

## Southend-on-Sea City Council

### Report of Executive Director for Adults and Communities to

### Cabinet

on

26 July 2022

Report prepared by: Sharon Wheeler  
Head of Libraries and Physical Wellbeing

<b>Agenda Item No.</b>
--------------------------------

---

### Future Leisure Options

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

---

#### 1. Purpose of Report:

- 1.1. To provide Members with a way forward for the long-term future delivery of the council's leisure provision following an options appraisal.

#### 2. Recommendations:

- 2.1 That Members note the options within this paper and agree to proceed with a procurement exercise to appoint a provider to be the council's leisure operator, which should consider and factor in the following key principles:
  - i. A 10 -15 year contract to allow for investment in the facilities and provide the Council with both the best return and also the most attractive proposition for the market.
  - ii. The Council should seek investment from the market within SLTC as described and also the condition survey investment, on the basis that this will generate additional revenue to fund the capital through prudential borrowing undertaken by the Council.
  - iii. Seek a financial offer from the market to deliver a new improved contract with a revenue position that enhances that under the existing leisure contract with innovation in offer and method of operation.
  - iv. Structure the procurement on a lot-based approach, providing the opportunity for the relevant schools to bid and operate their own facilities where appropriate.
  - v. Include utilities benchmarking
  - vi. Build into the specification the delivery of
    - a. The overall health and wellbeing strategic aims and vision to ensure that the operator is required to support the Council in delivering these
    - b. The strategic management of Garon Park in partnership with the Garon Park Trust

- vii. Develop a dialogue-based approach to procurement to enable the Council to discuss approaches through competitive dialogue with the market

### 3. Background

- 3.1. Leisure facilities provide vital health, leisure, and wellbeing services to local communities and have been a key re-engagement service for those communities post the COVID-19 pandemic.
- 3.2. Over the past 2 years, several operators have ceased to exist, whilst some local authorities have decided to bring service provision in-house to ensure their residents continue to have access to services and provide those authorities with greater control and direction in the way their services can be delivered.
- 3.3. The Council's current leisure provision is delivered under a 10-year contract by Fusion Lifestyle.
- 3.4. The contract is due to expire on 30 June 2025 and whilst the ability to extend that by a further 5 years to 2030 exists, Cabinet agreed on 13 January 2022 that an automatic extension would not take place and that further work would be undertaken to develop a range of options to determine the future delivery of leisure provision across the City.
- 3.5. The Council have agreed with Fusion Lifestyle a revised contract position until 30 June 2025 which still provides the Council with the contracted management fee but over a different profile.
- 3.6. It is appropriate that the council considers its own leisure provision to ensure that it is arranged in such a way to meet the changing needs of residents and provide the best value for money it can going forward.

### 4. Future Leisure Provision

- 4.1 Currently Fusion operates 4 leisure centres and 2 parks-based tennis sites on behalf of the Council which include the following facilities:

#### Current Facilities

Facility	Facility Mix
Southend Leisure & Tennis Centre (SLTC)	<ul style="list-style-type: none"> <li>• Sports Halls</li> <li>• Indoor Tennis Courts</li> <li>• Outdoor Tennis Courts</li> <li>• Swimming Pools (including diving pool &amp; fun pool)</li> <li>• Athletics Track</li> <li>• Gym &amp; Studios</li> <li>• Outdoor Netball Courts</li> </ul>
Belfairs Swimming Centre (BSC)	<ul style="list-style-type: none"> <li>• Swimming pool and learner pool</li> </ul>

Facility	Facility Mix
Chase Sports & Fitness Centre (CSFC)	<ul style="list-style-type: none"> <li>• Sports Hall</li> <li>• Gym &amp; Studios</li> </ul>
Shoeburyness Leisure Centre (SLC)	<ul style="list-style-type: none"> <li>• Sports Hall</li> <li>• Swimming Pool</li> <li>• Gym &amp; Studios</li> </ul>
Parks based Tennis	<ul style="list-style-type: none"> <li>• Outdoor courts at Chalkwell Park &amp; Priory Park</li> </ul>

4.2 One of the considerations in the future operation of the facilities is whether the current mix of facilities meets the needs of the population. The Council undertook an indoor built facilities strategy and action plan in 2018 which identified the following vision and strategic aims

- Vision

*“For Southend-on-Sea to be a healthy, active City; making participation in an active healthy lifestyle the social norm for people who live and work in Southend-On-Sea, particularly for underrepresented and inactive groups”*

- Strategic Aims

- To reduce inactivity and increase participation in physical activity for everyone, giving priority to the more inactive populations and to look at more ways for people in Southend-on-Sea to be more active more often at work, at home and during leisure time.
- To improve marketing and communications about physical activity and to increase the knowledge, awareness and understanding of people of all ages in Southend-on-Sea about the health benefits of physical activity, and where and how to be active.
- To promote the built and natural environment and its contribution to supporting people to be more active in daily life, promoting facilities and the active travel network that enhance opportunities for people to get and stay active.
- To work collaboratively with a wide range of partners, including statutory organisations, businesses, the third sector and community groups, to help people to be more active, strengthening partnership working and making effective use of combined resources.

