



Belfast City Council

RESTRICTED

Report to:	Strategic Policy and Resources Committee
Subject:	Leisure Transformation Programme – moving towards mobilisation
Date:	17 October 2014
Reporting Officers:	Andrew Hassard, Director of Parks and Leisure; Ronan Cregan, Director of Finance and Resources; Jill Minne, Director of Organisational Development; Gerry Millar, Director of Property and Projects
Contact Officers:	Caroline Wilson, Neighbourhood and Development Manager; Colin Campbell, Principal Solicitor; Sinead Grimes, Programme Manager

1.0	Relevant background information
1.1	At its meeting in August, the Committee were updated on the contractual arrangements being put in place in relation to the Leisure Transformation Programme, in accordance with Committee's direction and legal advice.

2.0	Key issues
2.1	Contract issues <p>Consequent to Committee's authority in August, work is ongoing to prepare a set of agreements which will give effect to Committee's direction. This is in line with Committee's intention that the Council's 'leisure' assets serve a much broader neighbourhood development and social regeneration agenda. The agreements include:</p> <ul style="list-style-type: none">• a payment mechanism which links performance to quarterly payments;• an outcomes framework to measure social regeneration impact as well service standards and outputs;• VAT and surplus share arrangements in order to maximise value for money;• Specific management and performance monitoring arrangements for Girdwood Hub, to work with the Hub Forum and deliver SEUPB required outcomes in relation to peace and reconciliation• Quality standards based on legal, health and safety requirements, as well as industry good practice; and

	<ul style="list-style-type: none"> • Dispute resolution processes. <p>Expert legal and business advisors continue to support Council officers in ensuring that the agreements and funding mechanisms are in line with relevant legal frameworks; maximise VAT efficiency; and reflect industry good practice. Deloitte are also providing a management tool to provide a ‘check and challenge’ function, reviewing final agreements and testing that the final implementation of the new arrangements remain consistent with the business model option agreed by Committee in February 2014.</p> <p>There are a number of specific issues arising from these discussions for Committee’s consideration outlined below.</p>
<p>2.2</p>	<p>Finance and funding mechanism</p> <p>Considerable work has been undertaken to determine the financial resources, running costs and income projections for leisure services, to inform the funding agreement with the Trust and its Strategic Operating Partner.</p> <p>The Director of Finance and Resources has now finalised the financial figures. The Council’s budget would have been £8,855,101 but the payment to the Operating Partner will be £6,851,325 which demonstrates cash savings to the Council of £2,003,776.</p> <p>Therefore, for 2016/17, the contract value will be £6,851,325 which includes the 3 transferring centres and assures Committee that the contract will guarantee cash savings of £2,003,776 by April 2016. This is in line with the capital financing strategy agreed by Committee at its meeting in June 2013.</p>
<p>2.3</p>	<p>Pricing Principles</p> <p>In its strategic principles, Committee has already determined that it wishes to see a 5* service for 3* prices i.e. that it should be an affordable and innovative customer and community-focussed service. All facilities and services shall be provided as efficiently, effectively and safely as possible whilst offering value for money.</p> <p>One of the key benefits of the new arrangements, is that Active Belfast Limited and its Strategic Operating Partner will be able to take a ‘whole-business’ view of price-setting, enabling cross-subsidisation within the service, thereby reducing dependency on rate-borne income. An overly prescriptive approach will constrain income growth.</p> <p>To enable Active Belfast Limited and its Strategic Operating Partner to develop its business plan, Committee is asked to set out a number of key parameters within which it should determine its pricing schedule. It is proposed that the Trust and its Strategic Operating Partner will:</p> <ul style="list-style-type: none"> • Not introduce any change to core and concessionary prices (including staff) within the first 9 months of operations without written consent of Council, except the discretion to apply a rate of inflation increase already agreed by Council; • Provide concessionary rates for certain groups, i.e. those for whom price is a true barrier to participation; • Allow one free admission for carers/parent/support assistant per every disabled

