



Report for: Cabinet

Date of Meeting:	29 th June 2023
Subject:	Leisure Management Contract Extension
Key Decision:	Yes – if affects all wards in the Borough and the value of the contract extension exceeds £500,000
Responsible Officer:	Dipti Patel - Corporate Director – Place
Portfolio Holder:	Councillor Jean Lammiman - Portfolio Holder for Community and Culture Councillor David Ashton, Portfolio Holder for Finance and Human Resources
Exempt:	No, except for exempt Appendices 2, 3, 4, 5 and background papers listed under Section 4 which are exempt under paragraph 3 of Schedule 12A of the Local Government Act 1972 because they contain information relating to the financial and business affairs of the council and Everyone Active (SLM Ltd), and the council is currently negotiating the contract extension with Everyone Active (SLM Ltd)
Decision subject to Call-in:	Yes
Wards affected:	All
Enclosures:	Appendix 1: Equalities Impact Assessment Appendix 2: Leisure Contract Financial Forecast 2023-24 and 2024-25 Appendix 3: Budget implications of the reduced management fee under the contract extension period Appendix 4: Leisure – In-House Management Option Cost Assessment Appendix 5: Financial information – commercially exempt information

Section 1 – Summary and Recommendations

This report provides an update on the review of the Council's future leisure provision, including the options for the future delivery of leisure services from September 2024, and seeks approval to extend the Council's current Tri-Borough leisure contract (with the London Boroughs of Brent and Ealing) with Everyone Active (SLM Ltd), for 1 year until 31st August 2025

Recommendations:

Cabinet is requested to:

1. Approve the extension of the Council's current Tri-Borough leisure contract (with the London Boroughs of Brent and Ealing) with Everyone Active (Sports and Leisure Management) (SLM) Ltd (EA) for 1 year commencing 01st September 2024 until 31st August 2025.
2. Delegate authority to the Corporate Director of Place, following consultation with the Director of Finance & Assurance, and the Portfolio Holders for Community and Culture, and Finance and Human Resources, to complete all the required actions, to extend the Council's current Tri-Borough leisure contract (with the London Boroughs of Brent and Ealing) with Everyone Active (SLM) Ltd (EA) for 1 year until 31st August 2025, including entering into the contract extension.

Reason (for recommendations):

The tri-borough contract is due to end 31st August 2024. Across the sector leisure centres are still experiencing a slow and stagnating rate of recovery following the Covid-19 pandemic and the subsequent cost of living crisis. The impact of the latter is particularly affecting older leisure sites. Due to the financial impact of the above, leisure operators are currently more risk adverse in terms of their own investment into facilities, and there is likely to be limited interest from non-incumbent operators. An extension of the contract will allow the leisure market to recover further from the pandemic and enable a leisure investment strategy to be completed. Without a plan for investment in the Council's leisure facilities it is likely that interest from the market is likely to be limited and the financial returns for the council will be worse.

Section 2 – Report

1. Introduction

1.1 In the 'Leisure Management Contract Extension' Report approved by Cabinet in October 2022 one of the recommendations was that officers will bring back a report to Cabinet with an update on the review of the Council's

future leisure service provision to deliver a procurement process which secures the optimal long-term arrangement for the Council, which may include a further recommendation to extend the contract for a further one-year period. This report provides an update on the review of the Council's future leisure provision and sets out options for the future delivery of leisure services from 1st September 2024. The approval to further extend the current leisure contract is recommended for the following reasons:

- A. The leisure market remains impacted by the Covid-19 pandemic and subsequent cost of living crisis. A slow and stagnating rate of recovery is being experienced across the sector, particularly for older sites. The Harrow Leisure Centre and Hatch End Swimming Pool are both older sites that require investment.
- B. Significant increases in energy costs, increased staffing costs, and other increases in the cost-of-living also means that the next couple of years remain uncertain and operators will take a more cautious approach.
- C. A further extension would provide the time to complete a leisure investment strategy which is essential for Harrow given the ageing existing facilities
- D. The recommendations in section 4 of this report are informed by The Sport, Leisure and Culture Consultancy Leisure Shadow Bid Report, January 2023, by 'Procuring Leisure, Sport, Physical Activity and Active Wellbeing Services in the Current Climate Think Tank Seminar Report', and by The Sport, Leisure and Culture Consultancy Report, February 2023. Finally, Planned and Preventative Maintenance reports produced by Capita Real Estate and Infrastructure (October 2022) identified high repair and maintenance costs for the council's leisure assets.

