

Agenda Item No:

Report To: Cabinet

Date of Meeting: 22nd February 2024

Report Title: Tenterden Leisure Centre Procurement

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Portfolio Holder: Cllr. Kate Walder
Portfolio Holder for: Recreation and Public Spaces



Summary: Tenterden Leisure Centre (TLC) is the principal indoor leisure facility serving Tenterden and the surrounding area. In April 2023, Tenterden Leisure Centre Trust surrendered their lease and Serco ceased being operator. Freedom Leisure took on the operation of TLC on an interim 2 year contract. This report details the approach to the procurement process to appoint a leisure operator of TLC on a 10 year contract.

Key Decision: YES

Significantly Affected Wards: Tenterden North, Tenterden South, Tenterden St Michaels, Rolvenden & Tenterden West

Recommendations: **The Cabinet is recommended:-**

- I. To commence with the procurement exercise to appoint an operator of Tenterden Leisure Centre on a 10 year contract.
- II. To make available up to £3million in capital funds to operators to make improvements to Tenterden Leisure Centre. The capital payback must be demonstrable through the operators 10 year business plan, and this will be scrutinised by the project team with support from specialist leisure consultant (Max Associates) and the Portfolio Holder
- III. To agree delegated authority to Deputy Chief Executive/S151 officer, Solicitor to the Council & Monitoring Officer, relevant Corporate Director and Assistant Director along with Portfolio Holder to approve recommendation of the Preferred Bidder. The outcome of the process will be reported to Cabinet. .

Policy Overview:

A key objective in the Corporate Plan is to reduce health inequalities and improve the wellbeing of local people (CA3). This can be achieved by working in partnership with leisure operators to maximise use of the Council assets (CA3.2), and progressing the procurement of an operator for Tenterden Leisure Centre (TLC) is cited as a specific Corporate Plan project to support this objective.

Securing a new operator for Tenterden Leisure Centre on a 10 year contract will support the Council's 3 key Corporate themes in a number of ways:

- Targeted Growth
 - Promotes economic investment and growth
 - Includes jobs and new skills

- Caring Ashford
 - Healthy choice through physical, cultural and leisure engagement
 - Promotes our growing senior population to lead independent and full lives
 - Provides healthy lifestyle choices and opportunities for all ages
 - Supporting Tenterden's leisure and cultural offer

- Green Pioneer
 - Countryside and Townscape, Tourism and Heritage
 - Maintains its environments, attractively, responsibly and safely
 - Is efficient, effective and sustainable in terms of finance, resources, service delivery and enforcement.

Financial Implications:

The Council is currently responsible for the operating deficit of TLC, and the current financial forecasts are; 2023/24 (-£468K) and 2024/25 (-£236K). It is anticipated that the new 10 year TLC contract will result in an improved financial position for the Council, with the Leisure Operator taking the financial risk for delivering their business plan.

The cost of running the procurement exercise is estimated at £65K.

It is recommended that the Council makes up to £3 million available in capital funds to operators to make improvements to Tenterden Leisure Centre. The capital payback (based on PWLB rate) must be demonstrable through the operators 10 year business plan, and this will be scrutinised by the project team with support from specialist leisure consultant (Max Associates) and the Portfolio Holder.

Legal Implications: <i>Text agreed by Principal Solicitor on [date]</i>	In order to comply with the Procurement Regulations 2015 the Council needs to run a full procurement process to appoint a long term operator of TLC.
Equalities Impact Assessment:	See Attached.
Data Protection Impact Assessment:	Not Required.
Risk Assessment (Risk Appetite Statement):	The project team will maintain the Risk Register and all necessary risk mitigations will be included in the procurement and contract documentation.
Sustainability Implications:	The leisure operator will be encouraged to operate TLC in the most environmentally sustainable way possible and maximise utilisation of the new decarbonisation technologies.
Other Material Implications:	None.
Exempt from Publication:	NO
Background Papers:	[Delete if report is exempt from publication]
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Report Title: Tenterden Leisure Centre Procurement