4.3 The sports facility plan also identified several key actions (particularly in relation to the facilities above), including

- The development of a hierarchy of facilities from regional facilities (such as SLTC) to more local and community facilities (such as CSFC, SLC, BSC)

- There is a need identified for additional swimming provision in the City to meet the growing population by 2037
- The key challenge for SLTC is to continue to invest and maintain the facility as the main indoor sports provision in the City and deliver the best standard possible. In addition, the focus should be to work with clubs and National Governing Bodies of Sport (NGBS) to deliver an effective sporting offer across the full talent pathway
- Continue to invest and maintain the three smaller facilities with a focus on
  - CSFC – maximise community use, invest in the gym and work with Badminton England to develop programmes
  - SLC – prioritise the maintenance of the facility and work with the School to devise an investment strategy for the swimming pool
  - BSC – develop an investment strategy for the pool to maintain the quality of the pool and changing facilities.

4.4 In addition to this, the strategy references several other facilities such as schools and smaller community facilities which provide the overall network of leisure provision in the City. The overall summary is that apart from the need for additional swimming provision there should be a focus on maintaining and improving existing facilities and enhancing the breadth of the sporting offer including

- Continue to work across a range of agencies including Public Health and Active Southend to support progress in increasing physical activity and sport
- Ensure that all school facilities are made fully available for community use
- Ensure that SCC facilities make a greater contribution to reducing health inequalities and are fully accessible through targeted initiatives, programming and training

4.5 As part of the approach to consider the long-term options, SLTC is a key facility for the delivery of sport and leisure in Southend.

4.6 Currently there are several issues for SLTC in terms of future development that need considering to develop the overall sporting provision and potentially improve the future sustainability

- The focus of SLTC is on sporting facilities and there are limited opportunities for other leisure activities, for example, many facilities are delivering additional leisure activities such as adventure play, clip n climb, tag active etc. All of these activities provide additional usage and attract customers who wouldn't normally access Leisure Centres.
- The current gym offer is fragmented with different spaces, meaning there is not a co-ordinated offer and it is also more costly to be utilised. The potential to consider an approach that seeks to relocate the gym to the second floor and studios to the existing gym on the first floor could refresh and deliver a more customer-focused service

- The existing small hall is currently underutilised, and activities could be relocated into the main sports hall.
- There is limited activity in the reception area and the existing café space has been developed from a corridor – the potential to consider how the front of house is delivered should be developed.
- The moveable floor in the diving pool was out of action for some months. Whilst this has since been repaired, it will be important to ensure maintenance of key activity areas and in particular things like the moveable floor, which impact income. Any future contract arrangement could seek to transfer the full lifecycle responsibility over to the operator
- The bar area on the first floor is tired and would benefit from a redesign of the whole area.

4.7 In considering the future opportunities, **Appendix 1** illustrates some examples of other facilities that have been developed which could address some of the issues identified at SLTC in particular. These examples illustrate the potential for what is possible and being delivered in the market.

4.8 There are several opportunities which could be considered for Southend in terms of future options, which could include.

- Investment in SLTC to develop the facility and align it with other facilities in Garon Park (such as the new Padel Courts) to create more leisure opportunities through
  - Reuse of the small hall to deliver adventure play/clip n climb/tag active which has the ability to create a café linked and activity for park users to be encouraged to the site
  - Reuse of the second floor to create a gym facility which is co-ordinated and located in one place
  - Freeing up space on the first floor for effective studio space and potential spa to deliver new activities
- Consideration of the redevelopment of Belfairs Swim Centre to create a new purpose-built pool with fitness which delivers improved participation and revenue.
- Changes in the contract operation to consider several factors including
  - Full transfer of life cycle and maintenance costs to ensure the responsibilities sit with the partner, which provides for greater accountability
  - Consideration of the school sites and whether the future operation should sit with the schools
  - Development of a strategic approach to the Garon Park through effective liaison and co-ordination

4.9 Investment in SLTC has the potential to deliver significant revenue enhancement through improved health and fitness and other activities (such as clip n climb/tag active). Examples elsewhere indicate that improvements in revenue across these activities of £500 - £750,000 per annum are achievable and would be expected.

4.10 These issues and potential opportunities are considered further in the evaluation of the options.

## 5 Current Market Position

5.1 It should be recognised that Fusion Lifestyle is not unique in the market and the majority of operators (and standalone Trusts) are being supported by Councils to enable them to recover from Covid-19 during 2022/23.

5.2 This is also true of in-house services where Councils have had to fund the future operation to ensure facilities have been able to reopen.

5.3 Equally operators are mindful that they need to look forward to future business and most business development teams are operational and looking to bid on new opportunities.

5.4 There have been some confidential market discussions with other operators as part of this review, through which it has emerged that there is interest in the potential for a long-term partnership with the Council.

5.5 The key issue for the market is the approach to risk particularly across the following areas

- The risk of Covid 19 (or similar pandemic) will mean that most operators will be seeking to include this risk as part of any contract negotiations for future contracts. It could be argued that this has effectively been covered through change in law provisions however operators will be looking carefully at any contract clauses to ensure they aren't taking risks.
- Utility risk – the current volatility in the marketplace is such that operators are unwilling to take any significant risk on utility pricing. This can be dealt with through an effective utilities benchmarking approach which would enable the market to be comfortable with the proposed risk approach.
- Staffing challenges – the sector is currently facing challenges in attracting and retaining staff. This is in line with the general economy and can provide some challenges for operators.

