leisure stock in recent years, the introduction of the free swim and gym scheme and the current leisure contract climate, a strategic assessment of the role of the leisure management contract has been completed.
20. The assessment process included the following:
  - An in-depth analysis by officers of the feasibility of bringing these services in-house.
  - A survey to determine the status of existing leisure contract arrangements across London. The information gathered is shown in Appendix 1.
  - A soft market testing exercise was undertaken to gauge industry views on issues such as the implementation of the free swim and gym scheme, length of contract, maintenance responsibilities and inclusion of London Living Wage.
  - Review of neighbouring authorities to understand their future plans to determine any potential joint procurement opportunities.
  - Advice from a leading sports consultancy on leisure contracts, procurement and the current leisure market.
21. The review included consideration of the emergence of a number of key factors including:
  - The council's leisure investment programme and its impact on the marketability of the contract
  - The change in the leisure market since 2009 with contractors now offering to pay to manage centres
  - The introduction of the free swim and gym scheme across all sites
  - The future management of leisure services within parks
  - The benefits of internalising the leisure service
  - Who is best placed to provide a universal sports booking service across parks and leisure services
  - The drive to achieve best value for the council and customers.
22. The key objectives in considering the procurement strategy were:

- Sustained service improvement (including greater innovation and community involvement);
- Greater council influence on the service policy and design (i.e. what it looks like and how it is delivered);
- Improved cost effectiveness and efficiency; the leisure portfolio is completely different as a result of the investment programme. This has positively altered its attractiveness within the leisure market;
- Transparency through more open book accounting;
- Flexibility to make changes to the service as necessary.

## **KEY ISSUES FOR CONSIDERATION**

### **Facilities management**

23. Maintenance is a key issue in managing leisure facilities as it impacts on health and safety, legal obligations and customer care and satisfaction.
24. Where a service is managed by an external contractor, it is possible to pass some of the risk and responsibility for these matters from the council to the contractor. There are a range of options for this including full repairing responsibility sitting with the contractor or a landlord/ tenant split with a financial threshold for responsibility for each side.
25. An in-house arrangement would entail full maintenance responsibility and costs being held by the council.
26. Proper maintenance of leisure facilities is a complex issue requiring specific and specialist expertise. External contractors likely to be interested in the Southwark contract will already manage a number of contracts in other authorities and will have access to existing technical expertise and economies of scale and scope. Specific skills and knowledge in relation to the management of pools, specialist plant and equipment are required. This expertise is generally secured by means of sub-contracting with a third party, giving both flexibility and access to a range of experts rather than engaging a particular employee. Whilst these arrangements are advantageous to an external contractor, it means that the expertise cannot be TUPE transferred to the council should the service be brought in house.
27. There are similar issues in relation to health and safety. With in-house arrangements all risks are owned by the council. External management of the service would transfer legal and financial risk to the contractor, but reputational risk would remain with the council. Whilst there is significant health and safety expertise within the council, specialist leisure knowledge is required to discharge this legal obligation appropriately (e.g. pool plant operation). This expertise would need to be developed within the council should in-house arrangements be established for future management of the contract. An external contractor would have easy access to this type of expertise since they will be required to discharge health and safety responsibilities across a range of existing contracts and will be able to take advantage of economies of scale and scope.

### **Finance – Income**

28. Leisure centres of the calibre of those in Southwark can expect to generate substantial amounts of income. The decision to implement free swim and gym means that there will be less income than would have been anticipated should all services have remained chargeable.

29. Soft market testing shows that in spite of the introduction of free swim and gym an arrangement within the current budget should still be possible.
30. A service managed in-house means the council would benefit from income made but also take the risk on income not achieved. External management of the service would mean that the council has the comfort of an agreed contract price which gives the ability to budget and plan accordingly. The contractor would then carry both the risk and opportunity related to income. With these arrangements, the council could then choose to extend the free swim and gym offer if it had sufficient resource and wished to do so.
31. Although the opportunity to generate income is reduced due to the implementation of free swim and gym for all residents, it is planned that other services will remain chargeable. In addition to this, 22 per cent of the current membership consists of people who do not live in Southwark and who will therefore not be eligible for the free offer. The Castle, due to open later this year is expected to attract additional out of borough customers due to its proximity to Lambeth, the very high number of people studying in the area and the excellent public transport links.

