

# Arun District Council

<b>REPORT TO:</b>	<b>HOUSING AND WELLBEING COMMITTEE</b>
<b>SUBJECT:</b>	<b>LEISURE CONTRACT EXTENSION 2027 - 2032</b>
<b>LEAD OFFICERS:</b>	<b>OLIVER HANDSON, ENVIRONMENTAL SERVICES &amp; STRATEGY MANAGER</b> <b>FRASER KIDD, LEISURE &amp; WELLBEING BUSINESS MANAGER</b>
<b>LEAD MEMBER:</b>	Councillor Carol Birch, Chair of Housing and Wellbeing Committee
<b>WARDS:</b>	<b>ALL</b>
<b>CORPORATE PRIORITY / POLICY CONTEXT / CORPORATE VISION:</b>	
<b><u>Overall Aims:</u></b> IMPROVING THE WELLBEING OF ARUN:	
<ul style="list-style-type: none"><li>• To plan services, resources, amenities, activities, and places to help our community thrive.</li><li>• Champion leisure, culture and the Arts in Arun and encourage our community to embrace healthy and active lifestyles</li><li>• Work with partners to provide advice, support and activities that promote and deliver community wellbeing where it will have the greatest impact</li></ul>	
<b><u>How will we achieve this:</u></b>	
<ul style="list-style-type: none"><li>• Work with key partners to ensure that we deliver council wellbeing services that are complementary to their own, rather than duplicate effort.</li></ul>	
<b>DIRECTORATE POLICY CONTEXT:</b>	
To regularly monitor and review the performance of contracts.	
<b>FINANCIAL SUMMARY:</b>	
The Leisure Operating Contract extension proposal offers the Council a secured income over a longer period, with an annual index-linked management fee. Whilst the transition to energy benchmarking entails some added risk if unit prices rise, it also presents potential benefits if prices decrease.	

## 1. PURPOSE OF REPORT

- 1.1 To inform the Committee of the Leisure Operating Contract 5-year extension proposals and seek approval of the Committee to extend the current contract to 2032

## **2. RECOMMENDATIONS**

### **2.1 That the Housing and Wellbeing Committee:**

Approves a 5-year extension of the Leisure Operating Contract from 1 April 2027 to 31 March 2032 based on the information outlined in this report.

## **3. EXECUTIVE SUMMARY**

3.1 This report sets out the proposed 5-year extension to the Leisure Operating Contract with Freedom Leisure and provides detail concerning improvements and initiatives to achieve best value and support delivery of the Council's Wellbeing agenda.

## **4. DETAIL**

4.1 The current Leisure Operating Contract (hereafter referred to as the 'LOC' includes the operation of the Arun Leisure Centre, Bersted Community Centre, Littlehampton Wave and Windmill Entertainment Centre.

4.2 Cabinet approval was given on 14 September 2015 to award the leisure contract to Wealden Leisure Ltd, trading as Freedom Leisure for a period of 10 years from 1 April 2016. An extension of 1-year was granted in August 2020 due to the ceasing of trading during the coronavirus pandemic. The current contract is set to end on 31 March 2027. The option of a 5-year extension, if agreed by both parties was built into the original contract.

4.3 Freedom Leisure are responsible for the operational costs and expenditure associated with the delivery of the service. They retain any income generated and pay an agreed management fee to the council.

4.4 Discussions concerning a potential extension to the LOC have taken place between the parties. Clarifications and proposals have been subsequently reviewed by The Sport Consultancy and Council officers as part of the Council's due diligence. The headline summary provided by The Sports Consultancy is provided from paragraph 4.17 of the report below.

## **SUMMARY OF KEY PROPOSALS**

### **Management Fee**

4.5 Freedom Leisure has committed to the continuation of an enhanced annual management fee for the extension period.

4.6 Full details for the management fee across the duration of the extension period (considered commercially sensitive and therefore provided as exempt information under Paragraph 12 a) are provided as an exempt Appendix to this report.