5.6 Based on discussions with operators, there is a sense of optimism about the long-term future of the sector. With the current awareness of health and wellbeing and the significant contribution that physical activity can play in helping to, address both health inequalities and the levelling up agenda, there is confidence that the sector could perform well in the long term.

5.7 There are real opportunities for the leisure sector to adopt a system-wide approach with health; given the long NHS waiting lists for treatment we are seeing a focus on 'prehabilitation' activities to ensure that at the point patients access treatment they are as fit and healthy as they can be to ensure better outcomes and recovery times.

- 5.8 In addition to this the issues with staffing and utilities may well have been resolved or significantly improved by 2025.
- 5.9 There is a clear appetite in the market for bidding for contracts. A recent procurement launched in April 2021 saw 7 expressions of interest submitted and 5 bidders were taken through to the tender stage.
- 5.10 In addition to the national market there are other potential options for Southend including
- The Garon Trust which operates Garon Park may be interested in operating SLTC
  - Chase School and Shoeburyness School both have the potential to take on the operation of the school sites.
  - South Essex College may be interested in a form of a partnership agreement with the operator at SLTC to support increased demand for their Football Academy, sports courses, and apprenticeships.
- 5.11 It will be important to consider both the structure of the procurement and the timing to ensure that the Council receives good quality submissions. The number of tenders forthcoming over the next couple of years is significant and it will be important to maximise the opportunity.

## 6 Leisure Options for Consideration

- 6.1 Within the leisure market there are several different management options.
- **In-house option** – where the service is continued to be managed through an organisation on which the Council has control, either direct management or a Local Authority Trading Company (LATC).
  - **A new Not for Profit Distributing Organisation (NPDO)** – where the service is managed by a newly established NPDO specifically set up to run the Council services. The NPDO could be one of several different types including a CLG, IPS, CIC, or CIO and could be a co-operative or mutual.
  - **An existing NPDO** – where the service is managed by an existing NPDO which operates services for other Councils. Typically, these trusts have developed following an initial transfer of services through the creation of NPDO to deliver leisure services. They are usually either a CLG or an IPS but can be other types of NPDO and could be considered to be a co-operative. Examples of these include Freedom Leisure, GLL and Fusion Lifestyle
  - **Educational Establishment, Community Association or Sports/Leisure Club** – where the service is managed by an educational establishment, community association or local sports group. Typically, this is undertaken where the group is the primary user and often sits with

sports clubs, such as Bowls, Rugby, Cricket and Football. In the context of Southend, this would be operated by the school or Garon Park Trust.

- **Hybrid Trusts** – where the service is operated by a private sector Leisure Management Contractor, such as 1Life, Operators, SLM, through an NPDO organisation. It should be noted that within the private sector all of the major operators also have different operating models which enable the benefits of NNDR savings and VAT to be realised, commonly known as Hybrid Trusts. Indeed, some of the organisations are now established as registered charities, such as Active Nation. Typically, these organisations are Companies Limited by Guarantee (often charitable)
- **Private Sector** – where the service is operated by a private sector Leisure Management Contractor, such as 1Life, Places for People, or SLM, without the use of an NPDO organisation. All the operators offer this potential as well as their NPDO organisation (Hybrid Trusts). In addition, there are several major FM companies running services such as libraries and other facilities as part of a major outsourcing approach. A joint venture approach could also fall into this category

6.2 There are several advantages and disadvantages to each of the options presented. It should however be recognised that of the options set out above the following approaches are not considered appropriate for the Council's services, in the context of the current situation, as set out below

- Private Sector – tend not to be utilised anymore as all of the leisure management contractors operate through hybrid trusts (to benefit from tax advantages), however, if the Council decided to procure a partner, then the private sector would be able to bid

6.3 As a result, the Council has several alternative management options available to it when considering its future delivery, as set out below.

**Table 6.1 – Options**

Option	Description
A. Extension to the existing Contract	<ul style="list-style-type: none"> <li>• Extend the existing contract with Fusion for a five-year period</li> </ul>
B. In House	<ul style="list-style-type: none"> <li>• Directly operate the service through the Council Structure</li> </ul>
C. LATC	<ul style="list-style-type: none"> <li>• Set up a Local Authority Trading Company (LATC)</li> <li>• Would be controlled by the Local Authority and established under TECKAL exemption</li> <li>• Potential use of the existing LATC's that Southend has established</li> </ul>
D. Operator	<ul style="list-style-type: none"> <li>• Appoint an operator to take on the service, which could be an existing NPDO, a hybrid NPDO or the private sector</li> <li>• This is likely to require a procurement exercise</li> </ul>

Option	Description
E. A new Trust	<ul style="list-style-type: none"> <li>Establish a new not for profit distributory organisation (NPDO) or Trust for Southend</li> </ul>
F. Local Operation	<ul style="list-style-type: none"> <li>Facilities to be operated by the schools</li> <li>The potential for Garon Park Trust to operate SLTC</li> </ul>
G. Mixed Economy	<ul style="list-style-type: none"> <li>An option (such as Leisure Operator, In-house) to operate SLTC and BSC</li> <li>Schools operate SLC and CSFC</li> <li>This could also be a varied option with schools operating only one of the facilities for example</li> </ul>

6.4 It should also be noted that the Council has 2 existing LATCs (Southend Care and South Essex Homes (ALMO)). South Essex Homes has a sub-section, South Essex Property Services (SEPS) which provides FM, security, and café facilities.

