

# REPORT FOR: **CABINET**

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<b>Date of Meeting:</b>	20 June 2012
<b>Subject:</b>	Commissioning of Libraries and Leisure Management Services
<b>Key Decision:</b>	Yes
<b>Responsible Officer:</b>	Paul Najsarek, Corporate Director, Community Health and Wellbeing
<b>Portfolio Holder:</b>	Councillor David Perry, Portfolio Holder for Community and Cultural Services Councillor Thaya Idaikkadar, Deputy Leader and Portfolio Holder for Property and Major Contracts
<b>Exempt:</b>	No
<b>Decision subject to Call-in:</b>	Yes
<b>Enclosures:</b>	None

## **Section 1 – Summary and Recommendations**

This report sets out the work conducted so far for the potential commissioning of library and leisure management services in partnership with Brent (leisure) and Ealing (libraries and leisure). The report also seeks approval to proceed to the next stage to include invitations to tender and evaluation of any tenders prior to bringing a further report to Cabinet with the outcome of the tender process for approval of award or alternative delivery model.

### **Recommendations:**

Cabinet is requested to:

- 1.1 Note the work carried out on the cross borough leisure and libraries market testing including the proposals relating to further development of a shared service.
- 1.2 Note the further work carried out on the development of the full service specification and the preparation for formal market testing and procurement.
- 1.3 Delegate authority to the Executive Director of Community, Health and Wellbeing in consultation with the Portfolio Holders for Community & Cultural Services and for Property and Major Contracts, to invite tenders, engage in discussion with bidders and proceed with the evaluation of tenders following any necessary consultation and equality analysis of the proposals (as outlined in 3.2 below).
- 1.4 Note that a further report will be brought back to Cabinet with recommendations for the award of contract(s) and/or suggesting alternative delivery models.
- 1.5 Approve the proposed outline collaborative governance arrangements and note that a report will be brought back to Cabinet to seek approval, prior to entering into those arrangements, in due course.

**Reason:** To deliver the next phase of transformation of Harrow's cultural services and to ensure the continuation of leisure and library service delivery whilst at the same time delivering efficiency savings.

## **Section 2 – Report**

### **2.1 Introduction**

2.1 On 19 January 2012, Cabinet considered a report on the Future of Cultural Services in Harrow and approved the delegation of authority to the relevant Corporate Directors in consultation with the Portfolio Holders for Community & Cultural Services and for Property and Major Contracts to explore the commissioning of leisure and library services in collaboration with partner boroughs (currently Ealing and Brent for leisure management and Ealing for library services) ... subject to further final approval of the service delivery options by Cabinet. This was on the basis that the outcome of this work would be reported back to Cabinet with a recommendation as to the best option for the collaborative commissioning of services.

2.2 The January 2012 report outlined the work undertaken by officers from Ealing, Harrow and Brent in assessing the feasibility of jointly commissioning library and leisure services and sought approval to move to the next stage of tendering subject to Cabinet approval of the final details. This report covers the work undertaken subsequent to the approval in January and sets out the options for future service delivery.

2.3 The cross borough senior officer steering board (the Brent, Ealing and Harrow Strategic Cultural Partnership) continues to meet on a monthly basis to progress the project with the established working group made up of service heads and specialists from each borough being responsible for the day to day delivery of the project.

2.4 Collaborative working across the three Boroughs has provided the sharing of procurement costs and resources. This also creates a relatively large 'package' of facilities and services to put to the market, which may enable potential providers to achieve economies of scale and pass these savings back to the Councils who take part in the procurement.

### **3. Options considered**

In line with the Future of Cultural Services Review Cabinet report January 2012, a Prior Information Notice was published to signal intent to the market, and to stimulate interest in the exercise. Furthermore at the end of April a Pre Qualification Questionnaire was issued. A number of enquiries / expressions of interest have been received as a result of this (nine to date), giving confidence that this further engagement can result in a positive outcome. Officers are now seeking approval for the next steps in this process and have outlined the following options.