1.2 The decision sought will support the Council's vision of 'Restoring Pride in Harrow' and the corporate priorities:

- A council that puts residents first
- A borough that is clean and safe and
- A place where those in need are supported

The extension of the current leisure contract will support residents' health and well-being, and the development of a Leisure Investment Strategy will help to ensure that residents have the leisure and well-being facilities they want and need in the future, with Harrow becoming a place where residents want to spend their time.

2. Background

2.1 The Council entered a leisure management contract with Everyone Active (EA), with the London Boroughs of Brent and Ealing, in September 2013 to manage its three leisure centres – Harrow Leisure Centre, Hatch End Swimming Pool, and Bannister Sports Centre. The centres provide a very wide range of leisure services with key performance indicators in place to monitor

performance. The initial contract was a 10-year contract which was due to end on the 31 August 2023. Cabinet agreed a 12-month extension of the contract until 31 August 2024 in October 2022 to enable the market to further recover from the Covid-19 pandemic and for a strategic review of future leisure service provision to be undertaken.

2.2 Under the terms of the original contract EA had paid the Council an annual management fee for Harrow Leisure Centre, and the Council had paid EA contract costs for Hatch End Swimming Pool and Bannister Sports Centre. The contract had generated a net annual income to the Council of £750k. Due to the impact of the Covid-19 pandemic, however, the Council provided a financial subsidy to EA from 2020-21 to 2022-23. In 2022-23 the Council received a management fee of around 1/3 of the normal net management fee, despite EA's financial performance not meeting their financial forecast due to significant increases in energy costs and other cost of living increases. A reduced management fee was also agreed with EA for 2023-24 for the 12-month extension of the contract period. The reduction in management fee was due to the continuing impact of the Covid-19 pandemic on fitness memberships and increases in expenditure caused by the high inflation rate, with particularly significant increases in energy costs. Maintenance and repairs costs have also increased with Harrow's increasingly ageing facilities.

2.3 The leisure contract with EA had performed well up to the Covid-19 pandemic. In 2019-20 there were a total of 1,692,602 visits to the three leisure centres, and just under 7,000 fitness members.

3. Current Situation

3.1 Total usage across the 3 leisure centres has increased over the last 12 months, particularly usage of Harrow Leisure Centre. In March 2023 there was a total number of visits of 87,799 to Harrow Leisure Centre compared to 75,966 in March 2022. The total number of fitness and swim members has also increased – 5,066 in March 2023 compared to 4,582 in March 2022. Usage of the sites, however, is still significantly less than pre-pandemic levels. EA marketing campaigns to increase usage has included 'Join for £1' promotions and Black Friday sales promotions in the November period. Adaptions to the group exercise programme to increase retention and unique users have been made and there has been a focus on personal training which sees a high rate of retention. In 2022-23 actual income has exceeded the forecast for each month for the period April 2022 to March 2023 but actual expenditure has also significantly exceeded the forecast for each month due to higher inflation rate, with particularly significant increases in energy costs. The centres have had the following percentage increases in utility costs (electricity and gas) between 2019-20 (prior to the pandemic) and 2022-23:

Energy Costs - % Increase 2019-20 to 2022-23	Bannister Sports Centre	Harrow Leisure Centre	Hatch End Swimming Pool
Electricity	316%*	102.5%	102.5%
Gas	59.3%	196.9%	180.8%
Total	214.4%	136.5%	140.6%

*Increase in usage due to the installation of the floodlight 3G Artificial Grass Pitch

This has resulted in an overall deficit position for each month apart from for two months up to March 2023, with a total deficit for the year of £238,608.