	<p>customer requiring assistance in taking part in a leisure activity;</p> <ul style="list-style-type: none"> • Limit concessions to Belfast City Council residents only from 1 April 2015; • Will submit for written consideration to the Council an Annual Price Review; • Will be permitted to introduce fair market prices for new offers including membership packages that offer value for money. <p>This is in line with the conclusions of the Equality Impact Assessment. Committee will soon be considering a corporate policy on pricing and it is intended that these principles will sit within that.</p> <p>Active Belfast Limited and its Strategic Operating Partner will submit for written consideration to the Council an Annual Price Review, containing a list of proposed prices before the 1st October in each contract year. As part of the annual renewal process, this will be equality screened to identify where any targeted interventions may be required.</p>
<p>2.4</p>	<p>Branding</p> <p>In terms of branding and logos for the new service, there is a need for balance between letting the public know the Council still pays for the service, while at the same time promoting the ‘step change’ in provision. It is proposed that the Council’s logo and the words ‘Belfast City Council’ will be visible on all promotional material and external building signage.</p> <p>The Strategic Operating Partner, GLL has developed a consumer facing brand known as <i>Better</i>. It is used for all its products and services. It is proposed that the brand should be used in the context of its Belfast operation. This will allow the service to utilise existing web infrastructure and marketing materials, providing adaptations where required, limiting cost implications, while at the same time putting the new partnership at the centre of the provision. A draft branding proposition is provided in the appendix.</p> <p>The Strategic Operating Partner will also be required to use the city branding ‘B’ be included in larger marketing campaigns e.g. for city events. The Council will have a home page on our website in relation to leisure facilities with a link to the ‘Better’ (Belfast) website and indicating that this leads to an external website.</p> <p>The ‘Better’ (Belfast) micro-site / website will eventually have new functionality to allow users to book online and search and find far more information about activities, pricing and programmes.</p> <p>It is not anticipated at this stage that Active Belfast Trust will have any branding presence, due to cost implications and complicating the proposition.</p>
<p>2.5</p>	<p>Property Maintenance</p> <p>A detailed responsibility matrix in terms of property maintenance is under development but in summary outlines that:</p> <ul style="list-style-type: none"> – Planned and preventative maintenance remains responsibility of Council – Reactive ‘day-to-day’ maintenance becomes responsibility of GLL – Growth for Business Programme (upgrades/improvements) – to be determined on

	<p>basis of business case submitted for approval to Council.</p> <p>A Service Level Agreement will be required to agree sympathetic planning of works and required performance standards from both parties.</p> <p>It is intended that the property maintenance arrangements are reviewed in 18months.</p>
2.6	<p>Staff interests: Pensions</p> <p>Throughout the Leisure Transformation Programme, the protection of pensions has been a key issue for Members, staff and trade unions. Committee required that the Trust would be expected to provide a broadly comparable pension scheme.</p> <p>At its meeting in September, the NILGOSC Executive Committee accepted the application from GLL to join the pension scheme. This is on the basis of an ‘open scheme’ i.e. will be available to new employees.</p>
2.7	<p>Staff interests: Belfast Living Wage and Casual Workers’ protocol</p> <p>At its meeting in October 2013, the Committee considered the Council motion in relation to the use of ‘zero hours contracts’ and agreed that the Council should develop a policy framework on this matter. In anticipation of this policy position, it is planned that this will be included in the service specification to which GLL will work, in relation to the treatment of ‘casual’ or session workers in leisure. This will ensure that there is no detriment when session workers are unable to accept work and that they should be allowed to indicate the days and times that they are available to work and that they are recruited in a fair and equitable manner in accordance with best practice guidance. GLL has also confirmed that it will continue to use the current BCC list of ‘casual’ /session workers.</p> <p>Members will also be aware that at the Strategic Policy and Resources Committee on 21 February 2014, a notice of motion was tabled regarding the Living Wage. It was agreed that the council would take action to become a Living Wage employer, in consultation with staff and their representatives, and to revise upwards payment to those employees currently receiving below the living wage level. Again, this will be integrated into the service specification as part of the contractual arrangements for leisure services.</p> <p>The importance of these two practices has been discussed with GLL who has stated that it would be supportive of such contractual requirements, in-keeping with their social enterprise ethos.</p>
2.8	<p>Staff engagement, learning and development opportunities</p> <p>Following the appointment of GLL as the Strategic Operating Partner, the Director of Parks and Leisure visited leisure centres and preparation is now underway for direct engagement with transferring employees and GLL. Area managers and the staff engagement group will visit GLL operations elsewhere to gain an understanding of its organisational values, culture and procedures. Other communication materials will be developed and shared with staff over the coming weeks.</p> <p>GLL and Council officers are also currently drafting a learning and development programme for staff. In the first instance, for managers and supervisors, this will focus</p>

