



Executive
18 June 2012

**Report from the Director of
Environment and Neighbourhood
Services**

For Action

Wards Affected:
ALL

Cross-borough procurement of leisure services at Vale Farm

1.0 Summary

- 1.1 This report sets out the progress on the cross borough (Ealing, Harrow and Brent) procurement for leisure services, including Vale Farm Sports Centre and seeks Executive approval to the tender evaluation criteria and governance model.
- 1.2 The programme seeks to get the best possible price for the service whilst maintaining quality and service standards through a collaborative procurement exercise. The Executive will be asked to make the final contract award decision later in 2012 for mobilisation in Brent in November 2013.

2 Recommendations

- 2.1 The Executive give approval to the tender evaluation criteria set out in paragraph 3.28 for the collaborative procurement delivering a contract for leisure services at Vale Farm Sports Centre.
- 2.2 The Executive note the high level governance and shared service models set out in paragraphs 3.31-3.36.

3 Detail

- 3.1 In December 2009 the Executive agreed the Brent's sport and physical activity strategy 2010 – 2015. This strategy, developed and written by Brent Community Sport and Physical Activity Network, was based on significant research and consultation. The strategy identified seven key themes which all partners are working to deliver:

1. Increase provision of appropriate facilities
2. Increase knowledge of the wider benefits of an active lifestyle
3. Get more people active
4. Develop local sports providers
5. Increase sports opportunities for young people
6. Make the most of London 2012 and Wembley as a major sporting venue
7. Improve partnership working

3.2 The strategy also recognised that there are some groups that are appreciably less active than others and that these low and non participation groups should become the focus of additional targeted work by all stakeholders in order to increase participation levels. These groups are:

- Disabled people
- Adults aged 35 to 54
- Black and ethnic minority people
- Women and girls
- Young people.

3.3 Alongside, this strategy the Council has already done much to streamline and improve the efficiency of leisure services. However, the Council is facing significant and on-going budget shortfalls. This has led officers to carefully examine the best approach to delivering savings whilst maintaining standards. The Council also needs to renew the contract for leisure services provision at Vale Farm Sports Centre by October 2013. This contract is held by Leisure Connection and a further extension is not provided for within the terms of the contract. Re-procuring just one sports centre is a small commercial opportunity for companies in the market and therefore it is unlikely to offer best value.

3.4 Officers have been actively participating in the work of the West London Alliance with the London Boroughs of Harrow and Ealing to develop future models of provision for leisure services at best value for Brent's residents.

3.5 As part of that work, on 16 January 2012, the Executive approved a report 'Cross borough procurement of Cultural Services'. In this report there were a number of recommendations requiring Executive decision before the detailed tenders can be evaluated.

'2.4 The Executive ask officers to report back setting out the specification along with any necessary consultation results, equality impact assessment and seeking approval to the tender evaluation criteria before inviting shortlisted suppliers to submit a detailed tender.'

2.6 *The Executive note the proposed governance arrangements set out in paragraphs 3.16-3.19 and ask that officers will report back to the Executive for approval to the governance arrangements once they have been developed further.'*

3.6 This report provides further information on those specific issues referenced in the January report

Strategic aims

- 3.7 Taking into consideration individual Borough's sports and physical activity strategy aims, the three borough's have identified the following shared strategic aims from the contract(s):
- a) To provide high quality, affordable and accessible opportunities for sport and physical activity that will increase levels of participation across the Partnership, particularly by children, young people and under-represented groups
 - b) To enable and encourage more people in the three boroughs to lead a healthy active lifestyle, contributing to better public health outcomes including reduced obesity levels
 - c) To provide an affordable, financially sustainable revenue position for each Council in respect of their respective leisure services
 - d) To provide a continuously improving leisure service and annually improve user satisfaction levels across all the Partnership facilities
 - e) To make a positive impact on the environmental sustainability of the leisure services across the Partnership boroughs to include: reducing utility and water consumption, waste land-filling and pollution; and proactively promoting sustainable travel
 - f) To make a positive impact on social and economic sustainability across the three boroughs through working closely with the Partnership councils to provide enhanced staff training and career development opportunities as well as volunteering, apprenticeship and employment opportunities for local people.

Specification

- 3.8 Work to develop an outcome focussed specification for the cross-borough leisure work has progressed well. The specification sets out generic requirements for all three Borough's facilities:
- Leisure centres' sustainability and facilities management – including sustainability, housekeeping, marketing, maintenance and catering
 - Leisure services – including opening hours, fees and charges, performance monitoring and reporting
- 3.9 Consideration of the themes and priorities of the 2010-2015 sport and physical activity strategy were considered when reviewing the service provision requirements of the leisure management specification. Brent has made a positive decision within the cross Borough contract to retain the majority of the service improvements that were introduced in 2006. Since there are no major changes proposed the equalities information is already available and no further formal consultation has been undertaken. The Borough specific requirements include:
- Leisure Centre Minimum Opening Hours

- Leisure Centre Protected Programming etc.
- Maximum Fees and Charges/Concessions

Further details of the main borough specific requirements are set out below.