#### **NNDR**

32. Charitable trusts benefit from NNDR relief. The exemption from NNDR was a major factor in the original externalisation of the service but is now less significant as the council benefits from 30% of the payments. In spite of that, there would still be net costs to the council for paying full NNDR across the current leisure provision estimated at least £250k per annum. This figure is based on the NNDR valuations that are likely to need revising due to the level of investment in the current leisure facilities. For example they do not include the new Castle Centre. This will most certainly result in an increase in the estimated net cost to the council.

#### **VAT**

33. The council would be liable for greater VAT payments than under the current arrangement.

#### **Utilities**

34. Leisure centres make significant use of electricity, gas and water. Risks relating to consumption are held by the contractor where there are external management arrangements and with the council for in-house managed services.
35. There are also sustainability issues linked to the use of utilities. The leisure centres' carbon emissions already count towards the council's tonnage so there is no advantage to either in-house or external management in this respect. In-house arrangements would give the council direct control over the use of utilities whilst an external contractor would be set targets with deductions for failure to deliver carbon reduction plans outlined in their method statements.

#### **Equipment and buying power**

36. Leisure services that are managed externally are better positioned to purchase leisure equipment at more favourable rates. This is generally because of the size of their operation (up to 100 sites or more) coupled with the amount of equipment they

tend to purchase. They are able to negotiate better agreements as regular repeat clients. A portfolio of a few sites does not tend to achieve this.

### **Staffing issues**

37. Where services are managed externally, the contractor has full responsibility for staffing matters. This includes recruitment and selection, training and disciplinary matters but also administrative issues including payroll, pensions and other human resources matters.
38. The leisure service was contracted out 15 years ago. The council now has no staff with recent experience of operational management of leisure centres. It is not certain that expertise held by the current providers would TUPE across to an in-house arrangement as these staff may either belong to a central office team, or as recent experience has shown, may be reluctant to leave their private sector employer to work in a single authority. This is largely due to the wider range of opportunity available in a larger company that may be running several contracts.
39. The flexibility of external contractors also provides opportunities for specialist staff to benefit from development, due to the ability to move staff between contracts to gain experience in different types of environment and in different roles. The scope for this in a single authority is much more limited. This creates difficulties in attracting or retaining specialist staff to an in-house service where there are only limited opportunities for this type of development. There is then a risk that appropriate management would be difficult to retain or recruit to an in-house arrangement.
40. A large workforce is required to manage the leisure service due to there being several facilities open long hours with a wide range of services on offer. There are also legal minimum staffing levels for some activities such as the swimming pools. Approximately 120 FTE staff are employed on the Southwark contract, representing up to 200 individuals as many staff work part-time due to the nature of their duties. Bringing the leisure service back in house would require a significant increase in the capacity of the council's human resources service to deal initially with a complex TUPE transfer, but also to support the on going recruitment, selection, management and development of staff. It is known that the leisure industry has high staff turnover, particularly in London where there are many prospective employers. This results in significant amounts of recruitment being needed each year with attendant costs and calls on support time.
41. Should the leisure service be brought back in house, current employees would be eligible for TUPE transfer back to the council. As well as a one off cost to carry out a TUPE transfer, the council would be responsible for additional pension contributions for staff transferring.
42. The recent soft market testing exercise was conducted on the basis that any new contractor would be required to ensure London Living Wage was paid to all employees and that there would be no zero hours contracts. Despite this, respondents have still said that they can provide the service at either the same cost as the current contract or possibly at a lower cost.

