

TONBRIDGE & MALLING BOROUGH COUNCIL

OVERVIEW AND SCRUTINY COMMITTEE

17 November 2022

Report of the Director of Street Scene, Leisure & Technical Services and Director of Finance & Transformation

Part 1- Public

Matters for Information

1 TONBRIDGE AND MALLING LEISURE TRUST

Summary

The following report provides some background to the Tonbridge and Malling Leisure Trust (TMLT), its scope and the services it provides. In response to a request by Councillor Base the report identifies savings over the past 9 years as a consequence of the Council's decision to outsource to a local Trust.

1.1 Background

- 1.1.1 TMLT was incorporated in March 2013 and commenced operation on 1 November that year. The Chief Executive, Martin Guyton worked directly for TMBC for over 32 years and transferred along with a total of 380 staff to TMLT upon its formation. A request has been received by Councillor Base for a report on the value for money in relation to the Leisure Trust, looking at how much the Council has saved over the long term.
- 1.1.2 TMLT is a Company Limited by Guarantee and also a Registered Charity, thus reports on a statutory basis to both Companies House and the Charity Commission. It is an entirely separate legal entity to the Council. It has a Board of 11 Trustees, including 8 selected from the Community, two local authority Trustees appointed by the Council Leader, currently Councillors Mark Davis and Tim Bishop and one Staff Trustee. They all act as both Trustees of the Charity and Directors of the Limited Company and do so on an entirely voluntary basis.
- 1.1.3 The trust model is a common and effective means of managing local authority leisure and cultural facilities the length and breadth of the UK. There are over 112 Trust members of Community Leisure UK, the professional body that represents the sector. Trusts vary in size from those operating facilities for multiple local authorities right down to single site Trusts that may just operate a community swimming pool. TMLT has to date remained based solely in the Borough meeting the localism agenda ,and allowing a single focus on the leisure, health and wellbeing services provided.

- 1.1.4 The model is a tax efficient means of provision and this was a key issue when the decision was taken to outsource the service back in 2013, creating a new Trust that focused on provision in the Borough by a local organisation. Tax efficiencies are seen in the relief granted for NNDR (80% of which is mandatory, and 20% discretionary) and the partial VAT exemption allowed by the charitable status of the Trust. To explain briefly, most services provided by the Trust are exempt of VAT which sees 100% of that income retained. Whilst, as a consequence, the Trust is not able to recover VAT on the majority of purchases, because a large part of its expenditure (around 65%) is on staffing which doesn't attract VAT, there is a significant net gain.
- 1.1.5 At the time of transfer in 2013 the tax efficiency was assessed at around £750,000 per annum, which even after 'new' costs attributed to the creation of a separate entity, resulted in an annual saving to the Council of close to half a million pounds per annum.
- 1.1.6 The Trust is a Non-Profit Distributing Organisation or NPDO and aims for a trading profit in the region of just 1-3% of turnover. This results in the provision of affordable services but also provides surpluses placed into reserves for reinvestment. These profits are ring-fenced for reinvestment in the Council's facilities only and the Council, acting as Landlord, approves capital investment by the Trust. Prior to the pandemic the Trust had re-invested in excess of £1.4m directly back into improved facilities and services – the most significant being a £900,000 investment in new studios and gym refurbishment at Larkfield Leisure Centre in 2018. Capital investment of this nature benefits the Council in terms of improvement to its assets which will be returned to the Council at the end of the contractual term. This reinvestment coupled with no shareholders to pay dividends or staff bonuses creates what is often referred to as a virtuous circle.
- 1.1.7 To finish on the formation, structure and scope of TMLT the Trust currently operates Larkfield Leisure Centre, Angel Centre, Tonbridge Swimming Pool, Poulton Wood Golf Club on a 20 year lease and Management Agreement with the Council that runs to 31 October 2033. In November 2021 Leybourne Lakes Country Park was added to TMLT's portfolio and transferred to the Trust as a Variation to that Agreement with a new lease running concurrently to 2033. Members may also be aware that the Trust recently took on the management of Kings Hill Sports Park on behalf of Kings Hill Parish Council on a similar lease/management agreement basis. This separate contract is ring-fenced away from the agreement with the Council but does allow TMLT to defray some management costs.

