

Southend-on-Sea Borough Council
Report of Executive Director for Adults and Communities
to
Cabinet
on
13 January 2022

**Agenda
Item No.**

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Leisure Contract – Short-Term Options Review

Place Scrutiny Committee
Cabinet Member: Councillor Carole Mulrone
A Part 1 Agenda Item

1. Purpose of Report:

- 1.1 To confirm in year arrangements and outline next steps for Members on the operation of the council's leisure centres beyond 2022.

2 Recommendations:

- 2.1 That Members confirm the ongoing waiver of Fusion's management fee until 31 March 2022.
- 2.2 That Members agree for Fusion to pay the remaining three year's management fee over a reprofiled duration meeting the council's financial expectations from the contract.
- 2.3 That Members note that Council officers will continue to manage the existing contract performance of Fusion.
- 2.4 That Members reject Fusion's current proposals regarding the extension of the contract beyond 2025 and approve market testing to take place.
- 2.5 That Members note a further report will be provided during 22/23 to consider the long-term future and options for our leisure services.

3 Background

- 3.1 Southend on Sea Borough Council (SBC) owns four leisure centres currently managed by Fusion Lifestyle on a 10 year contract until 30 June 2025. These sites are

- Southend Leisure & Tennis Centre (SLTC)
 - Belfairs Swim Centre (BSC)
 - Shoeburyness Leisure Centre (SLC)
 - Chase Sports and Fitness Centre (CSFC)
- 3.2 Due to Covid-19 the Leisure Centres were shut from 18 March 2020 and reopened in a phased approach, following agreement by the Council to provide support to Fusion.
- 3.3 The Council have currently agreed to support Fusion until 31 March 2022 through a waiver of the management fee, subject to this review.
- 3.4 Independent sector specialists were appointed to support the Council in this review period and advise on matters in year and beyond 31 March 2022. This included the consideration of alternative options available to the Council and the potential for a contract extension, beyond 2025. The existing contract allows for a contract extension of up to 5 years until June 2030.
- 3.5 This report addresses the immediate position for the leisure contract and a further report will be presented to Members in 2022/23 considering long-term future for leisure services delivery within Southend on Sea.
- 3.6 The pandemic has impacted the Leisure Industry nationally with leisure operators suffering significantly reduced income since March 2020.
- 3.7 Nationally, leisure centres reopened from 12 April 2021 with restrictions in place limiting the capacity of the facilities and operating practices to ensure social distancing, enhanced cleaning regimes and changes in ventilation of facilities. Full restrictions were lifted on 19 July 2021.
- 3.8 Based on the sector wide response national organisations such as Sport England and the Local Government Association (LGA) have provided guidance on how Councils should engage and support their leisure operators. The Council has provided support for Fusion based on guidance from discussions with Local Partnerships through to 31 March 2022. Looking beyond March 2022, that level of financial support cannot continue.

4 Proposals for April 2022 onwards

- 4.1 Prior to Covid, the Council was receiving a management fee from Fusion. The contract also makes provision for a share of profits to be paid to the council, but this has never been realised.
- 4.2 The Council has provided Fusion with support throughout the pandemic as well as support from the National Leisure Recovery Fund (NLRF) which has enabled all centres to reopen in 2021. The support provided by the Council, this financial year, was to waive the management fee until 31 March 2022.
- 4.3 This report considers the future options for the Council, particularly the short-term options through until the end of the existing contract, as well as initial

options for the longer-term development of the centres and the strategic approach to the future provision of leisure services.

- 4.4 A further report will be presented to the Council during 2022/3 to explore the longer-term options for the Council in its future provision of leisure services.
- 4.5 Discussions have been held with Fusion over the remainder of the existing contract and they have expressed interest in an extension to the existing contract.
- 4.6 The results of these discussions are set out in this section through the following aspects
 - Current Contract Performance
 - Existing Contract
 - Contract Extension Proposals

Due to their commercially sensitive nature, information relating to the current contract performance and the existing contract are dealt with in the confidential appendix attached to this report.

- 4.7 As part of the support package the Council have provided, Fusion presented a financial forecast for the financial year 2021/22.
- 4.8 Analysis of performance to the end of September indicates that Fusion is currently 23% down on their projections. The council is not offering any further in-year support other than the continued waiver of the management fee until 31 March 2022.

Contract Extension Proposals

- 4.9 Within the existing contract there is the ability for the contract to be extended by up to 5 years until 30 June 2030.
- 4.10 Fusion Lifestyle have identified a number of issues they would like to discuss for any contract extension based on their current operational experience.
- 4.11 Our external advice has indicated that testing the market in the lead up to the current contract end date would provide best value options and minimise risk to the council.
- 4.12 It is proposed not to progress with plans to extend the contract.