Introduction and Background

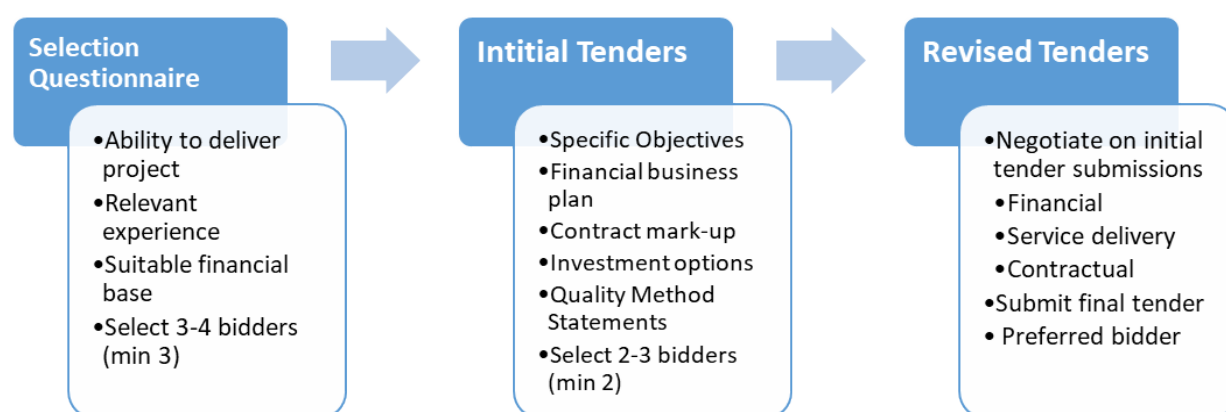
1. Tenterden Leisure Centre (TLC) is the principal indoor leisure facility serving Tenterden and the surrounding area. It is an important community facility providing sporting and physical activity opportunities to residents and visitors to the town. This importance is recognised in the Ashford Borough Council's Local Plan to 2030 (as adopted) and the essential role local leisure provides not only to health and wellbeing but to the local economy. Access to leisure and the importance of wellbeing and leisure services are also reflected in the Council's Corporate Plan.
2. The land on which TLC is located is owned by Tenterden Town Council (TTC). On 1st January 1989, TTC granted Ashford Borough Council (the Council) a 125-year Headlease for TLC and the car park.
3. On 25th July 2002, the Council granted Tenterden Leisure Centre Trust (TLCT) a 50 year underlease for TLC. TLCT then went on to appoint Serco as leisure operators of TLC.
4. Members will recall that TLCT surrendered their lease of TLC on 30th April 2023, and Serco ceased being the leisure operator on this date. The 30th April 2023 also coincided with the end of the Support Agreement the Council had put in place to financially support TLCT and Serco from the impact of the Covid-19 pandemic. The Support Agreement has cost the Council £1.6m over a 2 year period.
5. The Council were given 6 weeks notice of the TLCT lease surrender and moved quickly to appoint Freedom Leisure to operate TLC for an interim 2 year period. This will allow for a full procurement exercise to appoint a long term operator. Freedom Leisure began operation of TLC on 1st May 2023, and a seamless handover was achieved with service continuity. Freedom Leisure re-opened the swimming pool on 1st June 2023.
6. Freedom Leisure's 2 year interim agreement is based on an open book approach, with the Council paying the cost of any operating deficit, and any surplus split 50/50. The forecast for 2023/24 is an operating deficit of -£468K. Forecast cost for 2024/25 is -£236K. Freedom Leisure, in partnership with the Council, have made great progress in refreshing the offer at Tenterden Leisure Centre, increasing the membership and the general positive feedback about the leisure offer at this site. Whilst the future potential of this site will rightly be explored through the future procurement, the partnership working here has improved the financial operating position, as well as the leisure offer, more quickly than originally anticipated.
7. There has been a requirement to complete works at TLC relating to health & safety, essential maintenance and redecoration. The works have allowed

Freedom Leisure to operate TLC in a safe and effective manner, and have provided a visual uplift and improved customer experience.