### **Service development and quality**

43. An external contractor may have up to 100 leisure centres in their portfolio, enabling them to identify trends and new demands that arise in some contracts and which can be successfully rolled out to others.
44. Customer expectations in the health and fitness market are high, particularly in London, and there is a vast amount of competition from commercial providers. Health and fitness is the contractor's core business, enabling them to focus on developing the service, introducing innovation and maximising income.
45. For a portfolio of facilities that has undergone significant investment and improvement it is essential that the quality of service delivery matches the quality of the facilities provided. Whichever option is taken, the staff responsible for dealing with customers and cleaning will be subject to TUPE, continued improvements in quality will need to come from culture change and better management of services. Given the current competitive state of the leisure market, providers are now focused on service quality to separate them from their competitors so a competitive tender is expected to result in higher quality. Although it would be possible to achieve this improvement with in-house arrangements that would require the retention and recruitment of the right management skills into the council: the challenges relating to this are set out above under staffing issues.

### **Marketing, communications and sales**

46. A service managed by an external contractor will have access to a central communications team with specific leisure industry expertise developed over several years. The council has limited expertise in this area and the communications team is generalist and required to cover the whole range of council services. This includes digital marketing where external providers have complete freedom to present their service offer so as to maximise impact whereas the local authority has limited scope for this as their website and other e-comms have a different focus.
47. The council has seven leisure centres across which it can market special offers and new services. An external contractor with several authorities and many leisure centres is able to deliver marketing and promotional schemes across their whole portfolio, taking advantage of the scale of their operation to secure reduced costs for marketing materials and campaigns.
48. Even with the implementation of free swim and gym, the service will need to sell memberships to people who wish to use the facilities throughout the week or to use facilities and services not included in the free offer. This requires extensive management of the sales teams and the sales process.

### **Market considerations**

49. There is an existing, mature and competitive market for leisure management services from a range of specialist contractors currently providing services for London authorities.
50. The council has been approached by a number of specialist contractors who have expressed great interest in the contract and facilities.



51. The council's leisure management contract has never previously been market tested or competitively tendered.
52. A recent soft market testing exercise identified interest from three of the main leisure management contractors, all of whom are established as charitable trusts.
53. The soft market testing included asking respondents key questions about their expectations of a management fee for a contract that will include the requirement to run free swim and gym for all residents at the times suggested in the cabinet report, to implement London Living Wage and to give assurances that there will be no zero hours arrangements for those employed on the contract.
54. The response from the market has been a positive one. The contractors explained that on the basis of the information given it could be feasible to deliver a contract within the current budget including London Living Wage and the free swim and gym scheme as set out in the cabinet report. Further details and understanding of liabilities, TUPE and future capital investment by the council would be required.
55. Other key questions included preferred length of contract term, maintenance responsibilities and experience of running free access schemes in their other contracts
56. The operators confirmed that their preference would be a contract term of ten years and would be keen to explore the possibility of a longer term, for example a ten year contract with option to extend for five years. This would provide greater scope for investment in the service by the contractors themselves and for them to secure a reasonable return.
57. For maintenance responsibilities the contractors were prepared to be flexible in their approach. For example, accepting a contract with a full repairs and maintenance arrangement or possibly splitting the responsibilities on the older centres.
58. When asked about experience in providing free access initiatives in their other contracts, all of the contractors stated that they had experience of free swimming initiatives, particularly the scheme funded by the Department of Culture Media and Sport in 2009 along with a number of other more targeted free access initiatives.

## **Summary**

59. Examination of the above issues indicates that the most advantageous approach to securing a high quality leisure service at the lowest cost, is for the leisure management contract to be procured externally.
60. There are clear financial advantages to taking this approach, including those related to NNDR and VAT, whilst an external arrangement will also bring economies of scale not available to the Council when procuring equipment and highly specialised services. An external contractor can also offer more to specialist staff in terms of career progression and is therefore more likely to retain these staff than is the council.
61. The soft market testing demonstrated that it is possible to improve staff terms and conditions and to deliver the council's free swim and gym programme at either the same cost as the current contract or possibly at a lower cost, offering opportunities to extend the programme if Members so wished.

## Proposed procurement route

62. The proposed procurement route is for the council to carry out a competitive tendering exercise by way of an EU tendering process to seek a minimum of five tenders.

