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| SHAREHOLDER CABINET COMMITTEE | AGENDA ITEM No. 4 |
| 14 JUNE 2021 | PUBLIC REPORT |

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| Report of: | Peter Carpenter, Corporate Director of Resources, Adrian Chapman, Service Director Communities and Partnerships | |
| Cabinet Member(s) responsible: | Councillor Steve Allen, Deputy Leader and Cabinet Member for Housing, Culture and Communities | |
| Contact Officer(s): | Peter Carpenter, Corporate Director of Resources | Tel. 452520 |

DELIVERY OF LEISURE SERVICES SINCE 1 OCTOBER 2020 BY PETERBOROUGH LIMITED

| RECOMMENDATIONS | |
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| FROM: <i>Corporate Director of Resources</i> | Deadline date: <i>N/A</i> |
| <p>It is recommended that the Shareholder Cabinet Committee note:</p> <ol style="list-style-type: none"> 1. Peterborough Limited's performance in the initial part of the contract (since 1st October 2020); 2. The proposal to extend leisure services provided by Peterborough Limited for three additional years to September 2024, to get through the COVID-19 situation and ensure there are viable options to compete against at that time; 3. The required ongoing client arrangements for the contract; and 4. The makeup of the financial remuneration package for Peterborough Limited. | |

1. ORIGIN OF REPORT

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

2. PURPOSE AND REASON FOR REPORT

- 2.1 This report sets out the Council's existing and ongoing Leisure arrangements. The Peterborough Museum and Art Gallery and its associated business case will be discussed at the Shareholders meeting in September.
- 2.1 Given the present arrangements for the delivery of Leisure Services and the magnitude that they have been affected due to the COVID-19 emergency, it is proposed to extend the existing temporary contracts for a further 3 years to September 2024. Given the strain on the sector, this gives the Council and the

present provider the time to reshape the services to reflect the changing requirements and customer preferences.

- 2.3 It is hoped, as per the initial Cabinet Report for the transfer of services to Peterborough Limited (PL) and City Culture Peterborough (CCP) in August 2020, that this extension will give external provider the time to restructure and be able to tender competitively, whatever the final service requirements and their delivery mechanism, in 2024 for these Services.
- 2.4 This report is for [Insert name of Committee] to consider under its Terms of Reference No. 3.3.2 (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

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| 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

Background

- 4.1 On 18th June 2020 Vivacity served 90 Days’ Notice of termination of the Funding and Management Agreement (FMA) for the delivery of cultural and leisure services, as provided for under clause 34.5 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 FMA services. Clause 32.1.4 of the FMA provides that at termination ‘.....the Services shall transfer from the Trust to the Council...’. The Services are defined in Schedule 1 of the FMA which is attached as Appendix 1.
- 4.2 The Council had the right under clause 34 of the FMA to nominate a new provider instead of operating the Services directly. The Council nominated Peterborough Limited respectively as providers of the Services presents an opportunity to restart the Services effectively and efficiently whilst considering the most appropriate model(s) of delivery in the future, considering the impact of Covid 19
- 4.3 These changes were actioned via a CMDN on the 24th August 2020 from the Cabinet Member for Housing, Culture and Recreation.

The Services being Operated

- 4.4 The FMA sets out the services that are to be delivered which can be subdivided as follows:
- Sports Services delivered by PL.
- 4.5 It should be noted, that due to the COVID-19 situation, not all these services have had the opportunity to reopen since their transfer to PL. There have been changes

in legislation and restrictions on how services can be delivered, and this position is constantly changing and will continue to do so in the short to medium term.

- 4.6 Any other services as notified by notices of change (Nocs) which has included the St Georges's Hydro Therapy Pool.
- 4.7 As part of the ongoing process agreed in the August 2020 CMDN service delivery is reviewed between the Council and PL on a quarterly basis considering effectiveness, usage, COVID-19 compliance and value for money. There is now a monthly Culture and Leisure Partnership Board which drives forward the Councils Culture and Leisure strategy with its delivery partners.
- 4.8 It was envisioned that in the initial year of operations, that the Council would have been able to build up a full understanding of Service delivery in the COVID-19 and post COVID-19 environment to assess the affordability of Sports Services. This will not be deliverable within a year and the prospective market is now very fragmented as external providers struggle with services delivery across the Country.
- 4.9 Due to lockdown from November through to the end of March, services have only in the last two months begun to reopen based on Government guidance. With social distancing requirements, even outside, this has a significant effect on the income being generated.
- 4.10 The Council does need to drive its Leisure Strategy forward. The proposed extension to September 2024 is within the terms of the Public Contract Regulations and the Procurement Policy Guidance note PPN02 issued by government in respect of COVID-19 impact and contract variations.
- 4.11 Council will work with PL and CCP to define and implement new specifications for the services. Present views are that these redefined services can be put out to competition in 2024 for either continued delivery "in house" or by other service delivery mechanisms including the voluntary sector or a cooperative model. This will give the external market time to recover from the effects of COVID-19 and be in a position to be able to tender for the services while at the same time ensuring these vital services continue to be delivered to the stakeholders of Peterborough in the interim.