8. The Council have also funded a Health & Fitness upgrade consisting of new gym equipment, gym redecoration and flooring, new spin bikes, spin studio redecoration, virtual spin product. This has resulted in an improved customer experience and enabled the membership numbers to start increasing which has enabled the financial operating position for the Council to improve This improving picture (alongside the prime location and potential leisure offer this site is capable of) will also be of considerable benefit to us as we go to procurement market.
9. TLC has also benefitted from £2m Public Sector Decarbonisation Scheme (PSDS) funding which has allowed for a range of decarbonisation works to be completed including the installation of Air Source Heat Pumps and roof top solar PV panels. It is estimated that these works will save 320 CO₂ tonnes per year.

Proposal

10. The Council to undertake a procurement process to appoint a long-term leisure operator of TLC, in line with public procurement regulations. The procurement route will be a two stage Competitive Procedure with Negotiation, although the Council will reserve the right to award after the initial stage.



11. The evaluation criteria for the Initial Tenders will be 50% Price/Commercial and 50% Quality/Services (see Table 1.0 below for full breakdown). This evaluation weighting recognises the current pressure on the Council's Medium Term Financial Plan and need to achieve a favourable commercial position with the management fee, whilst also encouraging operators to produce comprehensive service delivery proposals that are well resourced and deliver for the whole of the community.

Table 1.0 Evaluation Criteria Weighting

Evaluation Criteria	Initial Tender Weighting
Price / Commercial	50%
<i>Management Fee</i>	30%
<i>Investment</i>	10%
<i>Viability of Business Plan</i>	5%
<i>Acceptance of commercial terms and conditions</i>	5%
Quality / Services	50%
Total	100%

12. The type of contract being procured will be a Leisure Operating Contract with a 10 year contract term from 1st April 2025. The Leisure Operating Contract will be based on the Sport England Standard Form. The Leisure Operator will take the financial risk of delivering their business plan. The Council will retain responsibility for certain maintenance items (e.g. lifecycle replacement of plant equipment) and commercial items (e.g. utility tariff cap). TUPE will apply to all existing staff at TLC.
13. The Leisure Operating Contract will contain a Service Specification that sets out the Council's vision for the service at TLC;
 - a. To create a vibrant mix of exciting sporting and recreational facilities and spaces to improve the quality of people's lives and civic pride.
 - b. We need diverse and creative approaches that target the inactive, so we address the local health and wellbeing priorities that sport and physical activity impact upon.
 - c. We want exceptional service quality and investment used wisely to enhance our facilities, spaces and programmes.
 - d. We need a community-based approach that helps local areas and neighbourhoods embrace the benefits of regular sporting and active recreation and local infrastructure that in turn helps support community spirit and collaboration.
14. The Service Specification will also contain the Service, Facility and Performance Requirements (e.g. cleaning standards, maintenance regime, pricing requirements, and participation targets). These will be monitored on a monthly, quarterly and annual basis through the Contract Payment & Performance Monitoring Schedule.
15. In order to secure the best possible contract, from both a financial and service perspective, it is recommended that the Council make available up to £3million capital funds to operators to make building and facility improvements to TLC. The potential capital sum of £3 million has been arrived at by taking advice from the industry on the costs of potential reconfiguration of areas of the leisure centre to accommodate additional leisure offers with an understanding of the footprint of the building. This is an upper capital limit with bids anticipated inside this capital sum, to be repaid inside the contract period of 10 years.. The capital payback must be demonstrable through the operators 10 year business plan, and this will be scrutinised by the project team with support from specialist leisure consultant (Max Associates).

16. A project team will be formed consisting of staff from key Council departments including; Recreation, Property and Building Services, Procurement, Legal and Finance. Max Associates who are specialists in leisure procurement, and solicitors Trowers and Hamlins who are specialists in leisure contracts will support the project team. The overall cost of the procurement exercise is estimated at £65K. The project team will regularly brief the Portfolio Holder and shadow Portfolio Holders on the progress of the procurement.
17. The Council has in place a Leisure Contract Manager who will monitor the new TLC contract once it commences.

Equalities Impact Assessment

18. Members are referred to the attached Equalities Impact Assessment. The procurement process and Leisure Operating Contract will be aligned with Public Health; Sport England Strategies and Active Kent and Medway to increase participation and activity levels in key areas whereby data in England identifies that people with protected characteristics in general have lower participation (Sport England Active Lives Survey).