	<p>on:</p> <ul style="list-style-type: none"> • Serving the community; understanding of demographics and target groups, devising relevant programmes • Leadership & management; staff development, performance management, succession planning, coaching • Business performance; key performance indicators; budget monitoring and setting • Service quality; cleanliness, energy control, health & safety, customer care & liaison; equipment & facilities; innovation <p>Key performance indicators on employee learning and development will be embedded in the contract.</p> <p>Officers are also facilitating contact for GLL with the Department of Employment and Learning, in order to ensure that apprenticeship and trainee schemes are in place at the earliest opportunity. It is planned that targets about apprenticeships and training schemes will be part of the performance reporting for the Trust and GLL.</p>
<p>2.9</p>	<p>Engagement with Trade Unions</p> <p>Engagement with the Council’s Trade Union Group has been ongoing and will continue through fortnightly meetings until the date of transfer. These meetings provide the platform for TUPE requirements i.e., the provision of information to and consultation with staff and trade unions, as well as discussion around any additional employment related requirements that the Council might want to include in the service specification.</p> <p>Ongoing discussion will focus on employment related policies that will transfer with employees, mobilisation activity, staff engagement, capacity building and apprenticeship schemes.</p> <p>The Trade Union Group has met with members of the GLL senior management team and further engagement between trade unions and GLL is planned over the coming weeks.</p>
<p>2.10</p>	<p>Active Belfast Limited – resourcing and governance</p> <p>At its meeting in August, Committee noted that a process needed to be put in place to fully populate the board of Active Belfast Limited. In terms of populating the full Board of Directors, the legal advisors propose that an optimum number is no more than 12 persons. This allows for a representative board, while at the same time being of a manageable size to make effective decisions.</p> <p>In line with the Council’s aspiration to have stakeholder involvement, as well as precedent such as the Board for the Tall Ships Local Organising Committee and the Belfast Harbour Commissioners, Active Belfast Board, Active Belfast Limited has proposed a composition. This is attached as an appendix. It is anticipated that the full board will be in place by the end of 2015. The Council may at any time by notice in writing to the Active Belfast Limited remove or replace its nominees. At the appropriate point, the interim Council-nominated Directors will step down from the Board.</p> <p>This is in line with existing good practice and effective governance. It is anticipated that</p>