6.5 Initial discussions have been had with both organisations and there is some interest in considering operating leisure centres through them, but both recognised they would need to bring in senior level leisure expertise and recruit someone with direct experience in turning businesses around.

### Option Advantages & Disadvantages

6.6 For each of the options there are a range of advantages and disadvantages which are summarised below:-

#### *Option A – Extend Contract with Fusion*

Advantages	Disadvantages
<ul style="list-style-type: none"> <li>Extend current contract with Fusion Lifestyle by 5 years to 2030</li> </ul>	<ul style="list-style-type: none"> <li>It has already been determined that this is not an option the council wishes to take up without exploring alternative options available to it. (Cabinet decision January 2022)</li> </ul>

*Option B – In House*

Advantages	Disadvantages
<ul style="list-style-type: none"> <li>The Council will have full control of the Centres and be able to determine the approach to use and operation.</li> </ul>	<ul style="list-style-type: none"> <li>It is unlikely that the Council will be able to benefit from NNDR relief as currently required (currently Fusion is eligible for 80% NNDR relief)</li> <li>The Council would be taking the full risk on the performance of the Centres and income risk</li> <li>Council will be responsible for all operational aspects of the leisure centres.</li> <li>Staff would be transferred to the Council and as a result, there may be additional costs such as pension costs and harmonisation costs</li> <li>The Council will need to incur support costs for the operation, which may be greater than the operator's support costs</li> <li>The Council would take on full liability for all repairs and maintenance, condition surveys and lifecycle costs.</li> <li>There would be no economies of scale and leisure management expertise from partnering with an operator</li> </ul>

*Option C – LATC*

Advantages	Disadvantages
<ul style="list-style-type: none"> <li>The Council will have full control of the Centres and be able to determine the approach to use and reopening.</li> <li>It is likely that a LATC will be able to claim discretionary rate relief as a not for profit organisation</li> <li>There could be the potential to enable the LATC to continue with Operators' staff terms and conditions and not harmonise staff with the Council's terms and conditions, although this may not be guaranteed</li> </ul>	<ul style="list-style-type: none"> <li>The Council will have to pick up the full costs of operating the Centres</li> <li>There will be a cost to establishing the LATC and setting up an infrastructure to support the company. This is likely to be greater than Operators due to the lack of economies of scale</li> <li>The LATC would require more senior management to support the business over and above the contract manager</li> <li>The Council would be taking on the risk of the operation, in that any changes in income would directly impact the net position, thus meaning the Council as the sole owner will be required to pick up any shortfall.</li> <li>The Council would take on full liability for the condition surveys and lifecycle costs</li> <li>There would be no economies of scale and leisure management expertise from partnering with an operator</li> </ul>

*Option D – Operator*

<b>Advantages</b>	<b>Disadvantages</b>
<ul style="list-style-type: none"> <li>• A new operator would have the infrastructure to deliver the service and bring in economies of scale and leisure expertise to deliver improved revenue</li> <li>• Any new operator will be able to claim discretionary rate relief as a not-for-profit organisation</li> <li>• Staff would be transferred to the operator who would be able to continue with the terms and conditions and not incur additional pension or harmonisation costs</li> <li>• In the long term, an operator is likely to be able to deliver a greater return through improved income and savings on costs through economies of scale. The operator's structure is geared to delivering leisure services and maximising the opportunities for revenue generation</li> <li>• The Council will be able to transfer significant risk of the operation to the operator, in the long term. Whilst risks in situations like Covid 19 are unlikely to be transferred there is the opportunity to transfer risk of normal operational fluctuations.</li> <li>• By undertaking a market procurement for operators then the Council can be confident in achieving best value</li> </ul>	<ul style="list-style-type: none"> <li>• There may not be any operators willing to bid for a contract although current experience suggests there is still a market.</li> <li>• Whilst operators will take on the income and operating risk for the contract, they will not take on Covid or similar risk.</li> <li>• Depending on the market position in 2025, the operators may also not take on utility pricing risk.</li> </ul>

*Option E – Establish New Trust*

<b>Advantages</b>	<b>Disadvantages</b>
<ul style="list-style-type: none"> <li>• It is likely that a new Trust will be able to claim discretionary rate relief as a not-for-profit organisation</li> <li>• The new Trust would be independent and operate as a charity</li> </ul>	<ul style="list-style-type: none"> <li>• There will be a cost to establishing the Trust and setting up an infrastructure to support the company. This is likely to be greater than Operators due to the lack of economies of scale</li> <li>• The Trust would require more senior management to support the business over and above the contract manager</li> <li>• The Council would be taking on the risk of the operation in the early stages of the contract, in that any changes in income</li> </ul>