3.2 The Sport, Leisure, and Culture Consultancy (SLC) has identified a slow and stagnating rate of recovery being experienced across the leisure sector, particularly by older leisure sites. Whilst leisure operators are bidding for new contracts, they are being more selective and will generally not bid for contracts where they feel the balance of risk is not seen as favourable or provide the same level of management fee to clients and are less able to invest significantly in facilities using their own capital. Projected income included in recent financial submissions from bidders for new leisure contracts for health and fitness has been lower than pre-covid, although typically projecting higher income on swimming and swimming lessons. Financial submissions for new contracts are, therefore, likely to be more cautious with a significant gap in income of approximately 10%-15%. There is also likely to be more limited interest from other operators if there is a well-established existing operator given that the incumbent would be in a strong position to retain the contract, particularly with mobilisation costs for needing to be factored into a non-incumbent's financial submission. Significant increases in energy costs, increased staffing costs and other costs of living increases means that the next couple of years remain uncertain for the leisure market with operators likely to continue to take a more cautious approach. Maintenance risk largely depends on the age and condition of buildings, with the operator's general preference being to share the maintenance risk with the Council particularly for older facilities. Under the Council's original contract with EA, EA were responsible for up to the first £5k of maintenance costs per item, with the Council responsible for additional costs above £5k.

3.3 The 2022 State of the UK Fitness Industry Report, produced by The Leisure Database Company confirmed that the penetration rate (the proportion of the adult population in the UK that were members of a gym) has dropped from 15.6% in 2019 to 14.6%, The report highlights that the pandemic has impacted the industry negatively by approximately 3 years. The industry is taking time to recover to pre-pandemic levels which is also due to consumers adapting to new exercise habits, including online and hybrid models.

3.4 New 10 Year Planned Preventative Maintenance Reports for all 3 sites were commissioned and final reports completed in October 2022. In addition to running costs an additional £5.53m in capital costs were identified across the 3 centres. The breakdown by centre was as follows:

Leisure Centre	Total Capital
Harrow Leisure Centre	£3.8m
Hatch End Swimming Pool	£912k
Bannister Sports Centre	£818k
Total	£5.53m

A focus on just health and safety and operational costs reduces the total estimate to £3.1m for all 3 sites with capital funding for these works having been added to the Council's Capital Programme for the period 2023/24 to 2025/26. Completing these works prior to the commencement of a new leisure contract is likely to make the management of Harrow's facilities more attractive to an

operator and result in more advantageous financial submissions from bidders. Hatch End Swimming Pool, for example, has been closed for extended periods over the last two years whilst essential maintenance work has been completed. However, the Council is currently receiving negative feedback on fittings and furnishings, especially for Harrow Leisure Centre and Hatch End Swimming Pool. If this is not addressed, it is likely to lead to a reduction in memberships and income.

3.5 A 'Shadow Bid' was undertaken by the Sport, Leisure, and Culture Consultancy (SLC) to inform the procurement of a new Leisure operator. Further information is provided in exempt Appendix 5.

3.6 SLC's findings were based on

- Data from recent leisure procurement bids on key income and cost ratios for leisure services.
- Assessment of Everyone Active's financial information (including income performance, energy costs, and staff costs)
- 10 Year Planned Preventative Maintenance Reports on Harrow Leisure Centre, Hatch End Swimming Pool, and Bannister Sports Centre.
- Estimates of performance and the cost of services and facilities over a ten – fifteen-year contract.

3.7 and 3.8 Please see exempt Appendix 5.

3.9 Further information is provided in exempt Appendix 5.

The further extension of the current leisure contract for a further 12 months will enable a Leisure Investment Strategy to be completed. Any tender for a new operator would need to include the Council's Leisure Investment Strategy, which could either be for a significant refurbishment of the current ageing assets or the replacement of those assets to ensure that that the tender is attractive to operators and to ensure the best financial return for the Council from a new contract. It has been agreed that a Leisure Investment Strategy would be developed through the implementation of the Council's Corporate Asset Strategy and the Strategic Asset Management Plan subject to Cabinet approval.

3.10 EA has produced a financial forecast for 2024-25 that would result in the same reduced annual management fee to the Council as was the case in 2022-23. As explained in section 3.2 this is due to the slow and stagnating rate of recovery following the Covid-19 pandemic, with the recovery in income and attendance that has been achieved after the reopening of leisure centres has been offset by increased operating costs. The annual management fee payable to the Council is detailed in Appendix 2. Further information is provided in exempt Appendix 5.

3.11 A high level assessment of bringing the management of the leisure centres back in-house has been undertaken using the 2022-23 financial forecast for the current contract and actuals as a baseline. Further information is provided in exempt Appendix 5.

