

# Report to Safer Neighbourhoods and Active Communities Scrutiny Board

**12 September 2023**

<b>Subject:</b>	Future Provision of Leisure Services
<b>Director:</b>	Director for Borough Economy Alice Davey
<b>Contact Officer:</b>	Assistant Director for Borough Economy Ben Percival <a href="mailto:ben_percival@sandwell.gov.uk">ben_percival@sandwell.gov.uk</a>


## 1 Recommendations

- 1.1 That the Board considers and comments upon the settlement of the future provision of leisure services to 2027.

## 2 Reasons for Recommendations

- 2.1 The 2021 Grant Thornton Governance Review raised concerns regarding the management of the contract with Sandwell Leisure Trust (SLT) – particularly the culture of the relationship and a lack of service innovation. The subsequent review of future provision of leisure services has sought to address these concerns.
- 2.2 Following the assessment and development of alternative delivery options within the medium-term operating environment, an extension with SLT on revised terms has been secured as the optimal solution for the provision of leisure services to 2027. This will allow for a period of service stability to embed key service changes – notably the launch and establishment of the Sandwell Aquatics Centre (SAC). This period will be used to consider the long-term settlement of the provision of leisure services.

## 3 How does this deliver objectives of the Corporate Plan?

	<p><b>People Live Well and Age Well</b> A sustainable leisure offer for Sandwell residents is critical to support residents to become and remain physically active.</p>
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## 4 Context and Key Issues

### SLT contract termination and establishment of a Local Authority Trading Company

4.1 The Sandwell Council leisure estate operated by SLT under a Management and Funding Agreement (MFA) comprises the following facilities:

- Haden Hill Leisure Centre
- Hadley stadium
- Harry Mitchell Leisure centre
- Langley Swimming Centre (closed July 2023)
- Portway Lifestyle Centre
- Tipton Leisure Centre
- Tipton Sports Academy
- Sandwell Aquatics Centre (open July 2023)
- Smethwick Swimming Centre (closed July 2023)
- Wednesbury Leisure Centre

West Bromwich Leisure Centre is operated by Places Leisure under a separate agreement and is not subject to this report.

4.2 At their meeting 9 February 2022, Cabinet resolved to not approve Sandwell Leisure Trust's business plan and to serve notice of termination; this notice was served for SLT's operation of the leisure centres to cease on 1 May 2023. At their meeting 22 June 2022, Cabinet resolved to progress the establishment of a Local Authority Trading Company (LATC) to operate the Council's leisure facilities.

4.3 The LATC was established as a Company Limited by Guarantee (CLG). A CLG is owned by its members. As the sole member of the company, the Council will have control over the direction and significant decisions of the company and will enjoy the various rights granted to it as member under the Companies Act 2006. These matters will be confirmed in both the operating contract and reserved matters. Following consultation with members the company name **LiveWell Leisure** was agreed. The LATC was incorporated as LiveWell Leisure Limited on 6 February 2023, company number 14643657. To allow preparations for the transfer of services the company has been formed on model Articles of Association with two Council officers (Ben Percival and Mark Braithwaite) named as company directors.

### Energy Costs and extension of SLT notice period

4.4 As large consumers of energy, leisure centres have been seriously impacted by the increases in utility costs over the last year. UKActive, (the not-for-profit body comprised of members and partners from across the UK active lifestyle sector), has indicated that 40% of authorities are considering facility closures and restrictions as a result of increased energy costs. In 2021 – pre energy cost increases – SLT entered longer-term energy supply contracts. This effectively insulates SLT from the increases in energy tariffs; gas to September 2026 and electricity to March 2027.



- 4.5 The process to transfer services to the LATC identified that one of the key risks around utility tariffs could be managed through the retention of the SLT secured fixed energy tariffs that sheltered SLT from the increases in energy costs experienced through 2022. However an extensive legal options appraisal identified that these energy tariffs could not be novated to the LATC without significant risk.
- 4.6 The cost pressure of losing the fixed tariffs for the 9 centres in the portfolio reducing to 7 centres during 2023 was estimated in January 2023 as **£3.42m** over the next 2 years. It was also recognised that utility tariff stability is beneficial over the coming 3 years given market instability and the scale of the Sandwell leisure estate.
- 4.7 The Leader, Cabinet Member and Executive have received regular progress updates to ensure they are sighted and support the approach being taken. Based on the cost pressure and the improved relationship with SLT, the termination notice with SLT was extended for the period covered by SLT's fixed tariffs; an extension of 3 years and 11 months **from 1 May 2023 to the end of March 2027**. This extension was executed by the Director of Borough Economy under delegated authority from Cabinet 9 February 2022 in consultation with the Leader, Cabinet Member and Executive.