3.1 The following four options have been considered:

- a) *Option 1.* The current interim leisure management contract expires on 30 April 2013. Harrow could attempt to let a leisure management contract on its own for a period of ten/fifteen years. Library services would remain in-house. Whilst a reasonable bid for leisure management services could be expected (including capital investment proposals) this option would not provide additional efficiency savings to the delivery of library services and, in addition, client-side costs would remain the same.
- b) *Option 2.* Tender for leisure management services jointly with Ealing and Brent Councils, with library services remaining in-house. Again soft market testing has indicated strong interest in leisure management services as the contract would cover ten facilities across the three boroughs. This option would not provide any additional efficiency savings to the delivery of library services, although some additional savings could be expected from streamlining the leisure client function.
- c) *Option 3.* Tender for leisure management services with Ealing and Brent (as in option b) above; develop a shared library service with Ealing. Whilst this option would provide some additional efficiency

savings to the library service, it would not maximise potential savings and the establishment of a shared service is likely to take longer and not provide full-year savings in 2013/14.

- d) *Option 4*. Commission both library and leisure management services (libraries with Ealing Council and leisure management with Ealing and Brent Councils) as the Brent, Ealing and Harrow Strategic Cultural Partnership. This option can maximise potential savings whilst at the same time reducing management costs for clienting arrangements across the three boroughs. The commissioning would be in three packages – libraries alone- leisure centres alone – libraries and leisure as one package. At this stage it is not possible to judge how many organisations in the market are able to provide effective management services for both libraries and leisure management.

3.2 Officers recommend that approval is given to proceed with Option 4 (as outlined in 3.1 d) above) to invite tenders, engage in discussion with bidders and proceed with the evaluation of tenders (to include consideration of a wide number of criteria including, quality, efficiency and sustainability) following any necessary consultation and equality analysis of the proposals and that a further report will be brought back to Cabinet in December 2012 for a decision to award a contract(s) and/or suggest alternative delivery models.

3.3 Options 2, 3, and 4 above will require formal collaborative governance and shared client arrangements. This is outlined in paragraph 5 below and will be the subject of a further report to Cabinet in December 2012 with the outcome of any tender process, if approval is given to proceed to this stage. Officers recommend that Cabinet approve the outline governance arrangements subject to that final approval of recommendations (prior to entering into those arrangements) in December 2012.

## **4 Background**

### **4.1 Market for Leisure and Library Services**

The second round of soft market testing confirmed that, while as previously found, the libraries market is much less mature, it is very much an area in which potential contractors are interested. During the soft market testing phase, three specialist library service providers attended whilst other providers better known for their leisure management service provision also indicated how they had been developing the library side of their business. The soft market test showed that there was a definite interest from the market in the three boroughs' proposition for collaborative commissioning of both libraries and leisure services. Since that time, a number of library services (including in London) have been commissioned through external providers.

## **4.2 Scope of Services**

Services identified as in scope for Harrow from the start of the contract would be as follows:

- All eleven existing libraries;
- Libraries back office support services;
- Home library service;
- Schools Library Service
- Harrow Leisure Centre;
- Bannister Sports Centre and Track;
- Hatch End Swimming Pool

The contract length for leisure services will be 10 years. Given that the libraries market is less well developed, the contract for libraries services will be an initial 5 years, with the option for a 5 year extension subject to satisfactory performance.

## **4.3 Pricing alignment**

As part of the development of the service specifications, all of the boroughs investigated the feasibility of aligning fees and charges across the boroughs. However, analysis of the impact of this for leisure charges showed that in every scenario modelled there would be a significant negative impact on at least one borough's income and/or very high increases for users in at least one borough. Therefore the boroughs have decided not to take this further at this time.

As part of the market testing discussions, providers will be asked to make proposals for future development of leisure cards, which can then be worked up and explored in more detail during the life of the contract if appropriate.

