

	Cabinet Member Decision
	Report from the Corporate Director, Community Health and Wellbeing
	Decision for Cabinet Member for Adult Social Care, Public Health and Leisure

Authority to Vary and Seek a Contract Extension for the Tri-Borough Leisure Contract in accordance with Paragraph 13 of Part 3 of the Constitution

Wards Affected:	Sudbury
Key or Non-Key Decision:	Non-Key
Open or Part/Fully Exempt: <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Part Exempt – information relating to management fees (Appendix 1) is exempt as it contains the following category of exempt information as specified in Paragraph 3, Schedule 12A of the Local Government Act 1972, namely: "Information relating to the financial or business affairs of any particular person (including the authority holding that information)"
List of Appendices:	Appendix 1 – Management Fees (exempt)
Background Papers:	None
Contact Officer(s): <small>(Name, Title, Contact Details)</small>	Sarah Hawken Health Improvement Manager Sarah.hawken@brent.gov.uk 020 8937 3723

1.0 Executive Summary

- 1.1 This report seeks Cabinet Member approval in accordance with paragraph 13 of Part 3 of the Constitution to the extension to the existing Tri Borough Leisure Contract, for Vale Farm Sports Centre, between Ealing, Brent and Harrow Council's with Sports and Leisure Management Ltd (Everyone Active) from 1 September 2025 to 28 February 2026.
- 1.2 All 3 boroughs are seeking the extension to the Tri Borough Leisure Contract.
- 1.3 Two one-year extensions to the current contract were previously agreed as a Cabinet Member decision and changes the contract expiry date to 31st August 2025.
- 1.4 Harrow Council on behalf of the Tri borough consortium was the lead authority on the legal element of the procurement. Unfortunately, Harrow Council has not

been able to complete the legal work within the expected timeline. Consequently, the consortium obtained external legal support from Bevan Brittan. Following a review of project procurement plan by Bevan Britain it has been recognised that a further six months will be needed to complete the procurement and operate the new service. Hence the need for the contract extension

- 1.5 Officers will continue to monitor the contract and carry out spot checks at the centre to ensure standards are met.
- 1.6 This report sets out the associated financial implications of such an extension and the risks of the extension not being approved. A summary of the background to the recommendation, including details of the contract and the benefits to be obtained, is outlined below.

2.0 Recommendation(s)

That the Cabinet Member for Adult Social Care, Public Health and Leisure:

- 2.1 Approves a further 6-month extension from 1 September 2025 to 28 February 2026 to the existing tri-borough contract for Vale Farm Leisure Centre, to allow sufficient time for the authority to re-procure a contract.
- 2.2 Approves the fee payable by Sports and Leisure Management Ltd (Everyone Active) to the Council for the period of the proposed 6-month extension. This is half of what is currently paid as the annual management fee.
- 2.3 Note the extension of the contract referred to in 2.1 above will include provision for a lease renewal of Vale Farm Sports Centre to Sports and Leisure Management Limited (trading as Everyone Active) from 1 September 2025 to 28 February 2026 at an annual rent of a peppercorn. The lease renewal is to be outside the provisions of Part 2 Landlord and Tenant Act 1954.

3.0 Detail

3.1 Contribution to Borough Plan Priorities & Strategic Context

Brent's Leisure Centres are key to the mental and physical health of residents and this proposal directly integrates with the Healthier Brent Objective within the Borough Plan. The council needs to provide and future proof its leisure facilities to allow Brent's residents to have access to as many opportunities as possible to improve their health. This report also links closely to the Health and Wellbeing Strategy and the priorities to create healthy lives and healthy places for Brent's residents. Both of these strategies can be found here:

<https://www.brent.gov.uk/the-council-and-democracy/strategies-priorities-and-policies>

Vale Farm Leisure Centre sits within the large green space of Vale Farm and so offers a wide range of opportunities for residents to improve their health and

wellbeing. The proposal to extend the leisure centre contract by a further 6 months will allow the Leisure Service to ensure that there is sufficient time to develop a leisure centre that meets the needs of the local community.