### **Governance / Contract Management**

- 4.8 Key to the extension of the partnership with SLT was resolving the concerns identified by Grant Thornton. This has been achieved both structurally and practically. Structurally the governance regime has been updated, implementing a clear contract management framework comprising:
- 4.8.1 The **Quarterly Leisure Contract Review Board** the strategy forum for the services which will agree the strategic development of the service, based on requirements of Cabinet and SLT Board. The first of these took place 5 September 2023.
- 4.8.2 The **Quarterly Finance Reconciliation** to review the SLT accounts and commentary from the previous quarter, identify any substantial variances to budget and – in partnership with the Monthly Contract Management Meeting – propose corrective action.
- 4.8.3 The **Quarterly Property / Estates Update** to review property and estates issues including: compliance works, planned preventative maintenance, significant defects and energy consumption.
- 4.8.4 The **Monthly Contract Management Meeting** the principal forum to support the effective and efficient operation of the service.
- 4.9 A Deed of Variation (DoV) to the MFA with SLT has also been agreed to formalise the change in governance. A key change in the DoV is that any operating surplus from improved trading is now retained by the Council rather than SLT – which was the case in the previous MFA. This substantially mitigates the financial risk to the Council and creates the potential for financial savings.



- 4.10 Practically, the relationship between the Council and SLT has been transformed. As highlighted by Grant Thornton, previously the relationship had “broken down”. However, both changes in personnel at both the Council and SLT plus the establishment of a shared goal of service transformation have provided an opportunity to reset the relationship. The culture of the relationship is now one of partnership with the above formal contract management structure augmented with regular (daily) informal liaison and shared working.
- 4.11 Council officers and SLT officers and board members are actively working in partnership to develop the service, commercialise the offer and deliver service innovation. The first joint service planning day with SLT officers and board members took place 31 August 2023.
- 4.12 As part of the preparations for the transition to LiveWell Leisure, SMBC appointed Mark Braithwaite as Chief Operating Officer (COO) to manage the company. The SLT Board have agreed that Mark is seconded to SLT to act as their Chief Executive from 1 May 2023 Officer for the duration of the extended termination period. Has further strengthened the relationship between the Council and SLT.

## 5 Financial Implications

- 5.1 Working with SLT, officers have agreed a management fee for 23/24. This modelling is based on work initially developed by external consultants (Continuum Leisure and Prominent Leisure Services) alongside officers from Borough Economy and Finance. This is an increase compared to 22/23 reflective of the requirement to launch and develop SAC. The business planning process modelled a number of scenarios based on risk and ambition.
- 5.2 As outlined in section 4, financial monitoring and reconciliation now forms a key facet of the contract governance and performance management. The agreement for trading surpluses to be returned to the Council (paragraph 4.9) potentially means that if the service is delivered with optimum efficiency actual cost of the service could be substantially less than the agreed management fee.

## 5 Implications

<b>Resources:</b>	Provision is made for the management fee as set out in the report.
<b>Legal and Governance:</b>	The Deed of Variation to the Management and Funding Agreement has been completed.  A lease for Sandwell Aquatics Centre has been agreed to mirror those in place for the other facilities.



	An assessment has been undertaken to ensure the arrangement with SLT is not a subsidy in scope of the Subsidy Control Act
<b>Risk:</b>	SLT maintain a comprehensive risk register to support the safe and effective operation of the service.
<b>Equality:</b>	There are no equality implications to this report
<b>Health and Wellbeing:</b>	<p>Physical activity makes a huge contribution to the health and wellbeing of residents and the local economy. Physical inactivity is the fourth leading risk factor for global mortality, accounting for 6% of deaths globally. Overweight and obesity are responsible for a further 5% of global mortality. For adults, doing regular exercise helps to prevent and manage over 20 chronic conditions, including coronary heart disease, stroke, type 2 diabetes, cancer, obesity, stress and mental health problems and musculoskeletal conditions.</p> <p>During the 2020/2021 pandemic, many people faced mental health challenges. Physical activity plays a key role in promoting mental health and well-being by preventing mental health problems and improving quality of life for those experiencing mental health problems and illnesses. Physical activity enhances psychological well-being, improving self-perception and self-esteem, mood, and sleep quality, and reducing levels of anxiety and fatigue.</p>
<b>Social Value:</b>	Improved leisure provision will also support addressing local health inequalities supporting the reduction of the burden on local health services.
<b>Climate Change:</b>	<p>There are no climate change implications to this report.</p> <p>Leisure Centres are very high consumers of energy and work is underway to assess the energy efficiency of the sites and to access funding to support decarbonisation opportunities.</p>
<b>Corporate Parenting:</b>	There are no corporate parenting implications to this report.

## 6 Appendices

None

## 7. Background Papers

None