## Identified risks for the procurement

63. The table below identifies a number of risks associated with this procurement strategy and controls to mitigate the risks:

**Table 2 – Risks**

Risk No.	Risk identification	Risk level	Mitigating action
R1	Failure to provide value for money	Low	Competitive process that will drive the achievement of the procurement objectives such as a contract within the current budget Benchmarking process against other leisure contracts
R2	No contract in place on 21/06/2016	Low	Project management of procurement process
R3	New procurement legislation	Low	Obtain advice from legal procurement experts on flexibility in early stages of the legislation.
R4	Lack of project resource	Low	Legal and leisure specialist advice has been procured. Project Board in place, project plan in place
R5	Insufficient competition	Low	Soft market testing indicates a high level of interest in the contract
R6	Contractor ceases to trade or suffers financial difficulty during process	Low	Ensure appropriate vetting procedure as part of procurement process, ensure appropriate bond or other protection is agreed in contract
R7	TUPE process complications due to scale of service	Low	Early engagement with HR, legal and current contractor
R8	Inability to agree information provision with incumbent contractor	Med	Early engagement with legal to prepare requirements, earliest possible engagement with contractors setting out clearly requirements, contingency/escalation plans to be put in place
R9	Problem with meeting the council's social value objectives	Low	Early clarification of council's requirements. Inclusion of requirements in tender docs. Appropriate weighting in evaluation scoring.
R10	Inability to incorporate extension of free swim and gym scheme	Low	Identify possible extension options, require tenderers to price up options as part of tender process

## Key/Non-Key decisions

64. This is a strategic procurement exercise and as such is a key decision.

## Policy implications

65. The leisure contract will have cross cutting benefits in promoting good health and social cohesiveness. It will be the vehicle for delivering the council's Fairer Future promise of access to free swim and free gym facilities.
66. The contract will also contribute to achieving a number of the other Fairer Future promises such as value for money and contributing to Southwark becoming an age friendly borough, through schemes that ensure all residents, no matter what their age have access to excellent leisure facilities.
67. The contract procurement process will also be used to select a contractor that adopts the Fairer Future principles in the delivery of the services.
68. This report has also taken into account the principles of the recent Overview and Scrutiny report on procurement.
69. This procurement project is in line with the aims of the council's Physical Activity and Sport Strategy 2014-17 in relation to providing a new and enhanced leisure contract that maximises use of the facilities through excellent management and programming resulting in increased participation in physical activity.
70. Southwark's emerging Health and Wellbeing Strategy has identified the following priorities:
  - Giving every child and person the best start in life.
  - Building healthier and more resilient communities and tackling the root causes of ill health.
  - Improving the experience and outcomes of care for our most vulnerable residents and enabling them to live more active and independent lives.

**Table 3 - Procurement Project Plan (Key Decisions)**

<b>Activity</b>	<b>Complete by:</b>
DCRB Review Gateway 1	12 Feb 2015
CCRB Review Gateway 1	19 Feb 2015
Notification of forthcoming decision - Cabinet	7 March 2015
Approval of Gateway 1: Procurement strategy report	17 March 2015
Scrutiny Call-in period and notification of implementation of Gateway 1 decision	31 March 2015
Completion of tender documentation	March - June 2015
Publication of public advertisement	1 April 2015
Closing date for receipt of expressions of interest	1 June 2015
Completion of short-listing of applicants	30 June 2015
Invitation to tender	1 July 2015
Closing date for return of tenders	1 September 2015
Completion of any clarification meetings/presentations/evaluation interviews	1 November 2015
Completion of evaluation of tenders	1 Dec 2015
Forward Plan (if Strategic Procurement) Gateway 2	December 2015
DCRB Review Gateway 2	January 2016
CCRB Review Gateway 2	January 2016