	<p>would directly impact the net position, thus meaning the Council as the main funder is likely to pick up any shortfall.</p> <ul style="list-style-type: none"> <li>• The Council would need to recruit Trustees which may not be forthcoming in the current market</li> <li>• There would be a lack of economies of scale and a need to recruit a Chief Executive of the trust to operate</li> <li>• The Council is likely to have limited control over the operation as it would need to be an independent trust to deliver the NNDR savings</li> </ul>
--	---

*Option F – Local Operation*

<b>Advantages</b>	<b>Disadvantages</b>
<ul style="list-style-type: none"> <li>• Current issues with school use and community access will be managed by the school</li> <li>• Potential for more streamlined service</li> <li>• Opportunity for local input into the operation and to deliver on local agendas</li> </ul>	<ul style="list-style-type: none"> <li>• Possible reductions in community access – it will be important to agree community use agreements</li> <li>• There may still be a need for Council financial support for the operation</li> <li>• Focus of school and local operation may be on school use as opposed to community use (other than for income generating activities)</li> <li>• The school may not be interested in operating the facilities</li> <li>• Potential different operators within the City leading to inability to have complementary programmes and increased ‘competition’ for members</li> <li>• Potential to reduce current multi-centre benefits some existing members enjoy</li> </ul>

*Option G – Mixed Economy*

Advantages	Disadvantages
<ul style="list-style-type: none"> <li>• Current issues with school use and community access will be managed by the school</li> <li>• Opportunity for local input into the operation and to deliver on local agendas</li> <li>• Potential to bring in advantages of an operator (such as revenue generation and better cost)</li> </ul>	<ul style="list-style-type: none"> <li>• Possible reductions in community access – it will be important to agree community use agreements</li> <li>• There may still be a need for Council financial support for the operation</li> <li>• Focus of school and local operation maybe on school use as opposed to community use (other than for income generating activities)</li> <li>• The school may not be interested in operating the facilities</li> <li>• Different operators within the City leading to inability to have complementary programmes and increased ‘competition’ for members</li> <li>• Potential to reduce current multi-centre benefits some existing members enjoy</li> </ul>

6.7 As a result of the advantages and disadvantages set out above there are several specific issues which will influence any decision the Council make which include

6.7.1 Set Up Costs

Any of the options other than an extension to Fusion Lifestyle will result in potential set-up costs.

All of the options would require the transfer of staff and significant timescales for the establishment of support structures and transfer of assets.

In addition, if the Council were to establish a LATC or indeed a new Trust then this would require the Councils to undertake a full process to establish the organisation and develop support structures that would enable the LATC or new Trust to operate effectively. It is estimated this would take 9 – 12 months.

An alternative operator would need to be procured. It is estimated that this would take circa 6 - 9 months to procure an alternative operator, depending on the scale of the contract.

For example, if an operator was brought in under emergency powers for a short-term contract then this timescale could be shortened significantly.

## 6.7.2 Staff Costs and TUPE

TUPE would apply in the transfer to any new management option and this has potential implications for the in-house or possibly the LATC option, in that there may be pension costs or harmonisation costs which would increase the cost of the staff.

In particular, this could be significant in that an operator may pay the National Minimum Wage as opposed to the Council's commitment to paying the Real Living Wage.

## 6.7.3 NNDR Relief

Currently, Operators claim NNDR relief on the Centres. Under Option A this would continue, as it would under Option D, assuming the new operator was a charity or not for profit organisation.

Option B would not be able to claim this relief as the Centres would be directly operated by the Council.

There is the potential to claim this relief through Option C. Whilst it is unlikely that any LATC could claim charitable status due to it being controlled by the Local Authority, it could still be granted discretionary relief due to it being a company involved in the delivery of recreation and sport. However, this is not certain as it will depend on the structure of the company and its objectives.

## 6.7.4 Operating Market

The current operating market for Leisure Centres has been suffering similar issues with the enforced closure and restrictions on reopening. The majority of operators are however recovering from the pandemic through release from restrictions and forecasting recovery in 2022/23.

Currently, operators are still keen to bid for contracts, both short-term emergency contracts and longer-term contracts. For example, a recent procurement for a new leisure contract received 7 expressions of interest from operators.

The main issue with operators will be capacity in the marketplace as there are a significant number of procurements planned over the next 24 months, however, as long as the procurement exercise is timed in accordance with other projects and made attractive to operators then there should be significant interest from the market, based on discussions to date.

## 6.7.5 Control & Governance

Options B and C are both effectively directly controlled by the Council and decisions can be made on the service operation. It should however be recognised that any decisions to change the service may have cost implications.

Options A, D and E would typically be controlled through a specification which enables the Council to control prices and other aspects of the specification, such as programming and opening hours and how the Centres are used. In return the Council will pay or receive a fixed management fee. Any changes in the specification potentially have a cost implication but the Council can make changes in the same way they can to the service under Options B & C.

Of particular importance will be the relationship with the schools and Garon Park Trust for the delivery of the service to make sure that there is an approach that recognises the local inputs and delivers effective dual use provision and a strategic approach for Garon park.