Minimum opening hours

- 3.10 The specification proposes no changes to the minimum opening hours. So, Vale Farm Sports Centre will continue to be open from 6.30am Monday to Friday which will retain the early morning swimming session which is very popular. At weekends the centre will continue to open from 8am. At weekends the contractor will, if they wish, be able to close the facility at 8pm if there are no pre-booked events or activities. On week days the centre will continue to close at 10pm.

Protected programming

- 3.11 Sports clubs that have been long term regular hirers of Vale Farm Sports Centre will have their time slots protected with the new contract which will enable them to retain their membership.

Exercise Referral

- 3.12 The new contract requires the contractor to continue to work with local GP's health centres and the NHS to provide an Exercise referral programme.

Fees and charges

- 3.13 The contractor will continue to accept the Borough's Leisure Discount scheme; B.Active. The purchase of an annual B.Active card gives concessionary groups approximately 40% discount off leisure centre charges and 25% discount to non concessionary residents and non residents. The table below shows the current charges, the fees of which are set annually by the Council. The B.Active leisure discount card is accepted at all three of the Borough's sports centres. Concessionary discounts are only available to Borough residents and provide discount to those who are in receipt of benefits, full time students over 17, student nurses, senior citizens aged 60 plus and disabled people who hold a Brent certificate of registration.

B.Active card type	Cost	Valid for	Discount (up to)
Standard resident	£40	12 months	25 per cent
Standard non-resident	£72	12 months	25 per cent
60 plus and disabled resident	£6.50	12 months	40 per cent
Concessionary resident	£3.50	6 months	40 per cent

- 3.14 Brent will continue to offer free casual swimming to over 60's, disabled people and under 5's. During school holidays children aged 16 and under will be able to swim for free during the weekdays between 11am and 4pm. Young people and disabled people are a priority within the strategy for sport and physical activity with whom the Borough will target opportunities that result in increased participation in sport and physical activity. Enabling older people, disabled people and young people to swim for free will help address the Borough's health and well being priorities and assist in achieving the priorities of the Borough's obesity strategy.

- 3.15 The Council recognises the shortage of public swimming facilities in the Borough and the importance that swimming can play to all age groups as a form of physical exercise, therefore where the fees and charges for casual swimming apply to adults and children, the Council will control those fees and charges. Also, in accordance with the current contract, the contractor will also be required to offer junior sports clubs and schools use of the sports hall and synthetic pitch at 75% of the adult fee.
- 3.16 Under the current contract the Council controls the fees and charges for other activities including swimming lessons, sports hall hire, pool club hire. During the soft market testing contractors indicated their preference to control prices so that they can set charges that reflect the surrounding market and potentially offer a more competitive contract price. In the light of this, the new contract will give that opportunity.
- 3.17 A review of the charges for swimming lessons in neighbouring Borough shows that Brent's adult swim lesson charges are 13% lower (£5.60 compared to £6.30) than the average of neighbouring facility charges. Brent's junior swimming lesson charges are approx 8% lower (£4.95 compared to £5.34) than the average of neighbouring facilities. Therefore the contractor is unlikely to significantly increase their charges above those of the neighbouring boroughs.
- 3.18 The Council controls the fees and charges of swimming lessons at Willesden sports centre with the contract stating that prices will rise annually by RPIX. By relinquishing the control of swimming lesson prices, it is possible that the charges to learn to swim at Vale Farm could be different to those at Willesden sports centre. Officers will work with Leisure Connection, the service provider at Willesden Sports Centre to harmonise prices as much as possible between the two centres.

Benchmarking

- 3.19 As with the existing contract, the new contract requires the contractor to undertake Sport England's national Benchmarking Survey. This not only provides data on the profile of users, frequency and type of use but also identifies customer satisfaction and the centre to benchmark with other facilities and compare annual satisfaction scores.

Building maintenance

- 3.20 Over the duration of the existing contract the Council has been able to make improvements to the building structure and plant, replacing and improving items including: pool plant, synthetic turf pitch, boilers and pool chlorination systems.
- 3.21 In line with the existing contract, the new specification will require the contractor to be responsible for day to day repairs and maintenance, servicing and redecoration. This will incentivise the contractor to manage the building effectively and ensure that their maintenance programme minimises disruption to the operation of the centre.