<b>Activity</b>	<b>Complete by:</b>
Notification of forthcoming decision – despatch of Cabinet agenda papers	January 2016
Approval of Gateway 2: Contract Award Report	February 2016
End of scrutiny Call-in period and notification of implementation of Gateway 2 decision	February 2016
Alcatel Standstill Period (if applicable)	February 2016
Contract award	February 2016
Add to Contract Register	June 2016
TUPE Consultation period (if applicable)	March – April 2016
Place award notice in Official Journal of European (OJEU)	June 2016
Contract start	21 June 2016
Initial contract completion date	20 June 2023
Contract completion date – (if extension(s) exercised)	20 June 2030

### **TUPE/Pensions implications**

71. In the event of a change in contractor TUPE will apply.
72. As part of the procurement process and before the invitation to tender stage, the incumbent contractor will be required to supply relevant TUPE details listing those staff eligible for transfer. This information will be updated on a regular basis throughout the procurement period. Legal Services and Human Resources Service will be asked to provide any necessary advice and assistance.

### **Development of the tender documentation**

#### **Contract period**

73. There appears to be a trend towards awarding longer contracts. The soft market testing exercise identified that longer contracts are more attractive to contractors and may yield potential savings. The average length suggested by potential bidders was 15 years, including extensions.
74. The proposed contract period is seven years with an option to extend for a period or periods of up to a further seven years. This term is long enough to be attractive to would be providers and to secure both a good price and high quality.
75. The possibility of an extension period of up to seven years will incentivise the contractor to sustain high quality performance whilst protecting the council from the potential pitfalls of an overly long term. It will also give the flexibility to review provision including free swim and gym, enabling changes to be made to enhance or expand services.

#### **Contract form**

76. The new contract will include requirements for the following:
  - Excellent quality including customer service, cleanliness and a pro-active approach to innovation
  - Flexibility to extend the council's free swim and gym offer over the life of the contract including requiring a costing model for possible future expansion of the scheme

- A strong commitment to delivering social value including as a minimum apprenticeships and employment of local people

### **Contract specification**

77. The specification will require delivery of the following key elements;

- Day to day operation and management of the leisure centres
- Service development to increase regular participation in physical activity
- Health and safety management
- Maintenance – responsibility for all repairs and lifecycle
- Marketing – promoting the service to maximise use, including by specific groups of customers and generally raising the profile of the facilities
- Excellent customer care
- Free swim and gym programme
- Social value requirements.

### **Advertising the contract**

78. The tender will be advertised in the OJEU, on Contracts Finder and through other relevant websites.

### **Evaluation**

#### **Pre qualifying questionnaire**

79. In response to the advert, organisations expressing an interest in tendering for these services will receive a Pre-Qualification Questionnaire (PQQ) designed to provide the council with the information necessary to assess their suitability to become a prospective service provider.

80. The selection process will consist of an evaluation of the following;

- Financial standing
- Technical knowledge
- Experience
- Capacity and ability
- References
- Health and safety
- Equal opportunities
- Environmental considerations.

81. An evaluation team will review the information provided for compliance and eligibility and a project board will oversee the process.

82. Up to five organisations who successfully pass the short-listing stage will be invited to tender.

### **Tender submissions and evaluation**

83. Tenders will be evaluated on both price and quality.

84. Returned tenders will be reviewed by an evaluation panel comprising suitably qualified officers reflecting the nature of the contract. The panel will initially review

for completeness and correctness of each of the bids and then proceed with the detailed evaluation.