1.2 Corporate Objectives

- 1.2.1 Five corporate objectives were considered by the Council when a decision was taken to approve the formation of an independent Trust. They were delivery of corporate priorities, financial savings, asset maintenance, quality of service and sustainability.

- 1.2.2 DELIVERY OF CORPORATE PRIORITIES – Covered in the Management Agreement with the Council and related most strongly to the health and wellbeing of residents, the Trust is founded entirely in the public benefit and its charitable remit incorporates provision of leisure services for the social welfare of all residents regardless of status with a view to improving their conditions of life.
- 1.2.3 FINANCIAL SAVINGS – Achieved through the transfer the initial savings to the Council as a consequence of the transfer were around £455,000 per annum. Taking a modest inflationary rate into account and a gradual reduction in the Service Fee, savings to the Council by the end of the first 5 year financial agreement amounted to £2.4m. From 1 April 2018, following extended negotiation the Service Fee for the current five year term was agreed as a Zero Sum and therefore further anticipated savings to the Council over the term were expected to be around £3.4m compared to the in-house operation that preceded the Trust.
- 1.2.4 LONG TERM SUSTAINABILITY – A clear objective to ensure the Trust going forward is a business model that is sustainable in financial terms. The Board interpreted this as holding a revenue reserve policy based on net current assets of £500,000.
- 1.2.5 ASSET MAINTENANCE – The Management Agreement leaves this responsibility largely with TMBC as owners. The Trust has also invested around £900,000 in the significant development of health and fitness facilities at LLC providing increased asset value to the Council. Total reinvestment by the Trust in the facilities and services to date is now in excess of £1.4m.
- 1.2.6 QUALITY OF SERVICE – It was important to ensure no diminution of quality of service and the need to continue to achieve high levels of customer satisfaction. The Trust has invested in new digital collection methods with immediate response including the Net Promoter Score. The nationally recognised industry standard, Quest has been achieved at all sites with the Trust excelling with two sites holding the prestigious Outstanding Award only achieved by 15 sites nationally. This award focuses on the Trust's impact and outcomes, contribution to health & wellbeing, increased participation and reducing inactivity in our community.

1.3 Financial Performance Pre-Pandemic (2013/14 TO 2019/20)

- 1.3.1 The impact of the COVID-19 pandemic was first felt on 20 March 2020 with enforcement of the first national lockdown that resulted in all the facilities managed by TMLT being closed. This had only a marginal impact on the financial year 2019/20.
- 1.3.2 In the seven financial years preceding this date it is estimated that the financial savings to the Council given its decision to outsource amounted to around £3.8m following the reduction in the annual Service Fee to zero from 2018/19. Investment by the Trust in facilities and services over this period amounted to a further £1.4m amounting to a savings total for the Council over the seven year

period of £5.2m whilst demonstrable improvements to the quality of service were made and total attendances grew.

- 1.3.3 Turnover grew over 30% to £7.2m in the seven year period despite low inflationary increases in charges. At the end of the financial year 2019/20 the Trust also held almost £1m cash at bank representing a very strong and sustainable financial position.