4. Options Considered

4.1 Option A – The extension of the Council’s current Tri-borough leisure contract (with the London Boroughs of Brent and Ealing with Everyone Active (SLM Ltd) for 1 year until 31st August 2025. This will enable the market to further recover from the impact of the Covid-19 and cost of living crisis which has generated a slow and stagnating rate of recovery across the leisure sector, particularly by older leisure sites. Significant increases in energy costs, increased staffing costs and other costs of living increases have also impacted the recovery. A further contract extension will also enable the health and safety and operational works identified by the recent Condition Surveys to be completed. A contract extension will also enable a Leisure Investment Strategy to be completed once the Council’s Corporate Asset Strategy has been adopted and provide sufficient time to complete all the tasks required to put in place the new management arrangements at the end of the existing contract.

This option is recommended

4.2 Option B: Bring the management of the leisure facilities back in-house at the end of the current leisure contract with Everyone Active (SLM Ltd). Further information is provided in exempt Appendix 5.

This option is not recommended

4.3 Option C: Commence a re-tendering of the management of leisure facilities in order to commence a new contract from the 1st September 2024 for Harrow only. Further information is provided in exempt Appendix 5.

This option is not recommended

5. Ward Councillors’ comments

5.1 N/A – the recommendations in this report affect all wards.

6. Performance Issues

6.1 The Council will be able to specify the performance measures in the contract. These could include annual targets for fitness and swim memberships, visits to all 3 leisure centres, and the profit/surplus to be generated.

7. Risk Management Implications

7.1 Risks included on corporate or directorate risk register? **No**

7.2 Separate risk register in place? **Yes**

7.3 The relevant risks contained in the register are attached/summarised below. **Yes**

7.4 The following key risks should be taken into account when agreeing the recommendations in this report:

Risk Description	Mitigations	RAG Status
1. If the recommendations are not accepted the Council will have insufficient time to put in place a strategy and investment plan for leisure services	<ul style="list-style-type: none"> ▪ Cabinet approval sought for a further 1-year contract extension and provided the mitigation is accepted this is Green 	GREEN
2. If the above recommendation is accepted, the long-term strategy and investment plan for leisure services is then not put in place by end of the contract extension period	<ul style="list-style-type: none"> ▪ Work has already been progressed on the strategy with council colleagues (Facilities and Estates) ▪ Brief for strategy taken to corporate landlord's group to be consistent with the council's corporate asset strategy ▪ Corporate landlord group regularly updated on progress ▪ Specialist support on the strategy to be recruited by the end of the summer 	GREEN
3. If the further extension of the leisure contract is not agreed an earlier procurement would not be successful and/or unable to meet the needs of the Council	<ul style="list-style-type: none"> ▪ Cabinet approval sought for a further 1-year contract extension 	GREEN
4. There is a theoretical challenge from other leisure management contractors about the extension of the Council's current leisure contract with EA as the contract does not include an option to extend the contract beyond the initial contract period of 10 years.	<ul style="list-style-type: none"> ▪ Procurement and legal advice is that the extension is permitted under public procurement rules, and the contract will only be extended for the minimum period necessary to reduce the risk of challenge ▪ Analysis of the leisure market indicates that it is still recovering from the impact of the Covid-19 pandemic from which there has been a slow and stagnating rate of recovery. 	GREEN

Risk Description	Mitigations	RAG Status
	<ul style="list-style-type: none"> ▪ All the main leisure operators have been extending local authority leisure contracts due to the ongoing impact of the Covid-19 pandemic 	
<p>5. A reduced management fee is payable to the Council from EA for the contract extension period resulting in a financial pressure</p>	<ul style="list-style-type: none"> ▪ Any profit over the agreed management fee would be shared with the council. 	AMBER
<p>6. The management fee agreed with EA for the contract extension period has to be further reduced due to unforeseen costs and/or reduced income</p>	<ul style="list-style-type: none"> ▪ See mitigation above ▪ An annual minimum management fee has been agreed with Everyone Active for the further contract extension period ▪ It has been agreed with Everyone Active what the impact of higher utility costs compared to their current fixed price provision would be. 	GREEN
<p>7. New management arrangements for the Council's leisure facilities are not implemented at the end of the contract extension period due to unforeseen delays</p>	<ul style="list-style-type: none"> ▪ A Tri-Borough Leisure Services Project Board has been set up to oversee the work required to ensure that the new management arrangements can be implemented at the end of the extension period. This includes officers from Procurement and Legal. ▪ A Procurement Project Plan has been developed setting out all the key milestones to ensure that a new leisure contract can commence from the 1st September 2025. 	GREEN
<p>8. The health and safety and operational works identified by the</p>	<ul style="list-style-type: none"> ▪ The request for the release of funding taken to the Council's Capital 	AMBER