5. Other Options

- 5.1 There are other options for the council to consider such as alternative operators and Trusts, these are not recommended in the short term due to additional financial risk to the council of an early termination.

5.2 Assuming that the Council continues with the existing contract with Fusion until the current contract ends in 2025, there is sufficient time for the council to consider these issues prior to finalising its decision on the way forward.

6. Reasons for Recommendations

6.1 The review of Fusion's performance has illustrated that there is still a requirement for the waiver of the management fee until 31 March 2022 and it is recommended that this support is confirmed following this review.

6.2 A payment profile for the remaining years of the contract is available to be agreed that delivers the income expected by SBC from April 2022 until the contract's end. It is recommended that the Council continue with the existing contract until 30 June 2025 allowing time to fully test the market.

6.3 Given the market conditions it is not recommended to extend Fusion's contract by the optional 5 years.

6.4 Following the short-term analysis of the current situation set out it is proposed to bring forward a further report in 2022 which considers the long-term future for the leisure services delivery and will include

- Detailed review of what offer the council needs to take responsibility for
- Alternative options, including full financial analysis of the costs to the Council (both client and contractor costs)
- Further consultation with key stakeholders and market operators (to ensure any proposals are based on future needs)
- Further analysis of the population requirements and needs to establish the future structure of the leisure provision
- Analysis of the condition survey results to factor in any investment needs for the future delivery

6.5 This will then enable the Council to consider the long-term future for the delivery of leisure services, which can be enacted upon in time to implement new arrangements for 2025.

6.6 In the interim the Council will still be able to manage the existing contract performance of Fusion and it is recognised that there is a risk of

- Fusion failing to pay the contracted management fee in accordance with the revised profile
- Fusion failing in the performance of the contract such that it could lead to termination of the contract

6.7 If either of these issues occur the Council will have the ability to terminate the contract without the capital repayment risk.

7 Corporate Implications

7.1 Financial Implications

- 7.1.1 The council has provided financial support throughout the period of the pandemic, via the council's SO46 mechanism August 2020 and March 2021 (see background papers).
- 7.1.2 This support has enabled Fusion to re-open the centres in line with the lifting of restrictions and is supporting Fusion whilst income levels are slowly being rebuilt as customers return to the centres.
- 7.1.3 The financial support agreed was on a short-term basis only and the council requires the contract to return to its pre-covid position in terms of the annual Management Fee payable.
- 7.1.4 Fusion recognises the management fee payments that are due from April 2022 under the contract, however they are seeking further support, with reprofiling from the council to enable them to recover in the early part of 2022/23.
- 7.1.5 This proposal would enable the Council to receive the contracted management fee it is due, but it would be received later than originally planned with payments commencing 1 October 2022. (See confidential appendix 1)

7.2 Legal Implications

- 7.2.1 The resumption of the management fee will result in the return to the original terms of the contract and does not necessitate an immediate need to go to the market.
- 7.2.2 In the interim the Council will still be in a position to manage the existing contract performance of Fusion and it is recognised that there is a risk of
- Fusion failing to pay the contracted management fee in accordance with the revised profile
 - Fusion failing in the performance of the contract such that it could lead to termination of the contract
- 7.2.3 If either of these issues occur the Council will have the ability to terminate the contract

7.3 People Implications

N/A

7.4 Property Implications

7.4.1 Currently Fusion operates 4 leisure centres on behalf of the Council which include the following facilities

Table 7.4.1 – Current Facilities

Facility	Facility Mix
Southend Leisure & Tennis Centre	<ul style="list-style-type: none">• Sports Halls• Indoor Tennis Courts• Outdoor Tennis Courts• Swimming Pools (including diving pool & fun pool)• Athletics Track• Gym & Studios• Outdoor Netball Courts
Belfairs Swimming Centre	<ul style="list-style-type: none">• Swimming pool and learner pool
Chase Sports & Fitness Centre	<ul style="list-style-type: none">• Sports Hall• Gym & Studios
Shoeburyness Leisure Centre	<ul style="list-style-type: none">• Sports Hall• Swimming Pool• Gym & Studios
Parks based Tennis	<ul style="list-style-type: none">• Outdoor courts at Chalkwell Park & Priory Park

7.5 Consultation

7.5.1 Initial discussions have taken place with Fusion and with other stakeholders in the formulation of this report. Wider consultation will take place with a range of further stakeholders in the development of the longer-term options report that will be presented to members during 2022/23.

7.6 Equalities and Diversity Implications

N/A

7.7 Risk Assessment

NA

7.8 Value for Money

N/A
7.9 Community Safety Implications

NA

7.10 Environmental Impact

NA

7. Background Papers

Fusion Revised SO46 request 190820

Fusion SO46 request 290321

8. Appendices - CONFIDENTIAL

Appendix 1: Management Fee Proposals