- 3.22 The Council and the contractor will share responsibility for larger items of repairs and maintenance with the contractor responsible for reactive maintenance and planned preventive maintenance up to an item value of £5,000. For items above £5,000 the Council will be responsible.
- 3.23 The sports service has an annual budget of £50,000 to cover the Council's responsibilities for repairs and maintenance (this has reduced by £25,000 in 2012/13). Vale Farm Sports Centre is an ageing facility with increasing maintenance costs. As such there is the risk that in the future there could be a need for significant investment by the Council in the building. It is felt that it is more cost effective for the council to take this risk than the contractor include a premium for unknown risk which would lead to a higher tender price. However, this arrangement will require the Council to be able to respond in a timely way to maintenance issues and failure to do so could put the Council at risk of compensation claims from the contractor.

Procurement and tender evaluation

- 3.24 The contract is being tendered as three potential lots: to let a single contract with one provider for leisure and libraries combined ("Lot 3"), or two separate contracts, one for leisure ("Lot 1"), and one for libraries ("Lot 2"). Brent would only be party to Lot 1 and Lot 3. Brent library service is not included in this procurement exercise.
- 3.25 The contract has already been advertised in OJEU. We have received a number of enquiries / expressions of interest as a result of this, giving confidence that further engagement with the market will result in a positive outcome.
- 3.26 As leisure and libraries services are defined as Part B services under the Public Contract Regulations 2006 we have a degree of flexibility in how we manage the procurement process. There will be 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 show us the added value and creativity in their approaches.
- 3.27 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.
- 3.28 As part of the ITT process the tri-borough contract negotiation team will evaluate the tenders to establish the Most Economic Advantageous Offer based upon the following criteria:

- a) Originality and persuasiveness of proposal
- b) Operational viability of proposal
- c) Financial viability of proposal
- d) Is the proposal deliverable and sustainable

3.29 Each of these will be assessed against the 4 levels of:

- 0. major concerns – no convincing evidence provided, major issues and/or discrepancies,
- 1. concerns –some convincing evidence provided, minor issues and/or discrepancies,
- 2. good – good confidence in proposal, convincing evidence provided,
- 3. excellent – high confidence in proposal, compelling evidence provided,

Length of Contract

3.30 Based on feedback from the market testing, levels of maturity of the external contractor markets for local authority leisure services the leisure contract will be let for a period of ten years from April 2013. Vale Farm will come into the contract from 1st November 2013 on expiry of the existing contract. A ten year contract will enable a contractor to have time to manage the centre, identify areas for improvement and investment, carry out any developments and have sufficient time to recover the costs of their investment. However, this does give a ten month period between the start of the contract and the launch date in Brent. If the incumbent provider was not the successful bidder there is a risk of a drop in performance and Officers will work closely with them to maintain standards.

Governance

3.31 The Executive report in January 2012 set out proposals for a Lead Borough in Partnership model. In this model one borough will take the lead and chair all officer meetings. If there was any element of delegation, the report noted that authority would be needed under Brent's Constitution. Any requirement for delegation will be clearly set out in the final contract award report to the Executive.

3.32 For the purpose of the procurement only, Harrow Council is the central purchasing body for the Partnership and leading the procurement process and the contract terms and conditions. Subject to agreement of terms - by all three Councils (in respect of Lots 1 and 3) and by Ealing and Harrow Councils (Lot 2), each Council will be a party and signatory to the contract(s). Each Council would have to agree the award of contract in relation to the lots covering its services.

3.33 These ideas have been drafted to allow for each borough's administration to have sovereignty over its strategic decisions for its leisure service. Service

performance and development would continue to be regularly monitored and discussed with the Lead Members and decisions to be taken to the Executive as required.

- 3.34 In relation to management of the contract(s), for “Day 1” it is recommended that a model is implemented whereby current Heads of Service remain in place, with one or two of the boroughs managing a “functional specialism” for the other boroughs. The two functional specialisms are Leisure contract management; and Libraries contract management. The line reporting for the functional teams would be to the Head of Service in their respective borough. At this stage no suggestions have been made as to which borough will be the lead for each specialism.
- 3.35 The aspiration before the end of the contract would be to move to a fully integrated shared service, with a single “Head of”, with all specialisms in the same reporting structure. This is likely to provide the greatest cost savings both internally and through the contracts. More refinement will be needed before a move to a single “Head of” model could be implemented. The “responsible officer” role would remain within each borough at the Director level, with day-to-day management of the delivery potentially being the responsibility of the single Head of Service and governed by a Service Level Agreement (SLA) between the three Boroughs. Member governance would remain unchanged with the relevant Director providing performance and service delivery information to the relevant Lead Members and strategic options being taken to the respective Cabinet for decision.
- 3.36 Officers will continue to develop the Governance arrangements together with Ealing and Harrow and will provide a detailed proposal for the Executive to consider in the contract award report.

