

<b>Report to</b>	<b>Cabinet</b>
<b>Date of meeting</b>	<b>24th March 2020</b>
<b>Lead Member / Officer</b>	<b>Julian Thompson Hill / Gary Williams</b>
<b>Report author</b>	<b>Graham Boase Corporate Director: Economy and Public Realm</b>
<b>Title</b>	<b>Implementation of an Alternative Delivery Model (ADM) for various leisure related activities/functions: Contract award</b>

## **1. What is the report about?**

The report seeks authorisation from Cabinet to proceed with the award of the service contract to Denbighshire Leisure Ltd, (DLL).

## **2. What is the reason for making this report?**

**2.1** A decision is required to award the service contract to DLL, in respect of the various in scope leisure related activities/functions that were defined within the Business case approved by Council in May 2019. These Leisure related activities/ functions have subsequently been incorporated within a service specification, (Appendix 1 includes the main body of the service specification for reference), with key performance indicators (Appendix 2), which form part of the contract.

## **3. What are the Recommendations?**

**3.1** That Cabinet approve the award of a contract to DLL in respect of the delivery of the requirements detailed within the service specification and associated key performance indicators.

**3.2** That Cabinet delegate authority to the Head of Legal, HR and Democratic Services to finalise the terms of the contract in consultation with the Lead Member for Finance and Efficiency and the Head of Finance and Property Services

**3.3** That Cabinet confirms that it has read, understood and taken account of the Well-being Impact Assessment (Appendix 3) as part of its consideration.

## **4. Report details**

**4.1** In May 2019, Council reviewed the Business Case and approved the establishment of the Local Authority Trading Company known as Denbighshire Leisure Ltd. In July Cabinet approved the associated implementation cost and the net savings to be realised in 2020/21, and at subsequent Council meetings in July and October respectively, the draft Articles of Association and Members Agreement were approved, as was the composition of the Board of the Company and the appointment of a number of Directors. In December 2019 Cabinet approved the lease of sixteen properties to DLL for a period of 10 years, from which to deliver services on behalf of the Council from 1<sup>st</sup> April 2020.

**4.2** The contract is due to commence on 1<sup>st</sup> April 2020, and is to remain in force for a period of 10 years, i.e back to back with the leases. The contract allows for an extension beyond the initial term for a further two periods of up to 12 months each, subject to written notice a minimum of 9 months in advance, from the Council.

**4.3** The Council will continue to provide various services to DLL for a period of 3 years. These are captured within Service Level Agreements which will be agreed between DLL and the Council. This will provide DLL with a degree of continuity for the first three years of business. DLL can choose to buy into these services post the initial 3 year period.

**4.3** The terms of the contract, taken together with the Members agreement and Articles of Association, (previously approved by Council) provide the Council with a degree of control over DLL, commensurate with that which it exercises over its own departments. This is important, as this entitles DLL to take the benefit of the “in-house” exemption provided for at regulation 12 of the Public Contracts Regulations 2015, which enables the Council to award the contract for service provision directly to DLL, instead of putting it out to the market in the usual manner.

**4.5** The contract will be managed in house by the team that manage the Civica contract. This will include meetings of an Operational Board, which will monitor the Company’s

ongoing performance on a monthly basis. Monitoring will focus in detail on the organisation's performance against agreed KPIs and any changes to service delivery. The Operational Board will not have any formal decision making powers but will be able to make recommendations to the relevant decision-makers and escalate matters to the Strategic Governance Body.

**4.6** The Strategic Governance Board, (SGB), will manage the relationship between the Council and the Company, monitor the Company's performance, compliance and corporate governance, and make recommendations to the relevant body of the Council in respect of the exercise of the Council's functions as the sole member of the Company. The SGB will not have any formal decision making powers but will be able to make recommendations to the relevant decision -maker in respect of matters that are reserved to the Council under the terms of the Member agreement entered into between the Company and the Council.

## **5 How does the decision contribute to the Corporate Priorities?**

**5.1** The decision will enable Denbighshire Leisure Ltd to deliver the existing services through a contract with the Council. The establishment of a Strategic Governance Board, and the robust contract management process undertaken by the Operational Board will ensure that the interests of the Council are protected over the term of the contract.

## **6. What will it cost and how will it affect other services?**

**6.1** The subsidy that the Council will provide to DLL in 2020/21 is circa £2,451,808, (subject to further checks and balances which need to be undertaken), and is based on the provision of the existing service for the existing budget, with amendments to the latter to accommodate the new working relationship; the requirement for the additional cost was referenced in previous reports and shown offset against the project savings. The level of subsidy will be determined year on year in a budget process similar to that currently used for setting the school budgets. The expectation of DLL in future years will be commensurate with the resources available.

## **7. What are the main conclusions of the Well-being Impact Assessment?**

**7.1** The WIA was carried out by a multidisciplinary group of officers representing Leisure, HR, Finance, Business Support, Support Services, Community Wellbeing, Corporate Property, Strategic Planning & Performance and Project Management.

**7.2** Overall the impact of the project was assessed as neutral, reflecting that at this stage the consideration is about an alternative way of delivering a defined set of activities/functions, it is not about delivering different or alternative activities/functions.

## **8. What consultations have been carried out with Scrutiny and others?**

### **8.1 External Consultation**

Discussion with legal and VAT experts who are providing expertise to the project.

Arts Council for Wales in respect of their consent to the terms of the contract, given their ongoing revenue grant funding.

Public Open Space Consultation (associated with the leases for the properties from which the services will be provided).

### **8.2 Internal Consultation**

Finance, Legal, HR, Denbighshire Leisure Ltd, Strategic Governance Board

## **9. Chief Finance Officer Statement**

**9.1** As referred to above the level of subsidy will be determined year on year while trying to ensure that the company has medium term indications of future levels of subsidy. There is an expectation that the subsidy will reduce in the medium to long term, however the priority for the next few years is to ensure that the initial savings position is consolidated and that plans are in place for the company to fund its own inflationary pressures.

Obviously future expectations are dependent on the financial position that the Council might face. The governance arrangements are robust and will ensure that the company and Council will remain clear about the strategic financial expectations.

## **10. What risks are there and is there anything we can do to reduce them?**

**10.1** These are the key risks associated with the award of the contract to DLL. In respect of the first two these will be managed through the contract management process. The third risk will be managed through negotiation with the Arts Council which is ongoing.

**10.1.1** Denbighshire Leisure Ltd breach the terms of their contract

**10.1.2** The ADM is not as financially successful as hoped and any resultant additional costs fall back on the Council to fund and/or the Company is unable to make the adequate reinvestment into its day to day business activities due to lack of funds.

**10.1.3** The Arts Council for Wales may require amendments to the contract to protect their interests

## **11. Power to make the decision**

Regulation 12 Public Contract Regulations 2015

Local Government Act 1972 s.111

Local Government Act 2000 s.2

Section 17 of the Council's Constitution at para CPR 5.5.4