Risk Description	Mitigations	RAG Status
condition surveys are not completed by the end of the contract extension period due to unforeseen delays.	Forum in April 2023 and is now being reviewed by the Portfolio Holder. <ul style="list-style-type: none"> ▪ Early engagement with the Council's Facilities Department to agree the programme and procurement of the works 	
9. There is a reduction in the performance of the contract during the new contract period with EA	<ul style="list-style-type: none"> ▪ The contract includes Key Performance Indicators (KPIs). The KPIs will be regularly monitored at monthly contract meetings. 	GREEN
10. See exempt Appendix 5	See exempt Appendix 5	See exempt Appendix 5

8. Procurement Implications

8.1 The existing leisure contract with EA does not include an option to extend the contract. For public contracts, however, provided that any increase in price does not exceed 50% of the value of the original contract, Regulations 72 (1) (b) and (c) of the Public Contracts Regulations 2015 permit an extension of a contract where necessary to accommodate additional services from the original contractor, which were not included in the initial procurement, where a change of contractor cannot be made for economic or technical reasons, and would cause significant inconvenience or substantial duplication of costs for the Council, and the need for an extension arises in circumstances which could not have been foreseen. The Head of Procurement is of the view that the recommendation set out in section 1 are permissible under the Public Contracts Regulations 2015.

8.2 Procurement have been fully engaged in bringing forward the recommendations set out in section 1 of this report and are of the view that the extension of the contract by a further 1 year is justified for multiple reasons; from a commercial perspective to allow the leisure market further time to recover from the effects of the pandemic and the cost of living crisis comprehensively; from a council perspective to review our strategy for the future provision of leisure services and to work collaboratively with the partner boroughs on this contract.

8.3 Procurement will continue to support the Head of Service – Culture and Leisure to develop a procurement plan and strategy for the leisure services should the council decide this is the preferred model for the service.

9. Legal Implications

- 9.1 Regulation 72(1)(b) of the Public Contracts Regulations 2015 (PCR 2015) permits the extension of an existing contract where the extension is necessary to accommodate additional services by EA, which have become necessary because a change of contractor cannot be made for economic or technical reasons and would cause significant inconvenience and costs for the Council. Any increase in price must also not exceed 50% of the value of the original contract (subject to indexation).
- 9.2 Regulation 72(1)(c) of the PCR 2015 permits an extension of the contract where the need for the extension arises from circumstances which could not have been foreseen. The change must not alter the overall nature of the contract, and any increase in price must not exceed 50% of the value of the original contract.
- 9.3 This report sets out the reasons why the extension is necessary, including due to the ongoing impact of Covid 19 and the cost of living crisis, which has prevented the Council from properly planning and letting a new contract. The Council needs the additional time to properly prepare and go out to market for a new contracts. The period of extension should be no longer than reasonably necessary to allow the councils to prepare properly go out to procurement for new contracts in compliance with the PCR 2015.
- 9.4 When relying on these grounds to extend the contract, the Council must publish a modification notice to Find a Tender (Regulation 72(3) and (4) of the PCR 2015). The PCR 2015 do not expressly stipulate a timeframe for publication of a modification notice. Given the need for transparency, the notice should be published as soon as reasonably practicable after the decision to extend is made.
- 9.5 Legal Services should be instructed to agree the terms of the contract extension.

10. Financial Implications

- 10.1 Under the original 10-year contract with Everyone Active, the Council receives a net management fee income of £0.750m per annum. However, since the beginning of the COVID-19 pandemic, it has not been possible for Everyone Active to provide the same level of management fee. Financial subsidies including the waiving of management fee and/or funding their trading deficit were agreed under several Deeds of Variation. In 2022/23, the Council received a reduced management fee of £255k.
- 10.2 Cabinet in October 2022 approved an extension of the contract by 12 months covering the period from September 2023 to August 2024. A management fee has been agreed with Everyone Active and this is detailed in the exempt Appendix 2. The proposal to enter into a further 12-month contract extension from September 2024 to August 2025 will

provide the Council with a further management fee, which is also detailed in the exempt Appendix 2.