## **Energy Benchmarking**

- 4.7 Freedom Leisure has included the addition of energy benchmarking within their leisure contract proposals (applicable from April 2025). Due to unit price fluctuations over the past few years, leisure operators are unwilling to accept the potential risk, and it is advised that this would be the case if tendering this contract on the open market.
- 4.8 If the Council were unwilling to move to this benchmarking principle, then Freedom Leisure would build this risk into their bid with an amended financial submission which would likely impact on the management fee. Further information is provided within 4.17 of this report for clarity.
- 4.9 Freedom Leisure's current electric contract ends in March 2025. Based on the latest information received from Freedom Leisure in late October, the new electric contract is expected to be within the benchmark limit, therefore mitigating any risk to the Council for the period of this contract. Any risk is further mitigated by the enhanced management fee proposed by Freedom Leisure.

## **Capital Investment**

- 4.10 Freedom Leisure have committed to significant capital investment as part of their proposals. This includes replacing the poolside bleacher seating and replacement of the 3G pitch carpet and subbase at Arun Leisure Centre, both to be completed in 2025/26.
- 4.11 They have also committed to major upgrades to fitness equipment at both the Littlehampton Wave and Arun Leisure Centre. This has yet to be fully scoped due to fitness trends changing year on year, but Freedom Leisure will work with the Council to implement this investment to best meet user's needs. Full financial detail of the capital investment is provided within the exempt appendix.

## **Added value inc. Healthy Communities**

- 4.12 A new Community Engagement post will be recruited by Freedom Leisure to support the existing Healthy Communities Manager with an expected start date of April 2025. This post will focus on increasing participation and activity from under-represented groups.
- 4.13 A Member Experience Manager was recruited earlier this year to reduce attrition levels and to increase their Net Promotor Survey (NPS) score. The NPS score is a measure for leisure operators to gauge customer loyalty, satisfaction, and enthusiasm, and is calculated by asking customers one question, on a scale of 0-10, how likely are they to recommend the leisure centre to others. The overall score can be compared against other centres across the UK. This post will be retained by Freedom Leisure for any extension period.
- 4.14 Continuation of a dedicated Area Manager post with responsibility for overseeing the Arun portfolio and whose role includes direct day to day management of the two leisure centre managers.

## **Agency VAT model**

- 4.15 The Council and Freedom Leisure have also discussed the opportunity presented in relation to a proposed agency model for the operation of leisure services. Freedom Leisure wishes to explore the possibility of capitalising on the ruling in HMRC v Chelmsford City Council (the **Chelmsford Ruling**). The partial VAT exemption includes all relevant leisure services, which HMRC are likely to accept. These include memberships, sports hall and outdoor sport activities, sports tuition, training and swimming. This exemption wouldn't include catering, retail, vending sales or general room lettings.
- 4.16 It should be noted that the extension proposal is not predicated on this opportunity, nor will it form part of the contract at this stage. However, initial investigation of this opportunity by Freedom Leisure concluded that the agency model could be adopted in a manner that is compliant from a procurement law perspective and the HMRC factors of the Agency Model can likely be satisfied by Freedom Leisure's existing contractual arrangement with the Council. From an administrative perspective there will be minor tasks to complete, though the risk remains with the leisure operator.
- 4.17 Before considering this opportunity or any officer decision, the Council will undertake its own due diligence from a legal and procurement perspective concerning the risks and implications of this model.

## **4.18 Summary of The Sports Consultancy (TSC) Report concerning the extension proposals**

### **Financial Proposals**

- 4.18.1 The Littlehampton Wave is expected to continue to perform exceptionally well, and without the benefit of this site the LOC would broadly breakeven.
- 4.18.2 Freedom have factored in a reasonable level of contributions to their central costs within their proposals.

### **Energy Benchmarking**

- 4.18.3 Operators are no longer prepared to take responsibility for the risk of unit price fluctuations. If the contract was to be retendered competitively the council would likely have to accept responsibility for these fluctuations. It is recommended that energy benchmarking is varied into the existing contract
- 4.18.4 TSC has drafted the proposed terms and conditions (schedule 18 of the LOC), which is based on the Sport England accepted model for energy benchmarking.
- 4.18.5 Sensitivity analysis has been undertaken which shows that for every 1p change in electricity tariff, the cost/benefit to the council will be c£10,000 per annum. For gas, a 1p change to the tariff would represent a cost/benefit for c£30,000 per annum.