3.2 Background

- 3.2.1 Vale Farm Sports Centre is currently operated by Sports and Leisure Management Ltd (T/A Everyone Active) (“Everyone Active”) on behalf of Brent Council. This service is provided as part of an existing Tri-borough agreement with the boroughs of Ealing and Harrow, the initial term of which expired on 31st August 2023.
- 3.2.2 A decision to extend the current contract for two one-year periods until 31st August 2025 was approved as a key decision by the Lead Cabinet Member. At the time it was felt that this would be sufficient time to consider and implement a new service provision. However, with meetings held with colleagues in Ealing and Harrow throughout the last 12 months, it became clear that a one-year extension was insufficient to allow a re-procurement of the service on a tri-borough basis.
- 3.2.3 Harrow Council were leading on the legal support for all 3 boroughs. However, in September, the 3 boroughs were informed by Harrow council that their Legal Services lacked sufficient capacity to provide legal support to the procurement of an operator.
- 3.2.4 Harrow council appointed Bevan Brittan legal services to review the procurement documents that have been developed and develop the draft new Sport England marked up leisure contract.
- 3.2.5 Bevan Brittan advised that significant further work on the procurement documents was required, particularly in relation to the variant bids and the evaluation criteria. A schedule of Tri Borough meetings was drawn up which included specific meetings with the relevant expert leads in the 3 boroughs.
- 3.2.6 Despite this intense schedule of meetings and actions resulting from them, it was agreed that an extension to the existing contract would be needed to ensure the procurement documents that are issued do not pose any risk to the Councils.
- 3.2.7 Cabinet Member approval is sought to extend the existing Tri Borough Leisure Contract, for Vale Farm Sports Centre by a further 6 months from 1 September 2025 to 28 February 2026. The current contract which expires on 31st August 2025 is jointly managed between Ealing, Brent and Harrow Councils. All 3 boroughs agreed that a 6-month extension was necessary and are going through their governance process to obtain agreement for a 6-month extension.
- 3.2.8 The legal basis for seeking this authorisation is set out in more detail in section 6 of this report. However, in summary, Section 72 of the Public Contracts Regulations makes provision for the variation of an existing contract if “the modification is necessary to accommodate additional services by a Contracting

Authority which have become necessary, where a change of contractor cannot be made for economic reasons and would cause significant inconvenience and costs for the Council. Any increase in price must also not exceed 50% of the value of the original contract (subject to indexation).

- 3.2.9 Cabinet Member approval for authority to extend for a further 6 months until 28 February 2026 is sought to ensure that the procurement documents are complete and ready to issue.
- 3.2.10 The financial implications of a further 6-month extension are set out in more detail in Section 5/Appendix 1 of this report.
- 3.2.11 Management fee arrangements are in place for the period up to 31st August 2025, but as the period from September 2025 to February 2026 takes us into a third contract extension, Everyone Active would like to review their management fee proposal for that period based on utility costs, maintenance costs on an aging facility and 2025-26 price increases.
- 3.2.12 The extension of the contract with Everyone Active will also require the extension of the related lease of the Vale Farm Leisure Centre. Further details concerning this lease extension are included in Section 9 of this report.
- 3.2.13 Officers will continue with service monitoring throughout the contract, performing sport checks and meeting regularly with the centre manager to discuss any issues.
- 3.2.14 Officers will continue to work with service users and feedback on improvements and maintenance that is carried out.

4.0 Stakeholder and ward member consultation and engagement

- 4.1 Given the nature of the proposed extension, no stakeholder and ward member consultation and engagement has taken place. However, ward councillors will be made aware of the extension proposal and kept informed.

5.0 Financial Considerations

As outlined in Appendix 1 (exempt).

6.0 Legal Considerations

- 6.1 Section 111 of the Local Government Act 1972 provides powers for a local authority to do anything (whether or not involving the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to, the discharge of any of their function.
- 6.2 Under section 3 of the Local Government Act 1999 the Council has a general 'best value' duty to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of

economy, efficiency and effectiveness. Best Value is a mandatorily relevant consideration, being a positive duty.