- 10.3 In the 2023/24 MTFS, a growth budget was provided to Leisure Services to reflect the reduction in management fee for 2023/24. The budget implications of the proposed contract extension are summarised in the exempt Appendix 3. There is a small budget pressure of £16k in 2023/24 which will be managed within the service. For 2024/25, the management fee offered by Everyone Active is dependent on the level of utility costs at the time of contract extension. Everyone Active is currently on a fixed rate for utilities but this will end in March 2024. Due to the volatility of energy market, it is difficult for Everyone Active to provide an accurate financial forecast at this stage, however indicative figures show that there may be a forecast pressure of circa £100k in 2024/25. Beyond August 2025, the financial implications are subject to the contract re-procurement and will be informed following the completion of the exercise. This will need to be managed in future years' MTFS.
- 10.4 The 2023/24 approved Capital Programme has included a budget provision for completing health & safety related and/or operationally required works for the three leisure facilities. These works were identified following a condition survey and were £3.314m in total as shown in the table below.

	2023/24	2024/25	2025/26	Total
Leisure site	£'000	£'000	£'000	£'000
Harrow Leisure Centre	2,047	0	126	2,173
Hatch End Swimming Pool	650	0	40	690
Bannister Sports Centre	258	13	0	271
Total Capital Funding	2,955	13	166	3,134

- 10.5 As part of the review of future leisure service provision, the “in-house” service option was explored. Further information is provided in exempt Appendix 5.
- 10.6 Please see exempt Appendix 5.
- 10.7 The Leisure Investment Strategy is estimated to cost up to £75k. This cost will be contained within current resources, from the Regeneration revenue budget of £1.25m.

11. Equalities implications / Public Sector Equality Duty

11.1 An Equalities Impact Assessment (EqIA) has been conducted (Appendix 1). The EqIA identified that the recommended option would not have an adverse impact on any of the protected characteristics. The further extension of the current leisure contract with EA for 1 year would mean that the same range of sport and leisure activities will be available as has been available under the current leisure contract.

12. Council Priorities

12.1 The decision sought will support the Council's vision of 'Restoring Pride in Harrow' and the corporate priorities of 'A council that puts residents first' 'A Borough that is Clean and Safe' and 'A Place where Those in Need are Supported'. The extension of the current leisure contract will assist residents' health and well-being, and the development of a Leisure Investment Strategy will help to ensure that residents have the leisure and well-being facilities they want and need in the future, with Harrow becoming a place where residents want to spend their time.

Section 3 - Statutory Officer Clearance

Statutory Officer: Jessie Man

Signed on behalf of the Chief Financial Officer

Date: 25/04/23

Statutory Officer: Stephen Dorrian

Signed on behalf of the Monitoring Officer

Date: 05/05/23

Chief Officer: Dipti Patel

Signed off by the Corporate Director

Date: 15/05/23

Head of Procurement: Nimesh Mehta

Signed by the Head of Procurement

Date: 21/04/23

Head of Internal Audit: Neale Burns

Signed on behalf of the Head of Internal Audit

Date: 12.05.23

Has the Portfolio Holder(s) been consulted? Yes

Mandatory Checks

Ward Councillors notified: NO - impacts on all Wards

EqlA carried out: YES

EqlA cleared by: Jennifer Rock

Section 4 - Contact Details and Background Papers

Contact: Tim Bryan – Head of Service, Culture and Leisure. Tel. 07917076800. Email: tim.bryan@harrow.gov.uk

Background Papers:

- i. The Sport, Leisure and Culture Consultancy Leisure Shadow Bid Report, January 2023
- ii. Capita Planned Preventative Maintenance Reports – Harrow Leisure Centre, Hatch End Swimming Pool, and Bannister Sports Centre, October 2022
- iii. Procuring Leisure, Sport, Physical Activity and Active Wellbeing Services in the Current Climate Think Tank Seminar Report' by The Sport, Leisure and Culture Consultancy Report, February 2023

**Call-in waived by the Chair of Overview and Scrutiny Committee
- NO**