85. The council standard price: quality ratio for evaluating tenders is 70:30. However, with very competitive financial bids expected it is important to ensure that standards of quality and delivery are maintained, it is therefore proposed to evaluate tenders using a minimum 60:40 price:quality ratio with quality thresholds set for all key method statements.
86. The panel will evaluate the tender submissions on the basis of both price and quality against a pre-determined model. Service statements will be assigned a weighting to reflect their relative importance and will include;
  - Financial and pricing
  - Extension of the free swim and gym scheme
  - Social value
  - Investment
  - Management and staff
  - Programming
  - Customer care
  - Training and development
  - Health and safety management
  - Health agenda and target groups
  - Increasing take up by people from diverse communities, people on low income and people from other specific groups
  - Community sport development
  - Statutory compliance, maintenance and lifecycle
  - Cleaning
  - Catering and vending
  - Compliance with the council's communications and marketing requirements including digital approach and stakeholder consultation
  - Booking systems and IT
  - Continuous improvement / innovation
  - Partnership working
  - Quality management systems and quality assurance such as QUEST and ISO 9001:2000
  - Sustainability, waste disposal and recycling
  - Mobilisation Plan
  - Risk management.
87. Tenderers will be advised of the price: quality ratio and the method statement weightings in the invitation to tender and contract documents.
88. The criterion will follow the most economic advantageous tender protocol.
89. Post tender interviews will be arranged for those tenderers who are deemed to be potentially suitable providers, as determined by the evaluation process. Prior to contract award, a pre-contract meeting will be arranged with the successful contractor.
90. A detailed evaluation report will be prepared and the officer recommendation included in the Gateway 2 report

## **Community impact statement**

91. The provision of this contract as set out in this report should only have an overall positive impact on the community, especially in terms of promoting healthy lifestyles, wellbeing, and improving public health. It is envisioned that the range of existing services will continue to be delivered, along with continuing user development work, and this should attract new users from all sections of the community.

## **Sustainability considerations**

92. The Public Services (Social Value) Act 2012 requires the council to consider a number of issues including how what is proposed to be procured may improve the economic, social and environmental well-being of the local area. These issues are considered in the following paragraphs which set out economic, social and environmental considerations.

## **Economic considerations**

93. It is anticipated that the contract will provide opportunities for local labour, securing local economic benefits.
94. The contract will require the leisure management provider to develop the following:
- Apprenticeship scheme
  - Advertising opportunities in local press, and a range of publications to reach small businesses, ethnic minority owned business and social enterprises
  - Engaging with borough-wide employment programmes to support unemployed residents' access to training, skills and sustainable employment
  - Using local companies in their sub-contracting and supply chain arrangements.

## **Social considerations**

95. Pursuant to section 149 of the Equality Act 2010 the council has a duty to have due regard in its decision making processes to the need to:
- (a) Eliminate discrimination, harassment, victimisation or other prohibited conduct;
  - (b) Advance equality of opportunity between persons who share a relevant protected characteristic and those who do not
  - (c) Foster good relations between those who share a relevant characteristic and those that do not share it.
96. The relevant protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation. The Public Sector Equalities Duty also applies to marriage and civil partnership, but only in relation to (a) above.
97. The council will ensure that the appointed contractor will also comply with the act by ensuring that they deliver services that reduce the barriers to participation in physical activity for everyone in the community. The council will review tenderers current equality and diversity policies as part of the PQQ process. The council will also set specific participation targets against particular groups for the successful contractor to reach through community work and programming.
98. The London Living Wage will be included in the new contract arrangement.

99. The inclusion of the London Living Wage will enable the contract to achieve the following benefits:

- deliver a high quality service
- deliver high customer satisfaction levels
- retain suitably qualified staff that are employed on this contract
- attract high quality and suitably qualified staff when required
- retain and attract staff domiciled within the London area.

100. An apprenticeship scheme will be included in the new contract.

101. The council will ensure that the appointed contractor will work alongside the council towards making Southwark an age friendly borough through proactive employment of older staff and programmes that promote increasing uptake and participation in physical activity amongst older residents.

### **Environmental considerations**

102. Potential providers will be required to provide acceptable and appropriate environmental policies. Specific performance targets for reducing waste and energy consumption will be included within the contract.

103. In addition to a targeted reduction in energy consumption, the appointed contractor will be expected to provide and implement energy management plans aimed at reducing carbon emissions in line with council targets with deductions against non compliance. The contractor will also be expected to work towards delivering the council's recycling targets and work on becoming environmentally accredited. Energy targets will be reviewed every year.

### **Plans for the monitoring and management of the contract**

104. The client role of the contract including the management and administration of the contract will be managed by the sports and leisure services team who will ensure that the contractor complies with the terms and conditions of the contract, contractor method statements and all related documents including the services specification. This will be achieved through regular meetings after which reports will be made back to the client.

