

SOUTH HAMS DISTRICT COUNCIL

NAME OF COMMITTEE	EXECUTIVE
DATE	29 JANUARY 2015
REPORT TITLE	LEISURE SERVICE PROCUREMENT
REPORT OF	NATURAL ENVIRONMENT AND RECREATION MANAGER FINANCE COMMUNITY OF PRACTICE LEAD
WARDS AFFECTED	ALL

Summary of report:

The report summarises the strategic issues the Council will need to consider as part of assessing future leisure provision, including the use of the leisure assets, following the end of the current contract in 2016. The report summarises work to date on assessing future options and recommends embarking upon a joint procurement and contract exercise with West Devon Borough Council. This would be prepared during spring 2015 and be launched to the market in summer 2015. The outcome of the exercise would be brought back to Executive for consideration of final recommendations for securing future leisure provision.

Financial implications:

A budget of £30,000 for professional; support fees was established by the Executive under Minute E27/12. This has been used to fund the appointment of a Leisure Consultant to work with the Strategic Leisure Member Working Group on bringing forward this work. It is anticipated that preparatory contract work and tender exercise highlighted in this item can be covered from this allocation. The outcome of the contract tender exercise later in the year, and the route pursued, may impact on the need for additional funding requirements (for example specialist legal support) to move to contract conclusion. Any requests for additional funds will be brought to Executive.

WDBC is also undertaking a tandem leisure service review and has allocated a comparable sum to procure external advice on issues.

The outcome of the proposed joint procurement and tender exercise identified in this item will have potentially significant capital and revenue impacts and these will be reported back to Executive for consideration on completion of the tender exercise.

RECOMMENDATIONS: That Council be recommended to

- 1. Agree the objectives for future leisure services delivery as set out in paragraph 1.5**
- 2. Offer leisure services as a joint contract for up to 25 years with West Devon Borough Council to include facilities (and options) as set out in paragraph 6.6. This to include consideration of options for prudential borrowing and to retain an option for separate contracts if required.**
- 3. Agree a joint leisure services procurement exercise with West Devon Borough Council through the competitive dialogue process**
- 4. Agree that Repair and Maintenance obligations lie with the operator(s)**
- 5. Agree that the procurement exercise include options to assess local operation of the Totnes or Dartmouth Centres. That in addition local input to service delivery shall be secured through local participation in Annual Service Development Plans.**
- 6. Instruct officers to undertake further work in relation to Ivybridge. This to include**
 - Development of a master plan for the site**
 - Further consideration to the facility mix for Ivybridge**
 - Detailed stakeholder discussions with other potential local delivery partners about site locations or alternative delivery options**
 - Detailed financial analysis**
 - Presumed design, build and operate approach**
- 7. Establish a joint Leisure Services Board with West Devon Borough Council based upon an agreed Joint Procurement Protocol. Membership to consist of nominated SHDC members and comparable WDBC representation. Detailed arrangements to be delegated to the Natural Environment and Recreation Manager in consultation with the Leader of the Council and Portfolio holder. The Board to be supported by an officer working group.**
- 8. Agree procurement preparation and evaluation to be timetabled as set out in para 12.1 and Appendix 1**
- 9. Instruct Officers to appoint specialist leisure expertise (or other expertise as required) to support the procurement and evaluation of leisure services in accordance with procurement procedures and Financial Regulations**
- 10. Instruct Officers to conclude liaison with stakeholders and interested parties in order to refine third party details for inclusion in procurement**
- 11. Delegate detailed arrangements for procurement and evaluation to the Natural Environment and Recreation Manager in consultation with the**

Leader of the Council, Portfolio holder, Board Members and relevant Ward Members (where there are location specific issues).

- 12. Require a further report to Executive on the outcome of the procurement exercise and tender evaluation setting out recommendations for future service arrangements.**

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1. BACKGROUND

- 1.1. The Council has operated leisure and recreation services since the 1970's. These have fluctuated in scope but are now delivered through the operation of four leisure centres and a range of associated outreach community and sports development activities.
- 1.2. The current contract for delivery with Tone Leisure ends in November 2016 and the Council needs to agree its long term approach in the light of major external changes and future financial pressures. The challenge is to try to anticipate what public sector leisure provision should look like in the period up to, and indeed beyond, 2026.
- 1.3. In order to shape consideration of future delivery Executive considered a detailed preparatory item in September 2012. This set out background issues and whilst relevant issues are re-iterated in this item members are referred back to the original report for full information. A key step was the establishment of the Strategic Leisure Member Working Group. This group has met regularly to steer the review the process and has supported the following.
 - Scoping and review of existing facilities and contract
 - Establishing parameters for future delivery
 - Consultants (RPT Consulting) appointed
 - Stakeholder liaison and soft market test
 - Recent joint meetings with WDBC members to shape options
 - Options analysis to support Council consideration