### **New VAT treatment for the Agency Model\***

- 4.17.6 The adoption of the model would reduce VAT costs and therefore the annual management fee will be increased.
- 4.17.7 The agency model has not been factored into the financial submission; it is an addition.

\* As stated in 4.16, this is predicated on the Council undertaking due diligence in respect of the legal and procurement position.

### **Financial proposal and capital investment into the facilities**

- 4.17.8 The financial offer is compelling and represents good value for money which is unlikely to be bettered through a competitive tendering process.

### **Previous successes and partnership working**

- 4.18 The Council and Freedom Leisure will continue to work in partnership to improve the Wellbeing of Arun.
- 4.19 The contract performs successfully overall with increasing participation across all sites in the contract. Further details concerning the operating performance of the contract is included within the background papers 25 January 2024 report.
- 4.20 Successes in the past 18 months have included joint procurement and investment to deliver the poolside village change upgrade and major solar panel installation at Arun Leisure Centre. The centre now has changing facilities that it can be proud of with the addition of a fully compliant 'Changing Places' toilet facility thanks to funding attained from the Government's Changing Places Toilet Fund.
- 4.21 Council officers have also worked with Freedom Leisure's Head of Sustainability and Environmental to successfully attain grant funding from Swimming Pool Support Fund, which will deliver solar panels on the Littlehampton Wave roof (due February 2025).
- 4.22 Further jointly funded projects include installing destratification fans into both leisure centres (further noted in 14.3)

## **5. CONSULTATION**

- 5.1 None

## **6. OPTIONS / ALTERNATIVES CONSIDERED**

- 6.1 Going out to tender and analysis of the open market was considered, and the risks weighed up against the contract extension option. Retendering the contract does provide risk to the Council when considered against a guaranteed management fee and is a major project in terms of the staff resources and associated costs to deliver it. It was felt by officers that the relationship with Freedom Leisure over the past eight and half years has been positive and successful. With the planned investment and management fee commitments over the next seven plus years, there is no reason to doubt the partnership will continue positively with continued communication and good contract management.
- 6.2 TSC market tested the appetite of operators to manage a planned new facility in a similar coastal town with a comparable population catchment and demographic. TSC's view was that the Arun contract compares very well based on the current management fees of the tested Councils.

## **7. COMMENTS BY THE GROUP HEAD OF FINANCE/SECTION 151 OFFICER**

- 7.1 The proposal to extend the Leisure Operating Contract represents an opportunity for the Council, ensuring a stable and secure income stream over an extended period. This includes an annual index-linked management fee with full detail being provided in the Appendices (exempt information) to this report
- 7.2 Additionally, should HMRC accept the Leisure Operator's "Agency Model" it could enhance our financial position through additional revenue, via an income share arrangement included in the contract. There is no risk to the Council should the proposal not succeed.

## **8. RISK ASSESSMENT CONSIDERATIONS**

- 8.1 Without continued monitoring of the contract by the Council and continued good relations with Freedom Leisure, there would be a higher risk of a contract failure. To mitigate these risks there is regular monitoring of all facilities, documented with imagery and monthly contract meetings. All health and safety legislation requirements are also checked on monitoring visits. Business continuity plans and operational risks for the contract/service are reviewed regularly through the Council's corporate processes and good governance.
- 8.2 The Council's Leisure Facilities Contract Management Audit review dated 16 April 2024, prepared by Hampshire County Council was returned positively. The assurance opinion rated the contract as "reasonable" with a sound system of governance, risk management and control in place.
- 8.3 Hampshire County Council Procurement has been consulted which they positively responded stating the extension is permissible under contract and no budget is applicable due to the leisure operator paying a management fee. Clause 3.2 of the LOC references that the contract may be extended by a period of no more than 5 years by agreement between the parties.