Client Arrangements

- 4.12 As part of the ongoing process, the Council Client side and Peterborough Limited will meet on an ongoing basis via the monthly Culture and Leisure Partnership Board to review government legislative changes, both local and national, and to agree the reopening and re-specification of services.
- 4.13 A Service Level Agreement (SLA) is being crafted to sit alongside the FMA to ensure there are controls, checks and balances to manage the services.
- 4.14 PL will be expected to comply with Council processes and integrate their financial information on a monthly basis to that of the Council. The SLA will also include the remuneration package for both service providers which will be reviewed annually in September/October as part of the MTFs process.

Financial Remuneration Package

- 4.15 The Council's budget for overall Culture and Leisure Services for 2021/22 is £2.6m. It is made up of the following elements:
- £1.4m for utility payments
 - £2.0m as a management fee for the Service providers (PL for Leisure and City Culture Peterborough for Cultural Services)
 - £0.4m for Client-side requirements
 - £1.2m of income from the providers (much of which is a pass through for rent of Hampton Premier Fitness centre.
- 4.16 Given services are only just reopening in April and May and we will not know until June if Social Distancing requirements will be removed or relaxed, an exercise is taking place in June to assess the true ongoing costs (gross and net) of the services. For Leisure this will be done on a facility by facility basis to assess both overall and individual viability.
- 4.17 PL and the Council were successful in bidding for £500k from Sport England in December 2020 to help reopen sports services. This Grant was available to Councils whose services were delivered by 3rd Parties during 2020/21 (Vivacity for the first 6 months of 2020/21)
- 4.18 For the 2021/22 Financial year, as PL are 100% owned by the Council, 75% of lost income for the April to June period will be able to be reclaimed from the Government.
- 4.19 Support Payments (Management Fee) of £2.582 were made to PL and CCP to deliver Leisure and Cultural Services from October through to March. The PL element of this payment was £1.100m.
- 4.20 As part of the monthly review process at the Culture and Leisure Board, the ongoing effects of C-19 on Services, along with availability of external grant funding to restart services and the Councils financial position also need to ensure any scheme ensures that it is appropriate and ensures that PL:
- Has the cash resources to make payments
 - Is recompensed on a cost plus basis for the initial years contract and then for the agreed services as per the updated SLA once agreed from October 2021
- 4.21 The FMA must be reduced over time to help alleviate the Councils Budget situation.
- 4.22 It is clear that initially opening up services and then providing them to our customers will not generate the income that it did pre COVID-19 due to the changes in regulations.
- 4.23 As such, the Council, by providing these services "in-house" initially will ensure that in all conversations around service delivery that the overall financial position is always taken account of including taking full advantage of:

- The Income loss scheme;
- The Job Retention Scheme (Furlough, including the Job Retention Scheme bonus);
- Any further grants schemes that are made available by the Government, to ensure that overall additional costs are minimised.

5. CONSULTATION

- 5.1 There has been consultation with Members and Peterborough Limited on the direction of travel of this paper.

6. ANTICIPATED OUTCOMES OR IMPACT

- 6.1 That the Council and Peterborough Limited are given time to stabilise, reorganise, and run the services taking into account the effects of COVID-19 and the associated recovery from it.

To have services that can be competitively benchmarked from 2024 then it is expected that external providers will be ready to bid for services in open competition.

7. REASON FOR THE RECOMMENDATION

- 7.1 The Recommendations of this report ensure that the services are stabilised in the medium term, with information collected in that period ensuring that the Council makes the right decision for the long-term delivery of the service.

8. ALTERNATIVE OPTIONS CONSIDERED

- 8.1 There are three other options that were considered:

- Giving parts of the service to other providers to run;
- Letting 3rd Parties deliver the Sports service (Charitable and Commercial);
- Setting up another Trust to deliver the services:

At the present time, with the condition of the market these were not thought to be deliverable in the medium term.

A full in house transfer was considered but bringing services into a PCC owned entity gives the services the flexibility to work towards an independent future in the long term and to give them the ability to access funding that may not be available to the Council itself.

9. IMPLICATIONS

Financial Implications

- 9.1 These are set out in sections 3.18 to 3.23. Because of COVID-19 and multiple changes to regulations it is not clear what the full costs are for these services given social distancing and other infection control measures now required. As such the

Council will attempt to minimise costs by taking advantage of all the Government Schemes made available for self-delivered services.

Legal Implications

- 9.2 There are no legal implications arising from this report.

Equalities Implications

- 9.3 The council is committed to the requirements of the Equality Act 2010 and the Public Sector Equality Duty. Employee data will be reviewed to ensure that there is limited or no detriment to individuals with a protected characteristic, as outlined in the Act. The transfer is subject to Transfer of Undertaking (Protection of Employment) Regulations 2006 (TUPE) and therefore this will also be complied with.

Carbon Impact Assessment

- 9.5 The Council has taken over an existing service and so changes will be minimal in the short terms. However, there will be slight reductions in energy and environmental impacts initially as a number of services are not open due to COVID-19 restrictions and will be re-opened on a reduced customer basis. A review will take place over the next year to properly assess how to move forward for the benefit of the Service users and the environment bringing forward measures identified in the energy opportunity assessments as and when appropriate.

Human Resources Implications

- 9.6 490 employees are currently employed by PL and CCP.

10. BACKGROUND DOCUMENTS

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

- 10.1 Funding and Management Agreement dated 1st May 2010 ('the FMA') with Vivacity Cultural and Leisure Trust.

11. APPENDICES

- 11.1 Appendix 1 – Schedule 1 of the FMA