#### 6.7.6 Commercial Approach

For options A and D there are commercial benefits of appointing an operator to manage the service in terms of income generation and economies of scale, with specialist operators (such as Fusion Lifestyle) demonstrating that they can deliver greater income and a commercial position which is likely to give a better return for the Council. In particular across the following areas

- The corporate approach to sales and marketing and in particular membership sales for both fitness and swim lessons.
- Utilisation of Apps and a digital strategy and enables use across its portfolio
- Economies of scale from operating 70 plus Centres across the UK, which potentially leads to more effective buying power
- An approach to staffing which is likely to build in bonuses and links to performance

This has been demonstrated through a number of procurements where operators have delivered greater returns for Councils, than the in-house operation.

#### 6.7.7 Risk

Whilst in all options the risks associated with the Covid 19 situation (or similar situations) are likely to be broadly similar, in that any costs are likely to fall on the Council or central Government, there are differences in the risk positions for the options during normal operation.

Options B and C mean that effectively the Council pick up any risk of over or under performance in terms of the operation as the net position will impact on the Council's finances directly. Although with Option C there may be the opportunity to move deficits and surpluses between financial years.

Options A and D provides the opportunity for the Council to transfer the operating and financial risk to the operator and agree a fixed management fee. It should however be recognised that the appetite for risk amongst operators may not be as great as it was before the Covid 19 crisis.

Option E (New Trust) in effect means that the Council is likely to pick up any shortfall in performance (particularly in the early years) where the Trust is unlikely to have any reserves to enable it to manage any shortfall.

Options F & G are likely to mean that the Council will take more risk depending on the operating model used and the agreement reached, however the schools and also the Garon Park Trust are unlikely to bring full leisure management expertise.

6.7.8 All of the options have the potential to deliver the services and bring different advantages and disadvantages. Prior to undertaking a detailed evaluation of the options there are two options which are not considered worth progressing, which include

#### 6.7.9 Option A (Fusion Contract Extension)

Discussions have been held with Fusion over a potential extension which were considered as part of the short-term options report in January 2022. These proposals were not sufficiently attractive to the Council to warrant progressing with.

As a result, Fusion will be able to bid for any contract should the Council decide to progress with procuring and alternative operator and the Council will then be confident that any future operation is based on market positions.

#### 6.7.10 Option E (Establishment of a New Trust)

The establishment of a new Trust would require significant set up costs and also result in the Council effectively taking the risk (at least in the early years) whilst the Trust being independent would mean that the Council has limited control in its operation.

As a result, and due to these factors (loss of control and significant risk) this option has not been considered further.

6.7.11 The remaining options (in house, LATC, operator, local operation and mixed economy) have been reviewed with their financial implications for each below.

## 7 Options Evaluation

7.1 This section has presented an overview of the options available to the Council and also the indicative financial implications. An evaluation of the options has been undertaken against a number of factors including

- Delivery of Strategic Outcomes and Vision – as illustrated earlier how well the option can deliver against the strategic vision and outcomes
- Financial Sustainability – the financial implications and ongoing sustainability
- Transfer of Risk – the ability to transfer risk
- Control – what control does the Council have over the service

7.1 These factors have been considered for each of the options and been given a score based on the following scale.

Score	Description
0	Highly unlikely to be able to deliver on this outcome
1	May possibly be able to deliver on this outcome but likely to be difficult to achieve
2	Should achieve the outcome, but the overall position could be improved
3	Likely to deliver extremely well on the outcome and deliver significant added value against the outcome

7.2 The results of the evaluation are presented in the table below.

Option	Strategic Vision	Financial Sustainability	Risk transfer	Control	Total Score
Option B - In House	2	1	0	3	6
Option C - LATC	2	1	0	3	6
Option D - Operator	2	3	2	2	9
Option F - Local Operation	1	1	1	1	4
Option G - Mixed Economy	2	2	2	2	8

7.3 The overall evaluation of the options illustrates that Option D (Operator) scores the highest and we present the rationale below

- Strategic Vision

All of the options have the ability to deliver the strategic vision and the overall delivery of this can be factored into any specification or management agreement. Ultimately in all the options the Council will determine the policy and the overall strategic framework within which the option works.

The main area of concern would be the delivery through local operation where potential strategic focus will be on other aspects.

- Financial Sustainability

The financial implications presented earlier have indicated that the operator option will deliver the best financial position for the Council.

Should the Council decide on any other option then it is likely that there will be a significant additional cost for the operating of the leisure service.

- Risk Transfer

Whilst there will still be an element of risk for the Council within the operator option (particularly around Utilities and any future Covid/Pandemic risk), there is the ability to transfer significant operating risk to the operator.

Within the in-house and LATC, the Council will be taking all the risk on the delivery of the service.

The local operation and the mixed economy present a balance of risk with some risk able to be transferred but unlikely to be as significant as the operator option.

- Control

The in-house and LATC provide the greatest control for the service in that they are directly managed, however, it should be recognised that any decisions that are taken will impact costs.