- 8.4 In March 2024 Littlehampton Wave received an overall score of “very good” after the facilities were assessed by Right Directions, on behalf of Quest Plus (2-day assessment) at the end of January 2024. Modules included tackling inequalities, customer journey, operational management, managing the team, environmental management, compliance declarations, increasing participation and reducing inactivity, planning to improve, health and safety management, lifeguarding and swimming lessons.
- 8.5 Currently Council Officers are exploring the possibility of using other areas of the Littlehampton Roof for photo voltaic (PV) panels. Officers are also exploring the possibility of Solar Car Ports within Mewsbrook Car Park. Both options would ensure Littlehampton Wave becomes more efficient, whilst lowering costs to the leisure operator.
- 8.6 Paragraph 4.17.5 explains that every 1p change in the tariff has a full year cost impact of £10,000 for electricity and £30,000 for gas. per annum. Members will note that this represents an income gaining opportunity as well as a cost risk

## **9. COMMENTS OF THE GROUP HEAD OF LAW AND GOVERNANCE & MONITORING OFFICER**

- 9.1 The Contract commenced with Freedom Leisure on the 1 April 2016, with the expiry date of 31 March 2026. The Contract has been extended on two occasions by 6 months periods. The first extension being from the 31 March 2026 to the 30 September 2026, and then from the 30 September 2026 to 31 March 2027.
- 9.2 The extensions granted to the Contract term, the period to the Expiry Date, were cumulative and supported by the Procurement Policy Notice 02/20. The rationale being to do the minimum necessary to keep contractors in business and whole in financial terms by allowing an additional period in which to manage and make any return given the impacts of Covid through closure and other measures.
- 9.3 The Contract allows and gives the Council discretion for an extension of 5 years under clause 3.2 which states “The Contract Period may be extended by a period of no more than 5 years by agreement between the parties.”  
The 5-year extension is calculated from the 31 March 2027, and will therefore be extended until the 31 March 2032.
- 9.4 The Agency Operating Model if approved will be fully explored and further legal diligence will be undertaken and risks assessed. The Group Head of Finance & Group Head of Law & Governance will authorise the Contract variation to move to this operating model.
- 9.5 Legal Services will be required to finalise the variation agreement with Freedom Leisure.
- 9.6 The extension of the Leisure Contract will need to also factor in extending any relevant leases in due course.

## **10. HUMAN RESOURCES IMPACT**

10.1 None

## **11. HEALTH & SAFETY IMPACT**

11.1 The management of Health Safety is in accordance with the contract specification. Where an accident or incident requires emergency services present, Freedom Leisure report this to the council. Freedom Leisure also report monthly on the number of accidents and incidents as part of their monthly partnership report.

11.2 In each case of accidents and incidents Freedom Leisure investigate and inform of the outcome. During the past 18 months April 2023 – September 2024 no incidents were RIDDOR (Reporting of injuries, diseases, and dangerous occurrences regulations, 2013) reportable.

## **12. PROPERTY & ESTATES IMPACT**

12.1 The lease for all four buildings to Freedom Leisure ends on 31<sup>st</sup> March 2026. An extended lease until 31<sup>st</sup> March 2032 in line with the contract extension period would be required.

## **13. EQUALITIES IMPACT ASSESSMENT (EIA) / SOCIAL VALUE**

13.1 Leisure facilities in England are playing an increasingly important role in their communities, with more people using them than a year ago according to the August 2024 Moving Communities Impact Report. The report revealed that participation and throughput to leisure centres have both increased, with the average number of participants per site up by almost a thousand people (7%) and overall visits growing by over 10,000 per year (5%).

The social value generated by leisure centres has also seen a notable increase. In 2023/24, the 53 participant centres (within the study) contributed £890m in social value, up from £842m in the previous year, with social value per participant estimated to be an average of £119 per annum.

Social value is estimated through the Moving Communities platform where data has been shared from 563 public leisure centres across England over a two-year period. Using evidence based academic research, undertaken by the Sport Industry Research Group (SIRC), the Social Value Calculator (SVC) gives operators the ability to accurately measure and value the impacts of sports and physical activity they offer.

