

<b>Report to</b>	Cabinet
<b>Date of meeting</b>	20 <sup>th</sup> October 2020
<b>Lead Member / Officer</b>	Julian Thompson Hill Deputy Leader and Lead Member for Finance, Performance and Strategic Assets.  Bobby Feeley, Lead Member for Well Being and Independence
<b>Report author</b>	Lisa Jones Legal Services Manager/Deputy Monitoring Officer
<b>Title</b>	To seek Cabinet Approval to Extend the Council's UK Leisure Framework

### 1. What is the report about?

To consider and agree whether to extend the Council's UK Leisure Framework.

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

In accordance with the Council's Contract Procedure Rules awards of contracts following a competitive procurement process, above the threshold of 2 million pounds, fall to the full Cabinet. The 4 year term of the current UK Leisure Framework, set up by the Council, is due to expire in January 2021. As the Council has set this up, only the Council is able to formally approve any extension of the same, as the Contracting Authority.

The Council itself may choose not to call off under the framework specifically over an extension period, however the arrangement has been set up to enable other public bodies, named in the original advertisement, to be able to use it and therefore it could be of benefit to other public bodies.

### 3. What are the Recommendations?

That Cabinet approve the extension of the UK Leisure Framework until January 2022 on the same terms as let, and in any event such extension period shall be

limited to 50% of the value of the original framework agreement in accordance with Regulation 72 Public Contracts Regulations 2015.

#### **4. Report details**

There is provision within procurement legislation permitting an extension of a lawfully let framework in limited circumstances. The extension needs to be linked back to the detail of the original arrangement, and must be, and remain within the material scope of the original award. In other words we are not permitted to grant a wholly new arrangement, this would be a new contract requiring a new competitive process; therefore this extension cannot alter the overall nature of the original framework. The extension will also need to comply with the thresholds set out in procurement legislation and these are replicated in the recommended wording of a proposed recommendation and resolution.

The Council, the 'Contracting Authority' who awarded the framework, could not have foreseen, at the time of the original letting, a global pandemic. In such unforeseen situations, provided the thresholds of the extension are met, it will be lawful to extend. Such pandemic has hit certain industries significantly, in particular the leisure industry and its supply chain, whose staff will have been, or remain furloughed and would not be in a state of readiness to pull together the tender submission for a substantial UK wide bid.

Similarly, the Council and its wholly owned Company, Denbighshire Leisure Limited have been operating within the pandemic restrictions and staff redeployed and public services focused elsewhere. The setting up of any framework on any scale involves a resource commitment in officer time, notwithstanding a large scale national framework.

It is therefore in the interests of the Council, and Denbighshire Leisure Limited, but also in fairness to all providers in the market, to delay the launch of a new procurement process during this crisis until next year, when a planned new exercise will commence. Meet the buyer and pre-procurement market engagement can take place, which should encourage competition and therefore best value for the Council and Denbighshire Leisure Limited as it prepares to go out to the market for the third generation framework.

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

The extension, and therefore the resulting delay in a new procurement exercise will enable immediate corporate priorities to be supported and to enable an assessment of a suitable arrangement to be properly and thoughtfully planned as to how it can contribute to

Corporate Priorities and also Denbighshire Leisure Limited's strategic objectives in providing modern facilities enabling health and wellbeing of our citizens.

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

The cost to the Council in granting the extension, providing this is not challenged in law, is minimal and can be met within existing resources. Denbighshire Leisure Limited are contracted to manage the existing framework on the Council's behalf and are supportive of the extension.

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

A well being impact assessment is not required.

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

The current supplier, Alliance Leisure have confirmed to Denbighshire Leisure Limited that they would be willing to continue with the current framework.

**9. Chief Finance Officer Statement**

The proposal to extend the UK Leisure Framework for a limited period of 12 months seems a sensible approach under the current circumstances and is supported.

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

There may be a risk that the extension decision is challenged; this would need to be brought within strict time limits following the publication of the relevant notice to extend the framework on the Sell2wales website.

**11. Power to make the decision**

Regulation 72 (1) (c) Public Contract Regulations 2015

s.2 Local Government Act 2000

Councils' Constitution in particular the Contract Procedure Rules.