## **4.4 Development of the specification**

Officers have developed separate draft service specifications for leisure services and libraries; these will be issued as two 'lots' within one set of the Pre Qualification Questionnaire/Invitation to Tender documents. These specifications are available as background documents to this report.

The specifications have been written to be outcome-based. The Boroughs have specified what is required from the service (i.e. what outcomes need to be achieved), and then it is for service providers to say how exactly they will provide and achieve this service.

Within the specifications there are certain borough-specific elements which providers will be asked to price separately for e.g. Brent wish to continue the provision of free swimming for under 16's. Any additional costs arising from borough-specific services will be met by the responsible borough.

It is not necessary to consult again with our users and residents as there are no specified changes to the proposed service for leisure. The current consultation on the library service will inform the next tranche of transformation of the library service and the specification of the library service.

#### **4.5 Leisure and Library Specification Service Dimensions**

The Partnership will issue an Invitation to Tender (ITT) to those organisations that demonstrate acceptably in a Method Statement their capability and proposals for achieving the minimum requirements in relation to:

- Service user experience and relationship management
- Sustainability – Equality, Social & Economic, Environment
- Staff planning, management and development
- Health & safety
- Cleaning and housekeeping
- Marketing and communications (including ‘outreach’)
- Maintenance, environmental conditions and security
- Catering and vending
- Mobilisation, business continuity and exit planning

These relate to minimum requirements for the leisure and library services themselves. Most requirements are common to all three councils. Others, where indicated, remain specific to the service of each council in the Partnership:

There are targeted aims for each of the services to ensure that meeting residents’ needs is foremost in service delivery proposals (see paragraphs 4.7, 4.8 and 7). In addition, the following financial aims for Leisure and Libraries services have been identified:

- Delivery of economies of scale
- Tax based savings
- Operational efficiencies
- Increased annual income
- Increased investment in the facilities

#### **4.6 Leisure Centre opening hours (service availability)**

The contracted Service Provider will have the option to operate the facilities outside of the minimum opening hours, subject to planning constraints. The three councils recognise the potential for the Partnership’s objectives to be furthered through changes to the opening hours (and defined ‘off-peak’ times) at the leisure centres. Changes may meet new demands, the demands of specific groups, increase use and income or achieve operational efficiencies, but implemented with the consent of the relevant commissioning authority. Organisations with proposals for changes to the minimum opening hours/off-peak times will include these within their Method Statement showing the rationale for the change.

#### **4.7 Targeted leisure services**

The contracted Service Provider will be required to pro-actively play a part in delivering the shared aims of the councils with regard to ensuring that the leisure centre services are used more by children and young people, older people, more people with particular health needs (e.g. obesity, exercise referrals), and by more people from those groups that are traditionally under-represented in the use of leisure centre services. These groups include disabled people, some Black, Asian and minority ethnic groups, women and girls and people on low incomes.

Leisure service expected outcomes:

- Increased participation
- Improved public health
- Raised customer satisfaction
- Improved environmental sustainability
- A positive impact on social and economic sustainability

#### **4.8 Library Service user experience and relationship management**

The contracted Service Provider will be required to pro-actively play a part in delivering the shared aims of the councils for libraries as follows:

- Libraries will be welcoming and user friendly and display a professional image
- Sufficient staff will be on site with the appropriate skills, knowledge and training to deliver the service and address the needs of users.
- There will be a prompt and professional response to telephone enquiries and messages and the service will be effective with up to date systems.
- Effective booking and loan and reservation arrangements and procedures that are clear to users whether in person, on the telephone, or on web sites will be in place.
- Customer care policies, standards and library rules/ codes of conduct etiquette will be displayed in a professional and clear manner and meet the standards published by each council.
- The Customer Service Excellence Standard or its equivalent should be achieved within 18 months of the contract commencement.

Library service expected outcomes:

- Increased use – across the two councils’ library services- particularly in the under- represented groups
- A broader community service offer from the library buildings - libraries as community hubs
- Raised customer satisfaction – across the libraries in the scope of the contract
- Improved environmental sustainability across all libraries in the scope of the contract
- A positive impact on social and economic sustainability.