	<p>Pinsent Masons, the trust’s independent legal advisors, will review this proposal to ensure that it is in the interests of Active Belfast Trust.</p> <p>Previously, Committee had considered the potential to make a loan available to Active Belfast Limited. However, further legal advice proposes that this is integrated into the contract between Active Belfast Limited and the Council as a grant award. It is anticipated that this will not exceed £45,000 per annum and will allow the Board of Directors to fulfil their obligations under charitable law e.g. preparation of annual audited accounts; and independent legal advice. There is no expectation at this point of any full-time human resource beyond bought-in services. This will be funded through in-service savings and re-alignment of existing revenue budgets.</p>
<p>2.11</p>	<p>Independence from Council and fiduciary duty</p> <p>Members will be aware that the Trustees would have a fiduciary duty to the Trust i.e. their sole responsibility will be to act in the interests of the Trust (rather than say, the Council). Detailed role descriptions will be developed in advance of the recruitment process, and an induction programme would be drafted for the Trustees highlighting their governance responsibilities to Active Belfast Limited.</p> <p>In order to meet the necessary ‘independence’ test, charitable law requires that there is no undue control by the Council. Historically, representation which does not exceed 20% of the total number of directors has been considered acceptable by the Charity Commission. Anything greater than this proportion may attract scrutiny, from the Charity Commission at the point at which Active Belfast Trust is required to register in the future, and possibly by HMRC when seeking charity tax clearance.</p> <p>As a result of the fiduciary duty, under the Council’s Code of Conduct, Councillors who sit on the Board of Active Belfast Limited will not be able to participate in Council discussions on matters related to the contract performance/planning.</p>
<p>2.12</p>	<p>Committee Scrutiny</p> <p>One of the strategic principles for the Leisure Transformation Programme is ‘democratic accountability’. A draft governance and accountability framework is attached as an appendix in which the final authority rests with the Council, via the SP&R Committee.</p> <p>In this, it is proposed that the Strategic Policy and Resources Committee (and its successor) receives quarterly performance reports on expenditure, outputs, risks and issues from Active Belfast Limited. SP&R Committee will also set the annual strategy and affordability limits for the annual business plan, to be presented by Active Belfast Limited to Council.</p> <p>In order to facilitate Committee’s effective scrutiny of the performance of the Trust, a robust performance monitoring framework will be developed. The degree to which outcomes have been achieved can be measured using a suite of Key Performance Indicators (KPIs), measuring the contribution the Trust makes to the Council in achieving its overall vision.</p> <p>This will also allow the Council to communicate the benefits of the Trust to the rate-payer</p>

	and other stakeholders.
2.13	<p>Neighbourhood asset planning – next capital investments</p> <p>Committee previously requested officers to design a process by which to develop Phases II and III of the capital investment in leisure facilities, including the potential to invest in a city centre facility. There are a number of dependencies in relation to initiating this planning process with Members, including:</p> <ul style="list-style-type: none"> • Upcoming meetings with Department of Culture, Arts and Leisure regarding co-investment opportunities; • The Sports NI Regional Facilities Strategy and subsequent capital funding scheme; • The receipt of a conditions survey on the pool facilities in the Robinson Centre; and • Potential for procurement of multiple projects through single design/build delivery mechanism. <p>It is planned that a detailed engagement plan will be brought to Committee before Christmas for consideration, when further information is available on these and other related matters. Bearing in mind the intensity and quantity of work for Members over the next immediate period, this will set out a consultation and engagement process with Members via the Area Working Groups and party group briefings as well as with other stakeholders.</p> <p>In addition, a remedial/defects maintenance programme (arising from conditions surveys) is being developed and this will be presented to Committee in due course for consideration.</p>
2.14	<p>LTP Assets: Heritage Lottery Fund Expression of Interest</p> <p>The Templemore Users Trust has recently written to the Director of Parks and Leisure seeking the Council’s support in taking the lead in another application to the Heritage Lottery Fund (HLF).</p> <p>In feedback from HLF, it was highlighted that there was insufficient evidence of the Council’s support for the refurbishment of the Templemore Baths in the 2013 bid. Without diminishing the commitment of the volunteer-based Templemore Users Trust, HLF has indicated that a re-developed proposal would be strengthened if the Council was the lead partner.</p> <p>HLF will shortly be seeking expressions of interest for its next round of capital funding. Recognising the benefits of working in closer partnership with Templemore Users Trust and in order that Council may be in a position to draw down additional monies into the LTP capital financing strategy, Committee is asked to consider if it will agree in principle to being the lead partner for the purposes of the expression of interest.</p> <p>Further information will be brought to Committee for consideration over the coming months.</p>
2.15	<p>LTP Assets: Upgrade of Combined Heat and Power (CHP) Units</p> <p>The Council currently has 9 CHP units including 8 in its leisure centres at: Avoniel;</p>

