

SHAREHOLDER CABINET COMMITTEE	AGENDA ITEM No. 4
14 September 2020	PUBLIC REPORT

Report of:	Adrian Chapman, Service Director: Communities and Partnerships	
Cabinet Member(s) responsible:	Cllr Steve Allen, Cabinet Member for Housing, Culture and Recreation	
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REVIEW OF VIVACITY TRANSITION ARRANGEMENTS

R E C O M M E N D A T I O N S	
FROM: Service Director, Communities and Partnerships	Deadline date: N/A
<p>It is recommended that Shareholder Cabinet notes and comments upon the progress being made to secure the safe transition of services from Vivacity, specifically referencing any points that need to be considered as part of the transition or following transition, relating to the other services overseen by Shareholder Cabinet Committee.</p>	

1. ORIGIN OF REPORT

- 1.1 This report is submitted to Shareholder Cabinet Committee following a request from the Chairman.

2. PURPOSE AND REASON FOR REPORT

- 2.1 The purpose of this report is to describe the progress made to date relating to the transition of Vivacity services to Peterborough Ltd and City College Peterborough, as set out in the Cabinet Member Decision Notice reference AUG20/CMDN/22. A further verbal update will be provided in the meeting as this remains a dynamic process.
- 2.2 The decision to transfer Vivacity services to Peterborough Ltd and City College Peterborough was made using urgency procedures due to the limited timescales to undertake the transfer of services to the council.
- 2.3 This report is for Shareholder Cabinet Committee to consider under its Terms of Reference No. 3.2.2 (a), *'To monitor performance and financial delivery of the companies, partnerships and charities set out above in line with Cabinet approved business plans by means of monthly performance monitoring and scrutiny.'*

3. TIMESCALES

Is this a Major Policy Item/Statutory Plan?	NO	If yes, date for Cabinet meeting	N/A
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4. BACKGROUND AND KEY ISSUES

4.1 The Council entered into a Funding and Management Agreement dated 1st May 2010 with Vivacity Cultural and Leisure Trust under which the assets, staff and responsibility for delivering cultural and leisure services transferred to Vivacity in return for grant payments made by the Council. Services included libraries, culture and heritage venues, sports centres and swimming pools.

4.2 On 18 June 2020, Vivacity served 90 Days' Notice of Termination of the Agreement on the grounds that Regulations made under the Coronavirus Act 2020 constituted a force majeure which had persisted for more than 90 days preventing performance of the services. Services set out in the Agreement will therefore cease to be provided by Vivacity at the end of the day on 16 September 2020.

4.3 This report is being written prior to this date, and it sets out the arrangements being made at time of writing. The work to successfully and smoothly transition services is subject to significant change given the timescales involved and the dynamic nature of the project, and so the Shareholder Cabinet Members will receive a verbal update, including details of final arrangements, during the meeting itself.

4.4 The Council has the right under the Agreement to nominate a new provider instead of operating the services directly. We have given careful consideration as to how best to ensure that services (i) transition successfully, (ii) are run efficiently, and (iii) are developed in accordance with the council's strategic priorities. As a result, services formerly delivered by Vivacity will transition as follows:

- Arts, Culture and Heritage services will transfer to City College Peterborough, the council's adult skills service and part of the Communities and Partnerships service directorate
- Sports and leisure services will transfer to Peterborough Ltd, a wholly-owned company of the council

4.5 All Vivacity staff will transfer under Transfer of Undertakings (Protection of Employment) Regulations (TUPE) to one of these organisations.

4.6 **Arts, Culture and Heritage Services**

4.6.1 At time of writing, the status of arts, culture and heritage services was as follows:

- Central Library – reopened on 10 August
- Bretton, Orton and Werrington libraries – reopened week commencing 24 August
- Hampton Library – reopened on 3 September
- All other libraries, including the mobile library service – will reopen on a date to be confirmed
- Key Theatre – whilst closed to the general public, was available throughout summer for pre-arranged summer schools, and has been running cinema events in a socially distanced way. A full reopening date is to be confirmed
- Peterborough Museum – will reopen on a date to be confirmed
- Flag Fen – will reopen for the 2021 season to the general public, but will be available for school and university visits in 2020 from a date to be confirmed