In Arun, participation and throughput within the centres has increased when comparing the first six months of 2023 vs 2024. At Arun Leisure Centre there has been a positive increase of 10.7% and Littlehampton Wave of 7%.

13.2 This report and its recommendations do not impact on those with identified protected characteristics under the Equalities Act



## 14. CLIMATE CHANGE & ENVIRONMENTAL IMPACT

- 14.1 During the 22-23 FY the leisure centres were the Council's second largest single emitter, sitting at 6% of total emissions, equating to 1,009 tco2e. Freedom Leisure actively engage with emission reporting and freely share their scope 1 and 2 emissions, allowing for accurate measuring and monitoring for the Council.
- 14.2 1 tCo2e is equal to: using 5,171 kWh of electricity which could power the average mid-terrace house or flat for roughly a year and 10 months, 500 CO2 fire extinguishers or driving a small petrol car for 9,234km. In turn to remove just 1 tCo2e you would need 50 trees growing for a year (What is 1 Ton of Carbon Dioxide and how it relates to daily life? - EMSmastery)
- 14.3 Over the last few years, there has been a close working partnership with Freedom Leisure to support the Council's 2030 carbon neutral target and to improve emission reduction. Some projects include:
- i. The installation of destratification fans for the gym and swimming pool areas at the Littlehampton Wave and Arun Leisure Centre. This supports emission reductions as it circulates air through these spaces more efficiently, helping to reduce the amount of energy needed to heat/cool the building.
  - ii. The installation of PV on both the Littlehampton Wave (expected completion January 2025) and Arun Leisure Centre. For the Wave this included grant funding from Sports England to install a roof mounted array of just over 40 kWp. Arun Leisure centre also had a 49 kWp array installed to support the reduction of emissions and electricity bills.
  - iii. Within the above four projects it is expected carbon savings of 113 tc2oe within year one- and five-year savings of c530 tc2oe.
  - iv. As part of the annual update of the Council's Climate Change and Biodiversity Work Plan Freedom Leisure are asked to provide a high-level overview on emission actions to reduce their Scope 1, 2 and 3 emissions. This is included as an appendix in all published work plans.
  - v. Support was also provided by Freedom Leisure during the 2023 and 2024 Low Carbon Skills Fund, which the Council was successful in for the 2023 application. Additionally, they also provided important import and information for the Public Sector Decarbonisation Scheme the Council was planning to take forward during Winter 2023. However, it was decided that this was to high risk to take forward.
- 14.4 Sustainability principles are embedded with the current contract specification and secondly will be externally assessed by Quest. There is a requirement for the operator to demonstrate that they have an active environmental policy operating all levels within their organisation, with providing current examples to carbon reduction, emission reduction, use of new technology to minimise environmental impact, reduction in use of natural resources and sustainable purchasing policies.

## **15. CRIME AND DISORDER REDUCTION IMPACT**

- 15.1 The Council's anti-social behaviour officers have been working with Freedom Leisure to create behavioural orders for 11–15-year-olds to attend Littlehampton Wave's junior gym sessions
- 15.2 Littlehampton Wave's Friday Night Project session which was suspended at the end of December 2023 due to anti-social behaviour. The session returned at the start of November after a revamp with support from Arun Youth Projects.

## **16. HUMAN RIGHTS IMPACT**

- 16.1 None

## **17. FREEDOM OF INFORMATION / DATA PROTECTION CONSIDERATIONS**

- 17.1 None
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### **CONTACT OFFICER:**

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### **BACKGROUND DOCUMENTS:**

14 September 2015 Cabinet Meeting, Agenda Item 5 – Award of the Leisure Contract [Agenda.pdf \(arun.gov.uk\)](#)

8 June 2023 Agenda Item 13 – Leisure Operating Contract [Arun District Council](#)

25 January 2024 Agenda Item 6 – Leisure Operating Contract Annual Report [Arun District Council](#)

### **Appendices**

1. Leisure Contract Management Fee 2024-2032 and committed financial investment (Exempt Information)