Andersonstown; Ballysillan; Falls; Grove; Whiterock; Olympia; and Shankill – with the other being in the Waterfront. There are a number of issues to note:

- The original funding for many of these units was provided by the DFPNI's Central Energy Efficiency Fund which ceased in 2010 and technology in relation to the units has moved on significantly since this time.
- Many units are currently oversized for the loads they are expected to meet. CHP units of this age cannot easily modulate to lower outputs without significant reductions in their efficiency.
- It is widely accepted that these units are nearing the end of their useful lifespan. Increases in unit down time and maintenance costs mean that some of the units will soon be operating at a loss. Our analysis shows that the average electrical efficiency has reduced by 4% and the thermal efficiency has reduced by 9%.
- Most of the plant is nearing the end of its useful life. Units are at an age where significant engine overhaul works are required to take place. This adds to the existing problem of long down times and high maintenance costs. It is also at a point where the cost of these overhaul works may not pay back over the remaining operational years.
- All of these units were installed and commissioned during the early days of CHP when performance contracts did not come as standard as they do now.

Due to the issues above in 2013/14 the CHP units operated at a loss (£7,731). The performance of units at Avoniel and Olympia negated any savings some of the others made. These units will be investigated further but if no practical solution can be found then it is recommended that these units be switched off until they can be replaced.

There are two main options available:

1. Direct capital investment in new units – Financing the replacement of the 7 of these CHP units (excluding Andersonstown and Olympia) would require an estimated capital investment of approximately £1 million. Under the direct capital purchase option, an approximate £1 million investment would yield potential annual savings of £200,000 with a payback of 5 years.
2. ESCo Contract – This would see a CHP supplier fund, install and maintain the units for their lifetime. All financial and operating risk passes to the supplier. In exchange, a service charge based on the unit output would be payable by the Council to the supplier. Purchasing gas for the units would remain with the Council. Using an ESCo option there would be no capital investment and an annual potential saving of £75,000. A further benefit of an ESCo contract to the Council would be to include the new units proposed for Andersonstown and Olympia within the tender. This would remove the capital cost of these units from the Investment Programme budget.

An ESCo contract could also be extended to the Robinson Centre would potentially bring the number of new units to 10. It is proposed that Committee consider the ESCo option

	<p>which is affordable solution and will address the issues above. If Committee is agreeable, discussions will take place with GLL who will be jointly responsible for their operation under the new leisure arrangements.</p>
<p>2.16</p>	<p>Assurances: Equality Impact Assessment</p> <p>The equality consultation closed on 19 September. The EQIA identified that the Leisure Transformation Programme provides a major opportunity to address current inequalities and improve facilities and services for particular equality categories. It recommends that the Council should therefore put in place measures to maximise the benefits of the Programme, to ensure that the facilities and activities provided are appropriate for all groups in terms of content, location, time of day and price, and that they are appropriately marketed.</p> <p>It also recommended that the Council will also ensure that due regard is given to any equality of opportunity and good relations implications arising from proposed changes to operational policies as part of the annual review of the Trust’s activities, which will include detailed consideration of the business plan for each year.</p> <p>The full EQIA is appended to this report. Committee is given assurance that its conclusions will be reflected and mitigating actions integrated into the final contractual agreements with the Trust and its Strategic Operating Partner. Committee is asked to consider its conclusions and give authority for it to be published in accordance with the Council’s Equality Scheme.</p>
<p>2.17</p>	<p>Assurances: Best Value</p> <p>In terms of the Council’s Best Value obligations, in accordance with the Local Government (Best Value) Act (Northern Ireland) 2002, a consultation was completed alongside the EQIA consultation. The respondents included rate-payers, those currently using services and those not, and those who have an interest in the service, as required by the Act. The key issues identified were in summary: concern regarding an increase in prices, making services and programmes unaffordable, perception of threat of privatisation; reduction of social value programmes e.g. cardiac referral programme and older people’s programmes; and importance of social activities and spaces other than sports e.g. using parks; meeting rooms and cafes; wi-fi.</p> <p>In-keeping with Committee’s direction, the contractual agreements are focussed on a ‘social value’ ethos including the appointment of a social enterprise as Strategic Operating Partner, and the contract will require the Trust and Strategic Operating Partner to address these issues through communications planning and programming.</p> <p>Further consultation feedback will also be available through the Council’s bi-annual corporate public survey which will soon be presented to Committee. The planning and performance mechanisms, as well as a partnership approach, will allow for continuous improvement in the way in which the contract is addressing these issues, having regard to a combination of economy, efficiency and effectiveness, as required by the Act.</p> <p>The contract requires consideration of the Best Value implications every year as part of</p>