#### **4.9 Partnership working**

In working to achieve the Brent, Ealing and Harrow Strategic Cultural Partnership’s aims for the contract to increase participation, particularly by children and young people, people with particular health needs, and by under-represented groups, the Service Provider will be required to take a proactive approach to working with an appropriate range of partners, at local, sub-regional (West London), regional (London) and national levels.

#### **4.10 Fees and charges (including concessions)**

In determining/agreeing annual activity prices, membership and pay and play pricing options and discounts, the councils seek to ensure these:

- Are affordable to people on low incomes
- Encourage increasing participation
- Generate sufficient income to sustain the leisure centre services

In the Invitation to Tender (ITT) at the second stage of this procurement, each Council will set out those activities over which it wishes to retain control of prices under the contract to ensure they remain affordable to people on low incomes, the prices that will apply for these activities in year one of the contract, and provision to be made annually for increases to the controlled prices to account for inflation.

#### **4.11 Control over library stock**

One of the key variable elements of library budgets is the amount of money available for purchase of stock. In order to ensure that partner boroughs have control over expenditure for new stock, and this budget is not used for either efficiency savings or other purposes, the specification ensures that the stock budget is retained by each borough. Payments to the contractor for stock will be on the basis of receipts provided on a quarterly basis. This ensures that any decisions about variations in the stock budget remain with each participating authority.

#### **4.12 Procurement**

Procurement is in the form of two ‘lots’ i.e. one for the management of leisure / sports facilities and another for the management of library



facilities / services. Bidders can bid for single lots or both lots, so none of the current providers will be excluded from the process. In addition, it is hoped that this approach will encourage the market to form consortia (as indicated by some organisations during the soft market test exercise).

As leisure and libraries services are defined as Part B services under public procurement rules there is a degree of flexibility in how the procurement process is managed. It is proposed to take a two-stage approach, drawing on the most appropriate and useful elements of formal procurement practices:

- Stage 1: PQQ “plus” – to disqualify organisations who as well as failing to provide acceptable basic information, also fail to satisfy minimum requirements for the service.
- Stage 2: Invitation to Tender (ITT), with an element of discussion and negotiation, to really push potential providers to demonstrate the added value and creativity in their approaches.

The evaluation of PQQ plus will fall into two sections:

- Section 1: Qualification questionnaire – Pass/Fail questions covering areas such as fraud, previous experience, organisational policy etc.
- Section 2: Technical questionnaire – scored method statements covering areas such as sustainability, service user experience, staff management, maintenance etc; plus leisure and library specific questions on opening hours, service development etc.

Evaluation criteria for the ITT stage are in development. The aim will be to encourage bidders to demonstrate innovation alongside a strong drive for increased value for money.

A Prior Information Notice was published to signal intent to the market, and to stimulate interest in the exercise. A number of enquiries / expressions of interest were received as a result of this, giving confidence that this further engagement with the market will result in a positive outcome.

#### **4.13 Timetable**

End April 2012	OJEU notice published – PQQ stage begins
June	PQQ evaluation
June	Cabinet report setting out details of specification, EIA and seeking approval to proceed
July	ITT and discussion stage begins – supplier days held

September October	-	Supplier discussions / negotiations
November		Final evaluation
December January	/	Cabinet report – Contract award
April 2013		Contract commences

## 5 Management and governance

### 5.1 Development of Shared Services between the three Councils

At present, each of the boroughs has its own staff, managers and teams. Discussions at the soft market testing stage suggested that providers felt that there was potential for savings in looking at developing a shared service approach across the three boroughs. There is already a degree of collaboration between the boroughs such as stock purchasing through the London Libraries Consortium. Meetings with the other boroughs on further opportunities have taken place and areas covered included:

- Shared leisure and library card with aligned discount schemes;
- Shared management;
- Shared back office teams e.g. libraries support services.