4 Financial Implications

- 4.1 Brent Council currently spends £320,000 per annum providing leisure services at Vale Farm Sports Centre. There are no new financial implications above and beyond those set out in the Executive report of 16 January 2012. The aim of the project is to ensure that Brent residents get the best possible price through a collaborative procurement with other boroughs.
- 4.2 Feedback from the soft market testing is that an external management partner can deliver savings through a combination of some or all of the following:
- Economies of scale (e.g. utilities and other supply and service contracts)
 - Tax-based savings
 - Operational efficiencies (e.g. shared management structure and specialists, flexible working, improved energy management)
 - Increase in income (e.g. in leisure through improved marketing and promotion including more customer-focused pricing options and activity programmes.)
 - Increased investment in the cultural facilities and services (e.g. through a Service Provider’s resources, attraction of more external funding)

- 4.3 The draft specification for the new contract does not require the contractor to make any significant capital investment in Vale Farm Sports Centre. However the gym equipment was purchased new by the Council when the contract was awarded in 2006 and will have come to the end of its life when the contract commences in 2013. It is envisaged that a new contractor will want to replace the gym equipment and the pricing schedule will ask the contractor to separately identify the cost of such capital investment so that the Council can consider if it is cheaper to invest via the contractor or to use prudential borrowing to purchase the gym equipment and/or any other proposed capital investment.

5 Legal Implications

- 5.1 The main power that the Council has to provide leisure facilities is under s19 of the Local Government (Miscellaneous Provisions) Act 1976. In addition to this power, the Council could use its powers under the Local Government Act 2000 (well being) to make the award. The Council is able to make changes for the services under the 1976 Act.
- 5.2 Leisure services are categorised as Part B services under the Public Contract Regulations 2006 ("the Regulations") and the contract therefore is not subject to the full application of the EU Regulations. It is however, subject to the overriding EU principles of equality of treatment, fairness and transparency in the award process.
- 5.3 The procurement and award of the contract is subject to the Council's Contract Standing Orders in respect of High Value contracts and Financial Regulations.
- 5.4 Legal advice will be required on the Governance and Shared Service Models once the proposals are further developed especially in relation to staffing issues, delegation of functions and any procurement implications and contractual issues arising from the proposals. Advice will be provided at the appropriate time prior to finalisation of proposals.

6 Diversity Implications

- 6.1 The Equality Act 2011 provides that the Council must comply with the equality duties set out in S149 when exercising its functions which includes the provision of leisure facilities. The equality duties include having due regard to the need to advance equality of opportunity between people who have a protected characteristic and those who do not, foster good relations and eliminate unlawful discrimination.
- 6.2 Whilst Brent Council continues to control the prices for casual swimming and hall hire for junior sports clubs, the successful provider will be allowed to set the prices for other services. The provider is very unlikely to raise prices excessively as it would reduce use of the sports centre and hence their income. This slight risk is justified as it will enable Brent Council to receive more competitive offers from tenderers .

- 6.3 To ensure equalities are actively promoted the contract with an external provider will include:
- Protection and enhancement of services and activities and targeted provision for protected groups and those key groups set out in Brent's sports strategy.
 - Quarterly contract monitoring and annual reviews to review requirements for protected groups
 - Annual user survey through the contract to identify user profiles and user groups satisfaction and importance of the services provided.
- 6.4 As set out in paragraphs 3.13 and 3.14 the council will continue to offer the B-active card offering concessions to key groups and targeted free swimming.
- 6.5 In the light of the finalised specification, the initial Equalities Impact Assessment prepared in January 2012 has been reviewed. There is minimal change to the specification and it continues to actively target the protected groups and those specific Brent target groups (paragraph 3.2). As there is no reduction or change in services, and as there was extensive consultation as part of the sports strategy there is no need to consult residents or users and there are no significant EIA implications.
- 7.0 Staffing/Accommodation Implications (if appropriate)**
- 7.1 The services at Vale Farm Sports Centre are currently provided by external contractors. The governance proposals will have implications for up to 0.5 FTE in Brent's recreation commissioning team within the sports and parks service, who may remain with Brent or transfer to Ealing or Harrow. These issues will be carefully managed as part of the project and legal advice will be sought once the shared service proposals have been further developed.

Background Papers

16 January Executive Report - Cross-borough procurement of Cultural Services

Brent's Sport and Physical Activity Strategy 2010 - 2015

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