The other options can be controlled through an effective specification which enables flexibility and puts a focus on the operator or local operation to deliver the strategic outcomes and also enables the focus on non-commercial aspects. Recent developments in specifications and contracts have delivered significant improvements in delivery.

7.4 All of the options have the potential to deliver the service and the Council will need to take into account the financial sustainability as well as other factors.

7.5 The operator option has the potential to deliver the best financial position for the Council and also through an effective specification and contract provide the Council with significant control over the operation. In addition, there is the opportunity to deliver significant risk transfer.

## 8 Corporate Implications

### 8.1 Financial Implications

8.1.1 The Council has undertaken condition surveys of the buildings. The table below summarises the key financial impacts of these.

#### Condition Survey Outputs

Facility	Condition Survey Requirements (£'000's)				
	Immediate	1-2 yrs	3-5 yrs	6-10 yrs	Total
SLTC	252	181	31	337	802
BSC	97	8	-	26	131
SLC	169	36	-	59	264
CSFC	57	31	52	-	140
<b>Totals</b>	<b>575</b>	<b>256</b>	<b>83</b>	<b>422</b>	<b>1,337</b>

- 8.1.2 Overall, the condition survey has identified circa £1.3 million of works that are required, with circa £575,000 of these being immediate requirements. The vast majority of the investment required is at SLTC, although the other facilities do require some immediate investment.
- 8.1.3 These levels of investment are considered when the future options are analysed. For each of the options, there are a number of financial implications for the future delivery and it will also depend on the potential for investment (particularly in SLTC).

### **Indicative Financial Implications**

- 8.1.4 A base operating cost has been developed for the service based on the Pre Covid performance with uplifts included for improved revenue to reflect the potential market by 2025 and improvements in expenditure as a result of analysis of key benchmarks, such as staffing costs. This has also included the potential improvement in revenue through investment as described earlier in the report.
- 8.1.5 For each of the options the following potential additional costs or savings have been then factored into the base operating costs
- 8.1.6 Additional support costs for the options (except operator option) based on the requirement to introduce HR, finance and other supporting costs to manage and operate the delivery of the service
- 8.1.7 Increased staffing costs through the need for senior management staff which currently are provided by Fusion across a variety of contracts
- 8.1.8 In the case of the in-house (and potentially the LATC) the additional costs of Business Rates (NNDR) which would not be able to claim relief
- 8.1.9 Increases to the base operational costs through the lack of commercialism and economies of scale outlined earlier which all of the options would incur to a greater or lesser extent
- 8.1.10 Savings in profit through the options (other than the operator option) being not for profit
- 8.1.11 In addition to this there are set up costs for each of the options which resolve around either a procurement exercise or establishing a company and in-house model
- 8.1.12 It is likely based on experience elsewhere and the factors above that the best financial option will be entering into a partnership with an existing operator, and this has been demonstrated through other Council as illustrated below where the in-house option has required significant additional costs.

- Welsh Authority – costs of circa £2 million to bring the service back in-house through additional support costs and non-delivery of revenue positions
- Exeter City Council – identified in their executive report (July 2020) a revenue budget of circa £1.5m for the transfer of services and additional costs on top of this

8.1.13 The financial aspects presented, whilst indicative at this stage do illustrate that there are likely to be significant additional costs to the Council should they decide to pursue options other than an alternative operator.

8.1.14 For all the options there is the potential to improve the position through investment in facilities (particularly SLTC) and the generation of revenue to deliver savings enabling the capital investment to be funded and provide a return.

8.1.15 It should however be recognised that with this investment there is risk of delivery and the Operator option does provide the opportunity to transfer this risk to the operator.

## 8.2 Legal Implications

8.2.1 The existing contract with Fusion Lifestyle will come to a natural end by 30 June 2025 and arrangements will be made for the cessation of the contract and implementation of the new arrangements.

8.2.2 The preferred option D, will see the council undertake a full procurement process to enable a new contract to be awarded.

8.2.3 The table below sets out the procurement approach the council will need to adopt to ensure compliance with procurement rules

Stage	Description	Timescale
Pre-Procurement Planning	<ul style="list-style-type: none"> <li>• Development of Procurement Documentation</li> <li>• Stakeholder discussions (including service users)</li> <li>• Sign off approach and detailed specification</li> </ul>	Jan – Jul 2023
Standard Selection Questionnaire (SSQ)	<ul style="list-style-type: none"> <li>• Launch of procurement including bidders' day</li> <li>• Seek expressions of interest from the market</li> <li>• Evaluate their experience, economic standard and technical expertise</li> <li>• Select shortlist (typically maximum of 5)</li> </ul>	Sep - Dec 2023
Invitation to Submit Tenders	<ul style="list-style-type: none"> <li>• Invite shortlist to submit their proposals for the future contract and service</li> <li>• Including investment proposals and financial offer</li> </ul>	Jan – Jun 2024

	<ul style="list-style-type: none"> <li>• Dialogue with bidders to enable the best bids and also to consider options</li> <li>• Evaluate and shortlist to a maximum of 3 bidders</li> </ul>	
Final Tender Stage	<ul style="list-style-type: none"> <li>• Invite shortlisted bidders to submit their final tenders based on the Council's preferred option</li> <li>• Evaluate and select preferred bidder</li> </ul>	Jul – Dec 2024
Contract Award & Mobilisation	<ul style="list-style-type: none"> <li>• Finalisation of contract with preferred bidder and contract signature</li> <li>• Mobilisation of the new contract including TUPE transfer</li> </ul>	Jan – Jun 2025
Contract Starts	<ul style="list-style-type: none"> <li>• Commencement of contract with new Operator</li> </ul>	1 July 2025

8.2.4 The timetable and approach set out above will enable the Council to consider options and develop discussions with both local stakeholders and the market to ensure the future contract reflects the ambitions of the Council.