Officers are currently developing a model for shared arrangements for managing the contract and managing the services. It is recommended that from Day 1 of any new service delivery arrangements, a model is implemented whereby each borough retains strategic, commissioning and policy advice and guidance but with each borough managing a functional specialism for the other boroughs. The functional specialisms are as follows

- Leisure contract management (*including for Brent and Ealing, those leisure services not contained within the proposed contract*)
- Libraries contract management

The line reporting for the functional teams will be Head of Service or equivalent in their borough. At this stage no recommendation has been made as to which borough will be the lead for each specialism.

It is the aspiration that as soon as practically possible during the early period of the contract the three councils will move to a fully integrated service with all specialisms reporting into the same structure. This is likely to produce the greatest cost savings both internally and through the contracts.

## 5.2 Governance

Member governance will remain unchanged with service delivery remaining the responsibility of the current Heads of Service or equivalent and with service performance and development regularly reported to relevant members within each borough. Strategic decisions on the future of each borough's services will remain within that borough's governance arrangements and will continue to require decisions by the respective Cabinet/Executive.

The responsible officer role will remain the same for each borough at the Corporate Director level with day to day management of the delivery being the responsibility of the head of service and governed by a service level arrangement. (SLA) between the 3 boroughs.

Officers will report back to cabinet once more detailed proposals have been developed.

- 5.3 One outcome of the tendering exercise, particularly for libraries, could be that it demonstrates that joint commissioning of external providers does not provide a viable level of efficiency savings. If this is the case, Harrow and Ealing will continue to investigate closer sharing of Libraries Management and back office functions to release benefits from shared functions.

## 6 Contractual Relationship between Provider and the Borough(s)

- 6.1 There are a number of areas that will be finalised during the procurement process in order to ensure that the joint provider model delivers best value to the three boroughs. These include:

- Form of Contract between the Boroughs and the provider: the contract arrangements will be determined during the dialogue process with the goal of managing the risks that will be faced during the contract period and ensuring the provider delivers the desired outcomes for residents.
- Building Maintenance and Lease Arrangements: during the procurement process the most cost effective split of responsibilities will be determined to take advantage of the relative tax and funding positions of the leisure and libraries services provider and the authorities. The current model across the boroughs is for routine repairs and maintenance to be transferred to the service provider, with the Council retaining asset replacement liability. The market testing carried out so far suggests that this remains the preferred approach for providers. Please also refer to section 10 'Property and Assets'.

## **7 Customer engagement and consultation**

7.1 Customer engagement is a key area within the proposed contractual arrangements and has been specified as follows;

- The Customer Service Excellence Standard (CSE) or its equivalent is achieved within 18 months of Contract commencement. (The CSE outlines key customer engagement activities as part of its requirements, such as customer forums, satisfaction surveys etc)
- Services are adapted where possible in response to changing user needs
- Barriers to participation for under-represented groups are reduced
- User feedback and complaints are used positively to inform and improve the quality of customer service such as through comment cards, email, website, as well as the recording of verbal comments (e.g. to staff directly or by telephone), feedback is encouraged by staff at all levels, and responses are made within defined timescales and displayed
- Other feedback options are provided and widely advertised to users (e.g. user forums, meet the librarian/leisure manager clinics).
- In each borough (Ealing and Harrow), the service provider is required to establish two Library Service Consultative Groups –one for adults and one for children - within 12 months from the contract commencement, meeting at least twice a year. The methodology and terms of reference are to be agreed with the Authorised Officer. The service provider will be responsible for hosting and taking minutes of the meetings and managing agreed actions.

7.2 Harrow has also proposed that customers may be engaged in meeting prospective service deliverers who have been selected to go forward to formal tender. Although this cannot be part of any formal tender evaluation process, service users feedback on the areas on which they wish service providers to concentrate can be helpful in determining the final specifications for each service. This approach would have to be taken by all three boroughs as part of any process.