- 6.3 Officers have detailed in Section 3 why it is recommended to extend the existing Contract for a further 6-month period. The period of extension sought is considered necessary to allow the council to prepare the procurement documentation.
- 6.4 The Contract is subject to the Public Contracts Regulations 2015 ("PCR 2015"). As a result, any extension must be in accordance with the provisions of the PCR 2015.
- 6.5 Regulation 72(1)(b) of the PCR 2015 permits the modification of an existing contract where the modification is necessary to accommodate additional services by a Contracting Authority, which have become necessary because a change of contractor cannot be made for economic reasons and would cause significant inconvenience and costs for the Council. Any increase in price must also not exceed 50% of the value of the original contract (subject to indexation).
- 6.6 Regulation 72(1)(c) of the PCR 2015 permits modification of the contract where the need for the modification arises from circumstances which we could not have been foreseen. The change must not alter the overall nature of the contract, and any increase in price must not exceed 50% of the value of the original contract.
- 6.7 When relying on the grounds stated in Regulation 72(1)(b) and (c) of the PCR 2015 to extend the contract, the Council must publish a modification notice to Find a Tender (Regulation 72(3) and (4) of the PCR 2015). The PCR 2015 do not expressly stipulate a timeframe for publication of a modification notice. Given the need for transparency, the notice should be published as soon as reasonably practicable.
- 6.8 In accordance with paragraph 13 of Part 3 of the Constitution, the Lead Member, in consultation with the Leader can vary and extend contracts where:
 - (a) the extension goes beyond the period of extension provided for in the contract (if any) or is otherwise not in accordance with the extension provisions in the contract; and
 - (b) the contract has a life of not more than one year (including any possible extension provided for in the contract) and the extension exceeds a period of six months; or
 - (c) the contract has a life of more than one year (including any possible extension provided for in the contract) and the extension exceeds a period of one year; or
 - (d) in the case of any variation (other than an extension):
 - (i) the total value of the variation is £1 million or more; and

(ii) the total value of the variation is more than £50k and is more than 50% of the original contract value (calculated over the life of the contract including any extensions or possible extensions and adjusted in accordance with any price review mechanism provided for in the contract).

6.9 Additionally, the Lead Member, in consultation with the Leader, may vary and extend a contract where the Corporate Director refers the decision to them.

6.10 The Lead Member, subject to consultation with the Leader, therefore, has powers to agree the variations and extension of the Contract as set out in the Recommendations.

6.11 As set out in Recommendation 2.3, the extension of the contract will include provision for a lease renewal of Vale Farm Sports Centre to Everyone Active. Paragraph 9.2 contains further details concerning such lease arrangement.

7.0 Equity, Diversity & Inclusion (EDI) Considerations

7.1 The Council must, in the exercise of its functions, have due regard to the need to:

- (a) eliminate discrimination, harassment and victimisation
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it, pursuant to s149 Equality Act 2010. This is known as the Public Sector Equality Duty.

7.2 Under the Public Sector Equality Duty, having due regard involves the need to enquire into whether and how a proposed decision disproportionately affects people with a protected characteristic and the need to consider taking steps to meet the needs of persons who share a protected characteristic that are different from the needs of persons who do not share it. This includes removing or minimising disadvantages suffered by persons who share a protected characteristic that are connected to that characteristic.

7.3 The Public Sector Equality Duty covers the following nine protected characteristics: age, disability, marriage and civil partnership, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

7.4 There is no prescribed manner in which the council must exercise its public sector equality duty but having an adequate evidence base for its decision is necessary.

7.5 The proposals in this report have been subject to screening and Officers believe that there are no adverse equality implications.

8.0 Climate Change and Environmental Considerations

- 8.1 The council declared a climate and ecological emergency in 2019 and set out to do all in its gift to become carbon neutral on a borough-wide basis by 2030. The council has subsequently adopted a Climate and Ecological Emergency Strategy (2021-2030) which sets out the council's route map to achieve this aim.
- 8.2 The Climate and Ecological Emergency 2022-24 Delivery Plan set out a specific action to lead by example and *'finalise our plans for the council to achieve net zero carbon emissions from the council's own estate and operations by 2030'*. The options for the sports centre beyond the proposed 6-month extension, and any proposed capital maintenance work for the building, should place a strong emphasis on environmental sustainability, thereby contributing to the council's stated aims for buildings which could be considered part of its estate.

9.0 Human Resources/Property Considerations (if appropriate)

- 9.1 This service is currently provided by an external contractor and there are no implications for Council staff arising from extending the Contract.
- 9.2 As set out in Recommendation 2.3, the extension of the contract will include provision for a lease renewal of Vale Farm Sports Centre to Everyone Active from 1 September 2025 to 28 February 2026 at an annual rent of a peppercorn. The lease renewal is to be outside the provisions of Part 2 Landlord and Tenant Act 1954. Approval to extend the lease will be sought from the Corporate Director, Finance & Resources / Operational Director Property and Assets.

10.0 Communication Considerations

- 10.1 There are no communications considerations to be considered at this time.

Related Documents:

Authority to vary and extend tri borough leisure contract in accordance with paragraph 13 of part 3 of the constitution – Lead member key decision October 2022

Recommendation To Vary the Contract for Vale Farm Leisure Centre – Delegated Authority report August 2023

Report sign off:

Rachel Crossley

Corporate Director of Community Health and Wellbeing