### **Monitoring by council officers**

105. Council officers monitor the current contract by undertaking bimonthly inspection visits to sites paying particular attention to cleaning and maintenance standards and delivery of customer care against an agreed set of criteria. Regular contract meetings take place and a series of reports are supplied throughout the year. It is anticipated that a similar regime will be in place for the new contract.

### **Contractor self monitoring**

106. The contract will require the provider to carry out self monitoring in relation to the standards set out in the services specification and the terms and conditions of the contract. Processes will be put in place to encourage the contractor to be open and honest regarding their performance



## **Key Performance indicators**

107. As part of the reporting process a number of monthly and annual Key Performance Indicators (KPIs) will be monitored in the contract, these include;

- Meeting reporting deadlines both monthly and annually
- Ensuring controlled, quick and effective response to reactive maintenance
- Delivery of appropriate management of planned and preventative maintenance
- Professionalism in dealing with customer enquiries e.g. telephone calls, complaints and feedback from customer focus groups
- The number of visitors to centres and usage by target groups (e.g. people with disabilities, BME groups, and people under 16 and over 60)
- Maintaining good standards of cleanliness throughout the centres
- Ensuring refreshments are available including healthy options.
- Maintenance of emergency planning records
- Achievement and retention of quality standards such as QUEST and ISO 9001:2000
- LLW and apprenticeships.

## **Client structure**

108. The contract will be managed within the council's sport and leisure services business unit. Once the contract is operational, the client team will provide strategic and policy advice to the council in relation to matters affected by the contract.

109. The team consists of four council officers (already budgeted) who will manage the performance and ensure the maximised delivery of the contract. They will put into practice the systems to develop, monitor, manage and evaluate performance, in line with the overall purpose of being a 'best practice' client. The team will also be responsible for ensuring that statistical returns to other council departments and external bodies and partners are completed

## **Staffing/procurement implications**

110. The procurement and the subsequent monitoring of the contract will be managed within existing resources and there will be no changes to the existing sport and leisure team structure.

111. Additional external legal and technical advisor costs will be incurred to support the procurement process and in the production of contract documentation. This will be procured separately.

## **Financial implications**

112. Significant investment in Southwark's leisure centres and the resulting increase in usage makes this an extremely attractive contract. Commercial advice is that in the current market this could lead to a contract at nil cost or with the provider paying the council.

113. The implementation of free swim and gym makes the possibility of the provider paying the council less likely. However, the recent soft market testing demonstrates that it is still possible to secure a cost neutral contract, i.e. at no more than the current price or less.

## **Legal implications**

114. Please see concurrent from the director of legal services

## **Consultation**

115. Senior officers have been consulted on their views regarding options for the leisure management service and will be regularly briefed throughout the procurement process.

116. The council arranges for customer satisfaction surveys to be undertaken with residents to test public confidence in our service provider. Surveys are undertaken on a quarterly basis and the latest customer satisfaction score for leisure services is 89 per cent.

117. The cabinet member for public health, parks and leisure is regularly updated on performance and other contract issues.

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Head of Procurement**

118. This report seeks Cabinet's approval to tender for the management of the council's leisure facilities from 21 June 2016 for a period of seven years with an option to extend for a period or periods up to a further seven years.

119. The report identifies the local context to the service noting the significant investment into the council's leisure centres in recent years as well its ambitions to develop a free swim and gym offer.

120. The report describes the process that has been undertaken to determine the most advantageous approach to securing a high quality leisure service at the lowest cost. The report confirms that the leisure centres are expected to generate a high level of income and that this is expected to be reflected in the contract price.

121. The proposed procurement route is for the council to seek a minimum of five tenders by way of an EU tendering process.

122. The report confirms that there is a range of providers able to deliver the service and that the contract should attract strong market interest.

123. The evaluation methodology for this procurement will be on the basis of the most economically advantageous tender and in determining this a price/quality ratio of 60:40 will be used. A justification for using this weighted model is set out in the evaluation section of the report.