7.3 Harrow is currently consulting on its next phase of transforming library services and seeking customer feedback on stock provision, opening hours, the introduction of new ICT and other activities. This feedback will inform any changes made to the library service before the commencement of any contract and will also inform the specification of the library service.

## **8 Implications of the Recommendation**

### **8.1 Resources, costs**

The intention is that the majority of resources will be provided from existing officer time or from within existing budgets in each council. Each borough will be responsible for provision of specialist leads on Leisure and Libraries to cover their own interests. Functional specialisms will be provided on a "Borough Lead" basis to ensure an equitable split of responsibilities.

Overall project and programme management	Ealing
Procurement	Harrow
Legal	Harrow
Finance	Ealing

In addition, each Borough has committed to provide £25,000 to cover costs associated with the project, where there is a lack of existing capability or capacity. This fund (£75,000) will be allocated by the Steering Committee. Committed and expected costs are as follows:

Consultancy support	£19,250
E-procurement tool	£10,000
Legal support	£15,000
<b>Total to date</b>	<b>£44,250</b>

It is likely that further costs will arise from further consultancy support for the procurement exercise itself. For Harrow, these costs will be funded from within existing budgets.

## 8.2 Staffing/workforce

It is expected that council libraries and leisure staff in scope will transfer to any new provider under the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE), which would include, either continued access to the Local Government Pension Scheme or to a broadly comparable pension scheme. Details of this will be negotiated with the provider. Similarly any staff working for Harrow's current leisure provider would transfer to any new provider under TUPE.

## 8.3 Equalities impact

An initial Equalities Impact Assessment has been completed. This has identified that in order to ensure that any negative impact on equalities, human rights and community cohesion is properly considered, the contract with an external provider will include:

- Protection and enhancement of service and targeted provision for low participant groups;
- Quarterly contract monitoring and annual review of contract to review requirements for low participant groups;

- Annual user survey through the contract to identify low participant groups and how they use services, including targeted services.

The Equalities Impact Assessment will be kept under review throughout the project. A full EIA will be carried out on the specification once it has been developed.

## 9 Legal comments

The Public Libraries and Museums Act 1964 makes it the duty of every library authority to provide a comprehensive and efficient library service for all persons wanting to use it. The proposals in this report would support this.

There are a number of legal powers that support the proposal for moving leisure and libraries provision to an external provider, as follows:

a) Power to provide grants to voluntary organisations providing recreation activities:

Section 19 (3) of the Local Government (Miscellaneous) Provisions Act 1976 allows local authorities to contribute by a grant or loan towards the expenses incurred or to be incurred by any voluntary organisations in providing recreation activities which the authority has power to provide.

b) Power to make contributions towards others providing library facilities:

Section 9(1) of the Public Libraries and Museums Act 1964: gives the Council an additional power to make contributions towards the expenses of any other person providing library facilities for members of the public.

c) Power to provide goods and services:

Section 2 of the Local Authorities (Goods and Services) Act 1970 allows local authorities to provide to other authorities and specified public bodies, goods and materials and administrative, professional and technical services on such terms as may be agreed. This is a wide power although it does not extend to services which are not administrative, technical or professional in nature.

d) Power to provide officers:

Section 113 of the Local Government Act 1972 allows an authority to place its officers at the disposal of another authority on such terms as they may agree. An officer provided under section 113 is treated for all purposes as an officer of the recipient authority for the discharge of its statutory functions. Such an officer can therefore hold statutory offices e.g. section 151 or monitoring officer and can exercise delegated authority etc. The providing authority must consult with the officer

before entering into an agreement and it will probably be necessary to vary the officer's contract of employment (see below).

e) Power to delegate:

With the exception of a small number of council-only decisions and functions outside the general rules on delegation, Council functions are either executive, which can be discharged by the executive, an executive member or an officer, or non-executive, which can be discharged by council, a committee, or an officer. Such functions can also be delegated to another local authority (which may then discharge it through a committee or an officer), in the case of non-executive functions (s.101 Local Government Act 1972), and to another authority's executive (regulations under s.19 of the Local Government Act 2000) in the case of executive functions. The function of levying a rate can only be discharged by the authority itself. Non-executive functions may also be exercised jointly by one or more authorities and a joint committee established for the purpose or the functions delegated to an officer. Similarly, executive functions may be exercised jointly by a joint committee of executive members.

f) Power to grant leases or licenses:

The Council has the power to dispose of property under s123 of the Local Government 1972 Act. This is subject to an obligation to obtain the best consideration that can reasonably be obtained (except for leases of seven years or less) unless the Secretary of State's consent is obtained for the disposal whether by means of a general consent or otherwise.

G) General power of competence:

Under section 1 of the Localism Act 2012 the council can do anything an individual can do whether for a commercial purpose or otherwise for a charge, or without charge, and for, or otherwise than for, the benefit of the council, its area or persons resident or present in its area.

## **9.2 Procurement Legal Framework**

Leisure services are categorised as Part B services under the Public Contracts Regulations 2006 (as amended). Part B services are not subject to the full application of the Regulations. However, the Council must still comply with the EU Treaty principles of openness, fairness and transparency, as residual competition requirements still arise in relation to these services, under general provisions of the Regulations and the EU Treaty, on the basis that there is an established competitive market for them. Therefore the procurement needs to take place through an EU compliant advertisement process.

There may be a requirement to procure facility management/building maintenance services as part of the overall project. Facility Management services are classed as "Part A" services. Where a

contract is for a combination of Part A and Part B services, the contract will be deemed to be for the category of services that will account for the majority of the consideration. So as the leisure services contract is mostly Part B, then it will be procured as a Part B service.

TUPE is likely to apply to any transfer of library services to a new provider and to any service provision change in leisure services. The comments in paragraph 8.2 above (Staff and Workforce matters) will apply.

## **10 Property and assets**

- 10.1 Ownership of the properties involved (both libraries and leisure facilities) will remain with the local authority concerned. However, the new provider would operate under a lease or licence to operate from the Council's facilities for the duration of the contract. In order to protect the Council's ability to provide or redevelop new facilities (e.g. redevelopment of Harrow Leisure Centre) the leases of the facilities and the management contract will provide for a right for the council to break the lease(s)/contract on notice. Any compensation rights for the provider will be assessed at the time the break takes effect.

## **11 Financial Implications**

- 11.1 Information on the current gross budgeted income and costs of operating the services within the scope of the contract across the three boroughs is being collated. Account also needs to be taken of any savings already agreed by each council in their medium term financial strategies.
- 11.2 The Business Rate Retention Scheme (contained within the Local Government Finance Bill) does not prevent business rate savings being made within individual services, following the application of charitable relief if a contractor qualifies as a charitable entity. The Council will need to take an overall view of how the service business rate saving element is treated, taking into account the potential impact of loss of business rates income centrally. This will form part of the value for money consideration when looking at overall affordability of the proposal. The project will therefore initially focus on a range of savings that bidders may be able to offer up in a number of other areas.
- 11.3 The specification allows for any potential contractor to consider market forces in the setting of fees and charges in order to maximise income but with maximum charges identified for each borough (see also paragraph 4.3). It is not proposed to offer annual RPI uplift to management fees for the operation of these contracts. The draft contract will require contractors' proposals for incentivised annual savings.



- 11.4. Financial penalty clauses are contained within the draft contract to be levied in the case of 'consistent failure' where consistent failure will be defined as not meeting a specified percentage of service levels within a twelve month rolling period.
- 11.5 The full financial implications will be presented to Cabinet in December 2012 as part of a wider report, detailing the outcome of the procurement / market test, including any potential redundancy costs in support services; these cannot be quantified at this stage.

