

TONBRIDGE & MALLING BOROUGH COUNCIL

LEISURE and ARTS ADVISORY BOARD

26 February 2013

**Report of the Chief Leisure Officer and the
Cabinet Member for Leisure, Youth & Arts**

Part 1- Public

**Matters for Recommendation to Cabinet - Non-Key Decision (Decision may be taken
by the Cabinet Member)**

1 LEISURE FACILITIES REVIEW OF MANAGEMENT OPTIONS

Summary

This report updates the Board on progress following the Council's decision to establish a new Not for Profit Distributing Organisation (NPDO) to operate the Council's indoor leisure facilities and Poulton Wood Golf Centre.

1.1 Background

1.1.1 Members will recall at the last meeting of the Board on 10 December 2012 it was recommended to Council that:

- 1) a new NPDO be established to operate Larkfield Leisure Centre, Angel Centre, Tonbridge Swimming Pool and Poulton Wood Golf Centre in the future;
- 2) a formal TUPE staff consultation be progressed with staff in liaison with UNISON representatives;
- 3) a detailed Project Plan and Timescale be submitted to the next meeting of the Leisure & Arts Advisory Board; and
- 4) the estimated consultancy costs of £75,000 be met from the 'Invest to Save Earmarked Reserve'.

1.1.2 The subsequent approval of a further report on this issue to Cabinet on 5 February 2013 was endorsed by the Council on 14 February 2013 and the recommendations above were approved.

1.2 Progress

1.2.1 It was reported to Cabinet that a cross-service Officer Study Group has been formed and some of the key issues above have been progressed as follows.

- 1.2.2 The original report identified the need for the new NPDO to obtain admitted body status to the Local Government Pension Scheme in order to protect pension rights of staff who will transfer under TUPE regulations to the new organisation. This has been pursued by the Director of Finance and a report was submitted to the 8 February 2013 meeting of the KCC Superannuation Fund Committee seeking approval for the Council to stand as guarantor to the new NPDO in its application for admitted body status. This will allow the full application for admitted body status to be made to the meeting of the Superannuation Fund Committee on 26 July 2013 allowing time to complete the process by 1 October 2013.
- 1.2.3 The original report also identified the need to appoint expert advice utilising the Council's 'Invest to Save' earmarked reserve. The Director of Planning, Transport and Leisure has appointed RPT Consulting to continue in the role of lead consultant and the Director of Central Services has considered submissions from three leading law firms who specialise in this type of work and has appointed Winckworth Sherwood LLP to work alongside RPT Consulting.
- 1.2.4 A timetable for the transfer has being developed and is attached at **[Annex 1]**. This reflects a programme based on the earliest date of transfer being 1 October 2013 subject to all formal arrangements being in place. It is important to stress, however, that the timeframe can be flexible and will be dictated by satisfactory progress on all issues.
- 1.2.5 To date staff have been briefed on an informal basis. However a sub-group of the OSG is reviewing existing contractual arrangements with staff and the programme for a formal TUPE consultation in liaison with Unison.
- 1.2.6 Finally in order to make the application to KCC for admitted body status the new NPDO requires incorporation and this in turn requires the new organisation to be named. To expedite this matter it is proposed to use the name Tonbridge & Malling Leisure Trust Limited. This is an expedient approach and acknowledges that the NPDO may wish to trade under a different brand name. Further consideration by this Board may be sought in due course.
- 1.2.7 Further progress will be the subject of a verbal update to the Board at the meeting.

1.3 Legal Implications

- 1.3.1 The legal implications related to the establishment of a new NPDO were considered in the report to the previous meeting of this Board.
- 1.3.2 In order to assist the Council in the establishment of a new NPDO and any associated legal issues (eg staffing, property, asset transfer) specialist legal advice has been procured.
- 1.3.3 Members may be aware that the Council currently has a lease with East Malling & Larkfield Parish Council for the land occupied by Larkfield Leisure Centre. The

Parish Council has been informed of the decision and the Council will continue to liaise regarding the sub-leasing of Larkfield Leisure Centre.

1.4 Financial and Value for Money Considerations

- 1.4.1 The financial and value for money considerations related to the establishment of a new NPDO were considered in the report to the previous meeting of this Board. As advised at paragraph 1.2.2, the Council will act as guarantor in respect of the NPDO's application to be admitted to the Pension Scheme. In a worst case scenario, if the NPDO defaulted or failed to meet its liabilities the Council would have to cover the cost. We shall, of course, monitor the financial position of the NPDO very carefully.
- 1.4.2 The specialist external advice referred to earlier within this report is funded from a consultancy budget of £75,000 identified in the 'Invest to Save' Earmarked Reserve.

1.5 Risk Assessment

- 1.5.1 Risk assessment issues related to the establishment of a new NPDO were considered in the report to the previous meeting of this Board
- 1.5.2 The project timetable attached at **[Annex 1]** has been developed to ensure that the management of the project is delivered in a robust and timely fashion. The OSG will utilise the timetable to ensure that all key issues are addressed prior to transfer.

1.6 Equality Impact Assessment

- 1.6.1 A full Equality Impact Assessment (EqIA) has been undertaken with the assistance of the West Kent Equalities Officer and was approved at the last meeting of this Board. The EqIA will remain under review by the OSG.

1.7 Policy Considerations

- 1.7.1 Asset Management, Business Continuity, Resilience, Community, Healthy Lifestyles, Human Resources, Procurement, Young People.

1.8 Recommendations

- 1.8.1 It is **RECOMMENDED** that:
- 1) The timetable shown at **[Annex1]** be approved with the earliest transfer date to a new NPDO of 1 October 2013 adopted subject to satisfactory progress on all issues; and
 - 2) The new NPDO be called Tonbridge & Malling Leisure Trust Limited.

The Chief Leisure Officer confirms that the proposals contained in the recommendation(s), if approved, will fall within the Council's Budget and policy Framework.

Background papers:

contact: Martin Guyton

Nil

Robert Styles
Chief Leisure Officer

Maria Heslop
Cabinet Member for Leisure, Youth and Arts

Screening for equality impacts:		
Question	Answer	Explanation of impacts
a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community?	No	Refer to full EqIA approved at Leisure & Arts Advisory Board on 10 December 2012
b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality?	No	As above
c. What steps are you taking to mitigate, reduce, avoid or minimise the impacts identified above?		

In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above.