	the annual planning process.
2.18 Conclusion	<p>Over the next number of weeks, there is an intensive period of ‘mobilisation’. Members will be kept informed on the transfer process in order that they are fully equipped to answer any queries from the public.</p> <p>Fundamentally, in line with the strategic principles agreed by Committee in April 2014, this will deliver an unprecedented opportunity to re-vitalise our service, by offering fresh programmes and products to improve people’s health in the city, as well as new training for existing employees and bringing in apprenticeships.</p>

3.0 Resource Implications

Financial: A revenue grant is made available to Active Belfast Limited, up to £45,000 per annum to allow the Board of Directors to fulfil their obligations under charitable law e.g. preparation of annual audited accounts; and independent legal advice. This will be funded through in-service savings and re-alignment of existing revenue budgets.

For 2016/17, the contract value will be £6,851,325 which includes the 3 transferring centres and assures Committee that the contract will guarantee cash savings of £2,003,776 by April 2016.

Staff: This is a major service transformation process and the implications for staff will continue to be assessed as part of the transfer process, with continuous consultation and engagement with staff and trade union representatives.

Assets: Legal Services and Estates are developing a suite of leasing arrangements, to sit within the overarching contracts, to ensure the continued protection of the Council’s physical assets.

4.0 Equality Implications

The Leisure Transformation Programme was screened in for a full Equality Impact Assessment. The final report is appended for Committee’s consideration.

5.0 Committee decisions required

Committee is asked to:

1. Approve the overall direction outlined in this paper including the proposed pricing principles, property maintenance framework, branding proposition, pensions arrangements and staff interest issues for integration into the contractual agreements;
2. Recommend that the agreements are advanced and awarded on the basis of the guaranteed £2million savings and the most economically advantageous arrangements for the Council, with full commitment to deliver against the social objectives agreed previously agreed by Committee;
3. In line with the strategic principles agreed by Committee in April 2014, authorise the Deputy Chief Executive and the Town Solicitor to give effect to the that direction and

	<p>finalise the necessary documents, negotiating in the interests of the Council with Active Belfast Limited and GLL;</p> <ol style="list-style-type: none"> 4. Consider Active Belfast Limited’s suggested composition of its Board of Directors and offer guidance on its implementation 5. Approve the Council’s accountability and governance framework for the scrutiny of performance reports and annual plans from Active Belfast Limited 6. Note continuing engagement with the Belfast Trade Unions Group, including formal consultation on the transfer of staff as legally required 7. In consultation with the leisure Strategic Operating Partner, authorise officers to seek an ESCo contractor for the replacement of the Council’s Combined Heat and Power units and to agree that this project is advanced to the invitation of tenders, to be awarded on the basis of most economically advantageous tenders received and full commitment to deliver 8. Authorise the Directors of Parks and Leisure and Property and Projects to prepare and submit an Expression of Interest in partnership with the Templemore Users Trust to the Heritage Lottery Fund; and 9. Note the conclusions of the EQIA and authorise its final publication.
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6.0 Documents Attached

1. Branding proposition – Better/Belfast City Council
2. Proposed governance arrangements and composition of Active Belfast Limited
3. EQIA report