124. The report identifies a number of risks associated with this procurement strategy and controls to mitigate those risks.

125. The report sets out the management arrangements that will be established for the contract including the monitoring of monthly and annual Key Performance Indicators.

## Director of Legal Services

126. This report seeks the cabinet's approval to the procurement strategy for management of the council's leisure facilities, by undertaking a tender exercise as detailed in paragraph 62. The current contract expires in June 2016 so it is necessary for the procurement to be completed to award by this time.
127. As this service is being procured after 26 February 2015 it is subject to the new procurement regulations 2015 (PCR 2015).
128. External legal advisers have been appointed to advise the council in respect of this procurement, and as part of their initial advice they will be asked to advise the council on the steps needed to ensure compliance with the PCR 2015, and whether there are any new provisions introduced by the regulations which can facilitate our process.
129. CSO 4.4.2 details who may approve decisions on a procurement strategy. As this contract is classified as a strategic procurement the decision is reserved to the cabinet.

## Strategic Director of Finance and Corporate Services (FC14/O56)

130. The strategic director of finance and corporate services notes the recommendation in this report for the procurement strategy for the management of the council's leisure facilities. The contract award is planned for February 2016, and at present it is considered that the new arrangements should cost no more than existing arrangements.
131. The contract is due to commence in June 2016, and so the costs, or potentially any income, from the contract will impact on the budget for the financial year 2016/17 agreed by council assembly in February 2016.
132. The contract is anticipated to run for at least seven years, therefore impacting on all financial years up to and including 2023/24. The council faces a decline in government grant funding over the short to medium term and the proposed contract should be constructed and managed to ensure it is delivered within the funds available.

## BACKGROUND DOCUMENTS

Background Documents	Held At	Contact
GW1 Free swim and gym implementation	Environment and Leisure, Culture Libraries Learning and Leisure Southwark Council 160 Tooley Street London SE1 2QH	Tara Quinn 020 7525 0875
<b>Link:</b> <a href="http://moderngov.southwark.gov.uk/documents/g4866/Public%20reports%20pack%20Tuesday%2027-Jan-2015%2016.00%20Cabinet.pdf?T=10">http://moderngov.southwark.gov.uk/documents/g4866/Public%20reports%20pack%20Tuesday%2027-Jan-2015%2016.00%20Cabinet.pdf?T=10</a>		

## APPENDICES

No	Title
Appendix 1	Market analysis

## AUDIT TRAIL

<b>Cabinet Member</b>	Councillor Barrie Hargrove, Public Health, Parks and Leisure	
<b>Lead Officer</b>	Deborah Collins, Strategic Director, Environment and Leisure	
<b>Report Author</b>	Tara Quinn, Sports and Leisure Services Manager	
<b>Version</b>	Final	
<b>Dated</b>	5 March 2015	
<b>Key Decision?</b>	Yes	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments sought</b>	<b>Comments included</b>
Head of Procurement	Yes	Yes
Director of Legal Services	Yes	Yes
Strategic Director of Finance and Corporate Services	Yes	Yes
Head of Specialist Housing Services	No	No
<b>Contract Review Boards</b>		
Departmental Contract Review Board	Yes	Yes
Corporate Contract Review Board	Yes	Yes
<b>Cabinet Member</b>	Yes	Yes
<b>Date final report sent to Constitutional Team</b>		5 March 2015

### Market analysis

- Of the 33 London boroughs only 3 do not out source the management of their leisure facilities
- There are 8 leisure management contractors operating contracts across London
- GLL have the most contracts, operating in 13 boroughs
- Fusion operate in 7 boroughs
- Contracts terms range from 10 to 25 years
- From available information the most frequently used contract term is 15 years (11 contracts)
- Contracts tend to use similar key performance indicators focussing on usage, satisfaction, provision good facilities and services, reporting, maintenance and health and safety
- Some contracts include investment agreements. This is quite common with recent contracts especially where there is an ageing stock of leisure facilities
- Some contracts include payment mechanisms