## **12 Performance Issues**

The Service Provider will be required to collect and report data on the performance standards set out clearly in the specification and contract schedules. This includes standards achieved, any failures of compliance with the minimum standards as specified, and actions taken to remedy any failures.

The Partnership will seek the following outcomes in relation to contract performance monitoring and reporting that:

- The service is focused on delivering a set of agreed outcomes that reflect local community needs
- There is an effective means of measuring these outcomes supplied by the contractor, on a regular basis that enables progress to be monitored and reported which is reflected in payments to the Service Provider
- The information provided by the monitoring and reporting process is used to review and improve the service
- The impact the service is having on these outcomes is able to be evidenced to partners, stakeholders and funders

Provision is made within the contract documentation for termination of the contract if the service provider fails to deliver the outcomes set out in their tender bid.

## **13 Environmental Impact**

The specifications for both services require contractors to demonstrate how they can achieve overall reductions in utilities consumption as well as contributing to wider sustainability. Achievability in these areas will be further tested as part of the negotiations with providers.

## **14 Risk Management Implications**

A full risk log for the project has been developed. The key risks identified are:

<b>Risk</b>	<b>Mitigation</b>
<i>Breakdown in cross-borough working – risk that during the duration of the project, the alliance between the three boroughs breaks down, due to changed political or business drivers.</i>	There is a strong track record of collaboration across West London and a commitment by senior officers, endorsed by Chief Executives and Leaders
<i>Boroughs unable to agree contract or specification details.</i>	In principle, there will be core contract with borough specific contract 'lots'. Each borough will be able to specify what is included and excluded from the contract and when services and / or facilities would be included.
<i>Lack of market - risk that either the market does not exist for some of the services being proposed as in-scope, no single operator would be prepared to take on the range of services being proposed; or the scale of the offering is unattractive to established players in the market.</i>	Market testing and research indicates that the likelihood of this has been reduced and a cross-borough approach would be of high value and market interest.
<i>Lack of capacity to deliver.</i>	Each borough has committed to the process and agreed governance arrangements, including an officer working group and steering committee.
<i>Legislative changes e.g. a potential cashable saving identified early on is based on a reduction in Business Rates (NNDR). The proposed local retention of business rates may adversely impact this saving.</i>	Current understanding is that the benefits from reduced NNDR would be available to the services. However, it is likely that the Council would have to fund this saving. This will be kept under review as the government develops its proposals and legislation.

## **15 Corporate Priorities**

This report incorporates the following corporate priorities:

- Keeping neighbourhoods clean, green, and safe.
- United and involved communities: A Council that listens and leads.
- Supporting and protecting people who are most in need.

by identifying more efficient ways of delivering cultural services in the borough. Cultural services deliver services which contribute to the health and well-being of people who are most in need, for example by providing free access to IT such as email, the internet and office software, and through subsidised sports and leisure facilities that are targeted to older people or those on a range of welfare benefits.

### **Section 3 - Statutory Officer Clearance**

Name: Roger Hampson

on behalf of the  
Chief Financial Officer

Date: 22 May 2012

Name: Stephen Dorrian

on behalf of the  
Monitoring Officer

Date: 22 May 2012

### **Section 4 – Performance Officer Clearance**

Name: Alex Dewsnap

Divisional Director  
Partnership,  
Development and  
Performance

Date: 22 May 2012

### **Section 5 – Environmental Impact Officer Clearance**

Name: John Edwards

Divisional Director  
(Environmental  
Services)

Date: 22 May 2012

### **Section 6 - Contact Details and Background Papers**

**Contact:** Marianne Locke Divisional Director Community & Culture 020 8736 6530 (x 6530)

#### **Background Papers:**

i) Cabinet Report: Future of Cultural Services Review January 2012

ii)PQQ Document 1 Background

iii) PQQ document 4 Draft Libraries Specification

iv) PQQ Document 4 Draft Leisure Specification

**Call-In Waived by the  
Chairman of Overview  
and Scrutiny  
Committee**

**NOT APPLICABLE**

*[Call-in applies]*