Consultation Planned or Undertaken

19. The current TLC operator Freedom Leisure uses a continuous feedback system to monitor delivery, and satisfaction from all groups and user types is reviewed monthly, quarterly and annually.
20. Moving Communities Platform run via Sport England our statutory body, measures how well leisure centre's across England deliver programmes/activities and provide evidence to monitor the sector's performance, sustainability, and social value.
21. The data from the above mechanisms will be used to shape the Service Specification and key service delivery areas for the operator to focus on.

Other Options Considered

22. **Long Term Appointment – Direct award to Freedom by modifying existing Freedom Leisure Contract**
The Public Contracts Regulations (PCR) 2015 does allow for contracts to be modified without a new procurement process in certain situations. The Council considered varying TLC into Freedom Leisure's existing DBOM Contract for the remainder of the contract term which expires in 2035. However, there would have been a risk that the overall contract value would have increased by over 50% (breached PCR 2015 clause 72(1)(c)), and it would have proven difficult to satisfy other areas of the PCR 2015 as to why we were unable to run a procurement exercise.
23. **'In House' service delivery at Tenterden Leisure Centre**

There are several different models for an 'in house' Council service delivery, but these all involve a significant amount of infrastructure and specialist resource which the Council does not have in place. This approach also goes against the position in the Council's Corporate Plan of working with leisure operators to maximise use of our assets.

Reasons for Supporting Option Recommended

24. The procurement of a 10 year contract for TLC will allow the Council to achieve the best value contract from the market place. It provides the Council with the opportunity to create a bespoke Service Specification for TLC, tailoring service delivery for the needs of the community. It will also bring our two largest contracts for leisure in the borough "in line" so that even better value may be secured in the future by considering onward provision for all our leisure centres in 10 years' time.
25. The new contract will secure TLC's future for the next 10 years and provide the Council with certainty on the financial position. The new operator will have the time and opportunity to build relationships with the local community and partner organisation with the ultimate goal of getting more people, more active, more often.

Next Steps in Process

26. The procurement timeline, from publication of the tender documents to contract commencement, is set out in the table below:

Tenderden Leisure Centre Operator procurement - Indicative Timetable		
Stage	Description	Timeframe
1	Publication of FTS Contract Notice and SQ made available	01-Mar-24
2	Deadline for clarifications from Applicants on the SQ	22-Mar-24
3	Deadline for completed SQs	02-Apr-24
4	Invitation to Submit Tender (ITT) to shortlisted Participants	22-Apr-24
5	Deadline for questions from Participants on the ITT	14-Jun-24
6	Deadline for submission of Tender	28-Jun-24
7	Clarifications, Presentations and Evaluation	26-Jul-24
8	Shortlisted Participants invited to Final Tenders (FT) stage	05-Aug-24
9	Negotiation with Participants invited to Final Tender Stage	Aug-24
10	Issue Final Tender (FT) documents to shortlisted Participants	02-Sep-24
11	Deadline for submission of Final Tenders (FT)	13-Sep-24
12	Preferred Bidder	11-Oct-24
13	ABC sign off / Standstill period / Contract Awarded	Nov / Dec 24

14	Contract Mobilisation	Jan - Mar 25
15	Contract Commencement	Apr-25

Conclusion

27. The procurement exercise is an opportunity to secure a leisure operator for TLC on a long term contract, who will increase participation through innovative and inclusive programmes of use. It will allow a community-based approach that helps local residents embrace the benefits of regular sporting and active recreation and local infrastructure that in turn helps support community spirit and collaboration.

Portfolio Holder's Views

'Tenterden Leisure Centre is a much-loved facility that sits at the heart of the community. It plays a crucial role in the health and wellbeing of residents and visitors to Tenderden. The procurement of a new 10 year contract will allow a leisure operator to unlock the full potential of the centre and help more local people develop and maintain active, healthy lifestyles', Cllr Kate Walder (Portfolio Holder for Recreation and Public Spaces)

Contact and Email

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