4.7 **Sports and Leisure Services**

4.7.1 At time of writing, the status of sports and leisure facilities was as follows:

- Vivacity Premier Fitness – reopened on 17 August
- Regional Swimming Pool – reopened on 17 August
- Athletics Track – reopened on 17 August
- Hampton Leisure Centre – reopened on 4 September
- Jack Hunt Swimming Pool – reopened for school use only from the start of term, with the

aim of reopening for community use from 1 October

- Werrington Sports Centre and Bushfield Sports Centre – will reopen following discussions with the Headteachers as these are shared school sites
- Lido – will reopen for the 2021 season
- Bretton Splash Park – will reopen for the 2021 season

4.8 **Other Services**

4.8.1 At time of writing, the status of other services was as follows:

- Community Hydrotherapy Pool – awaiting confirmation of how the facility can be made COVID-secure
- Peterborough Sculpture Trail – sits outside the Agreement between Vivacity and the Council, and will transfer to a third party nominated by Vivacity

4.9 The Service Director for Communities and Partnerships will manage the relationship between the Council, Peterborough Ltd and City College Peterborough, and will set, with those and other partners' input, and under the political leadership of the Cabinet Member, the vision and strategic direction for services going forwards.

4.10 Following the transfer of services to Peterborough Ltd and City College Peterborough, service delivery will be reviewed between the Council and the two service delivery organisations on a quarterly basis considering effectiveness, usage, COVID-19 compliance and value for money. From this the Council will be able to build up a full understanding of service delivery in the COVID-19 and post COVID-19 environment to assess the affordability and viability of services in their current form, and consider how they might need to be adapted going forwards.

4.11 New specifications for the services can be set out from this data and an assessment made as whether to remain delivering via "in house" arrangements (Peterborough Ltd and City College Peterborough) or by other service delivery mechanisms. It is expected that at least four quarters' data will be required to come to this decision point, which will be September 2021.

4.12 To further inform this work, the existing Active Lifestyles strategy will be reviewed to ensure it remains current and relevant, and work will recommence to develop a new culture strategy for the city which will describe an ambitious new vision for the role that arts, culture and heritage needs to play in Peterborough to support recovery from COVID-19, economic growth and development, community cohesion, and educational attainment and aspiration. It is anticipated that this work will be completed in draft form by Christmas with a view to presenting further detail through the normal political governance routes in the new year.

4.13 As described above, the detail summarised in this report is correct at time of writing. However, the Shareholder Cabinet will be provided with the most up to date information during its meeting on 14 September.

5. **CONSULTATION**

- 5.1
- Statutory consultation is underway with Vivacity's staff under TUPE legislation.
 - At time of writing, Vivacity remain responsible for all current services, and are liaising direct with their customers.
 - A date is being arranged for the Cabinet Member and the Service Director to meet representatives of the various 'friends' groups that support Vivacity's work.
 - The Service Director continues to engage with various agencies including Arts Council England and Historic England.
 - The review of the Active Lifestyles strategy and the development of the new culture strategy will be undertaken in very close collaboration with local partners and service users.

6. **ANTICIPATED OUTCOMES OR IMPACT**

6.1 Vivacity services that are subject to the formal Agreement between the council and them will safely, successfully and smoothly transfer to Peterborough Ltd and City College Peterborough.

7. REASON FOR THE RECOMMENDATION

7.1 The process to transfer services from Vivacity to the new arrangements is complex and dynamic, and this report, and the verbal update which will be provided at the meeting, seek to ensure that Shareholder Cabinet members are fully appraised and reassured of the process being followed.

8. ALTERNATIVE OPTIONS CONSIDERED

8.1 Not applicable.

9. IMPLICATIONS

Financial Implications

9.1 Because of COVID-19 and multiple changes to regulations it is not clear what the full costs will be for the services that are transferring, given social distancing and other infection control measures now required. As such the Council will attempt to minimise costs by taking advantage of all Government Schemes made available in July for self-delivered services, as well as submitting a grant request to Arts Council England's Culture Recovery scheme.

Legal Implications

9.2 This programme requires compliance with a range of legislation, including TUPE, the Government's furlough scheme, the Public Contract Regulations, and pension obligations. The project is overseen by an internal board which benefits from dedicated legal support.

Equalities Implications

9.3 Services are initially transferring on a like-for-like basis, albeit they will need to be reviewed in light of COVID-19 guidance. Every effort is being made to try to ensure that services remain available for all as and when they are safe to reopen.

Carbon Impact Assessment

9.4 As this report is to note, there are no carbon impact implications to consider.

10. BACKGROUND DOCUMENTS

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985

10.1 Cabinet Member Decision Notice reference AUG20/CMDN/22

11. APPENDICES

11.1 None.