1.4 Financial Performance during the Pandemic (2020/21 TO 2021/22)

- 1.4.1 The pandemic had an instant and lasting effect upon the Trust with income falling overnight, effectively to zero. It became apparent very early after the first lockdown that the Trust may not survive without considerable support. Details of the Coronavirus Job Retention Scheme (CJRS) had not been established and whilst cash reserves did not mean there was an immediate crisis it was likely the Trust would run out of money by October/November 2020 without support.
- 1.4.2 In liaison with the Council core costs of lockdown were established and funding agreed. This alternative was the most financially viable alternative to the Council who could be faced, in the event the Trust failed, with the return of the Trust to in-house provision with the loss of the tax efficiencies referred to earlier, the ongoing costs of the operation during lockdown in any event and the possible costs of redundancies and/or LGPS cessation costs, all of which could run into several millions.
- 1.4.3 Over the course of the year operational trading turnover fell to around £1.9m as successive lockdowns and severe restrictions took their toll. In a complex accounting year the Trust offset expenditure through a claim of £1.75m from the CJRS, having at its peak 389 staff furloughed, direct support from the Council of £930,000 in the form of a Service Fee, NLRG funding of £270,000, other grant funding of £130,000 and expenditure from its own reserves of around £700,000. Further savings were made due to the closure of the centres in areas such as utilities, maintenance, marketing and myriad other expenditure budgets. However, the Trust still recorded a loss of £666,000 in the year. The Trust's cash at bank fell below £500,000 at year end.
- 1.4.4 In 2020/21 restrictions followed the Govt road map to recovery starting with the return of golf and the outdoor pool at the very beginning of the financial year and progressing to wider re-opening in mid-July. The Trust set a deficit budget of over £270,00 for 2021/22 despite a further pledge of a Service Fee of £700,000 from the Council.
- 1.4.5 Significant changes occurred during the year that were unknown at the time of setting the budget that included an extension to the CJRS through until 30 September 2021 and further direct Government grant support. This masked the ongoing reduction in operating income to result in a year end position for the Trust that was stronger than expected with profit of over £380,000 and a return to year end cash at bank in excess of £1m.

1.4.6 Over the course of the two year period that saw significant impact from the pandemic the Council's total level of financial support for the Trust amounted to around £1.63m

1.5 Current Financial Performance Post Pandemic (2022/23)

1.5.1 Whilst describing the pandemic years as 2020 – 2022 the impact was still forecast to have some measure of financial effect in 2022/23 with business recovery still uncertain. Following the pandemic the Service Fee reverted in 2022/23 to zero sum. However, another significant financial threat has come from geopolitical issues affecting the cost of utilities and general inflation including pay inflation.

1.5.2 These issues would occur in the delivery of leisure services regardless of business model. The operation of facilities, in particular swimming pools is labour and utilities intensive. The two areas of expenditure accounted for over 76% of the Trust's budget forecast for 2022/23 with around £1m anticipated expenditure on gas and electricity. A significant amount of this cost falls to the Council under the terms of the Management Agreement which provides tariff protection to the Trust.

1.5.3 However, the turmoil in Ukraine and other issues affecting utility costs have seen the estimate of total gas and electricity costs rise to £1.75m in the current year with around £867,000 a contractual liability of the Council. The Trust is keen to help mitigate this cost and has introduced a surcharge on all casual swimming that is expected to see additional income in excess of £200,000 but the cost to the Council is still likely to be around £650,000. It should be remembered of course, that if the Council were running the facilities directly, it would have to bear these costs in any event.

1.5.4 This remains the source of close and transparent scrutiny and dependent upon world markets may result in additional costs into 2023/24.

1.6 Overall Financial Picture

1.6.1 In what will be the first ten years of the Trust's existence until the end of the current financial year the total savings/investment as a consequence of outsourcing to a Trust will amount to around £5.8m compared to continued provision of an in-house model. As a consequence of the pandemic and unprecedented increases in utility cost the Council will have provided unanticipated financial support to the Trust over the past three years of around £2.3m.

1.6.2 It is worth noting that the exceptional circumstances have been managed through strong partnership work that may not have been possible with another operating model or contractor. As previously stated the financial support provided as a consequence of the pandemic was deemed the most cost-effective approach to retaining the facilities and service to residents and the increased cost of utilities would occur under any operating model.

1.7 Legal Implications

1.7.1 The arrangement with the Trust is managed through a Management Agreement and the Trust has leases on the facilities it manages on the Council's behalf.

1.8 Financial and Value for Money Considerations

1.8.1 As detailed in the report the financial analysis illustrates the clear financial benefits to the Council of its partnership arrangement with the Trust.

1.9 Risk Assessment

1.9.1 The arrangement with the Trust has presented significant financial savings, maintained standards and levels of service and enabled further investment in the facilities.

1.10 Policy Considerations

1.10.1 Community

1.10.2 Healthy Lifestyles

1.10.3 Procurement

Background papers:

contact: Robert Styles

Nil

Robert Styles
Director of Street Scene, Leisure & Technical Services

Sharon Shelton
Director of Finance & Transformation