### 8.3 *People Implications*

8.3.1 As set out above, TUPE is likely to apply in all the options.

### 8.4 *Property Implications*

8.4.1 Currently Fusion operates 4 leisure centres on behalf of the Council which include the following facilities, operation of those facilities will transfer to whichever Leisure Operator successful via the tender process.

8.4.2 Leisure centres can contribute as much as 40 per cent of a council's carbon footprint due to the number of physical assets involved, their long operating hours and the functions delivered within each building. Subsequently, the Leisure sector faces a significant challenge in setting Net Zero targets and implementing the changes required to meet them. There will be a clear expectation for a new leisure operator to actively work with the council to support the council's 2030 net zero targets.

### 8.5 *Consultation*

8.5.1 As part of the review discussions have been held with a number of key stakeholders including

- Garon Park Trust
- Shoeburyness School
- Chase School
- Belfairs School
- South Essex College
- Potential Operators

### 8.5.2 The key findings from the stakeholder discussions are as follows

- There is interest from the schools in the future operation of the facilities. If this was the case consideration would be given to community access arrangements.
- In general, the schools are keen that any future arrangements reflect the needs of the schools and are also able to be flexible to as the service changes.
- Discussion with the Garon Park Trust have identified a number of issues including
  - There is limited co-ordination and approach to the overall use of the site and there are often conflicts between events
  - Management of the car park needs to identify greater clarity on who is managing it and also the use of the car park to ensure it is effective in the delivery of the overall site
  - It takes significant time to implement any new initiatives (for example the Padel courts, which took several years to deliver the outputs)
  - There are a number of different operators on the site including a management company who manages the golf course and a CIC operating the cricket ground
  - It is considered important that the overall strategic management for the site is delivered and this needs to involve SLTC and its interrelationship with the park.
  - Any future leisure operator would need recognise that the overall strategic management of the site is critical. There would need to be flexibility within the contract to ensure co-ordination and a focus on delivering the future of the park.

8.5.3 All stakeholder feedback will be taken into account when considering the future options for the Council. In addition, further work will be undertaken to determine user needs with the wider public.

## 8.6 *Equalities and Diversity Implications*

8.6.1 The recently published Levelling Up White Paper (February 2022) details 12 levelling up missions - two of which are narrowing the gap in Healthy Life Expectancy between the areas where it's highest and lowest, and improving the wellbeing of every area in the country - with the gap between the areas currently rated for wellbeing and other areas, decreasing.

8.6.2 One of the key factors in making these missions a reality will be making sport and physical activity a normal part of life for everyone in the city.

8.6.3 Sport and physical activity has a central role to play in levelling up – especially tackling health inequalities in communities and improving long-term health and wellbeing outcomes. It also has much wider benefits for society too, including

connecting communities and creating a sense of pride, reducing social isolation, and bringing in new skills and job opportunities to boost the economy, which is why it has a vital role to play in levelling up.

- 8.6.4 The Council's overall health and wellbeing strategic aims and vision will be built into the new service specification and contract to ensure that the operator is required to support the Council in delivering these.

## 8.7 *Risk Assessment*

- 8.7.1 Whilst in all options the risks associated with the Covid 19 situation (or similar situations) are likely to be broadly similar, in that any costs are likely to fall on the Council or central Government, there are differences in the risk positions for the options during normal operation.

- 8.7.2 Options B and C mean that effectively the Council pick up any risk of over or under performance in terms of the operation as the net position will impact on the Council's finances directly. Although with Option C there may be the opportunity to move deficits and surpluses between financial years.

- 8.7.3 Options A and D provides the opportunity for the Council to transfer the operating and financial risk to the operator and agree a fixed management fee. It should however be recognised that the appetite for risk amongst operators may not be as great as it was before the Covid 19 crisis.

- 8.7.4 Option E (New Trust) in effect means that the Council is likely to pick up any shortfall in performance (particularly in the early years) where the Trust is unlikely to have any reserves to enable it to manage any shortfall.

- 8.7.5 Options F & G are likely to mean that the Council will take more risk depending on the operating model used and the agreement reached, however the schools and also the Garon Park Trust are unlikely to bring full leisure management expertise.

## 8.8 *Value for Money*

- 8.8.1 Value for money will form part of the key assessment criterion within any future procurement activity. This will also include any potential value generated via Social Investment Activities delivered as part of the contract

## 8.9 *Community Safety Implications*

- 8.10 N/A

## 9. **Background Papers** Built Facility Strategy 2018

## 10. **Appendices** Appendix 1: Examples of Facility Development Opportunities