- 1.4. The process has been assisted by the retained consultants and the issues set out in this item are explored in detail in a “Leisure Options Review” report submitted by the consultants. This review document has been provided to the Working Group Members and is available to other Members on request from Member Services. Because it includes sensitive commercial information relating to the current contract, stakeholder liaison and soft market test it is confidential and must not be disclosed outside the Council.
- 1.5. A key issue at the heart of consideration is whether leisure provision in its current form is going to be a future core business for the Council, as it is a discretionary service, and what will be an affordable level of service provision in the longer term. This decision will be a difficult judgement as there is a lack of certainty about the level of funding available for discretionary services in the medium/long term, particularly in view of anticipated changes to the way local government is funded. Nevertheless the working group considered that leisure services was an important public service with tangible community and health outcomes and as such there is public benefit in seeking a cost effective manner of continuing the service. Leisure activities align with Connect Strategy priorities around healthy communities and are a cornerstone of emerging *Our Plan* priorities around the delivery of Health and Wellbeing. Through discussion, and feedback, the working group recommend that a procurement exercise for leisure services is undertaken to test the market based on the following objectives:
- Deliver a sustainable service with controlled costs and clear community benefit outcomes
 - Allow for local participation in future delivery
 - Achieve reductions and minimised revenue costs
 - Draw in capital investment
 - Look for long term arrangements with responsibility for centres passing to the operator
 - Pursue joint procurement and contract with West Devon Borough Council
 - Seek opportunities for future efficiencies, flexibility and service improvements
- 1.6. Further details on the background to these objectives, and the recommendations, are covered in this item and supporting consultants report. It does need to be noted at the outset that delivery of leisure services is a complex activity. The four South Hams centres operate in competition with the private sector and alongside community and college facilities. Existing landowning, operational and partnership arrangements are complicated and buildings are aging and in need of investment. Delivering a sustained service will require political and operational will. The proposed procurement exercise recommended in this item will set a clear direction from the Council – and allow the objectives proposed in 1.5 above to be tested.
- 1.7. A final decision on the future contract arrangements will be brought back to members for consideration once the procurement exercise and evaluation has been completed.

- 1.8. The work to date has been undertaken across both South Hams and West Devon with a view to minimising preparatory costs and maximising long term savings.

2. CURRENT FACILITIES

- 2.1 The Council owns four leisure centres. A summary of the facilities is given along with key land, grant, operational and planning matters.

Dartmouth Leisure Centre

- Sports hall, changing rooms and gym built 2004. Adjacent pitches.
- Sport England Grant restrictions until 2025.
- Use of the land restricted to park and ride site and ancillary facilities - public conveniences, tourist information centre and refreshment outlet, community uses including a community or sports hall, recreational uses.
- Overage clause. If planning permission is granted for a different use, the Council must pay 66% of the increase in the open market value to the Secretary of State.
- Dual use arrangement for use of centre with Devon County Council
- Construction of proposed indoor swimming pool on adjacent SHDC land.

Quayside Leisure Centre, Kingsbridge

- Sports hall, changing rooms, gym, squash courts – built in 1984 swimming pool, learner pool, , bowls hall built in 1998
- Sport England Grant restrictions until 2018
- 5 year lease from 6th December 2007 to South Hams Indoor Bowls Club of the indoor bowls hall within the centre, together with a management agreement. Lease held over.
- Dual use agreement for use of centre with Kingsbridge Community College.

Totnes Pavilion

- Sports Hall, changing rooms and Multi use room built 1997. Adjacent pitches.
- Sport England Grant restrictions until 2016
- 25 year lease from 12th March 2004 to Totnes and District Swimming Pool Trust (Tadpool) of adjacent swimming pool, viewing area, gym and sauna.
- Ongoing management agreements with Tadpool dated 27th March 1990 and June 2014
- Two 60 year leases to the Rugby Club from 20th October 1989 on nearby club house and land.

Ivybridge Leisure Centre

- Sports hall, changing rooms, gym, swimming pool, small pool, squash courts, multi function room built 1987
- Disused outdoor lido adjacent
- Within “I2” LDF allocation site (2011) with policy requirement for “refurbishment of the leisure centre” in the context of mixed use regeneration including commercial, residential and community uses

- Retail and leisure study (2013) considered 3 potential development opportunities for the Leisure Centre:
 - Do nothing other than refurbishment
 - Rebuild leisure facility on site with a range of other potential uses such as small scale retail, health, residential and make better use of riverside location
 - Develop leisure facilities elsewhere in the town, and allow other uses to be built on site, such as foodstore, health facility and/or residential

2.2 The summary demonstrates the wide range of facilities provided by the council as well as constraints and opportunities. The need for refurbishment and rejuvenation of the centres to make them fit for purpose is a recognised challenge. Detailed and updated Condition Surveys for the centres will be undertaken during the spring to identify likely refurbishment costs and requirements for capital investment. As part of the procurement exercise, bidders will be asked to provide contract prices for the contractor undertaking the capital investment required and to also provide prices for the Council financing the investment cost required through prudential borrowing. On receipt of the completed tenders, an options appraisal will be carried out as to which option would provide the best value for money solution for the Council.

3. CURRENT SERVICE DELIVERY

3.1. In December 2006 the council commenced a contract with Tone Leisure (South Hams) limited for the operation of the four centres and a programme of community outreach work. This contract runs through to November 2016. It is the need to anticipate future arrangements, and the lead in preparation, that led to the establishment of the Member group in 2012 and the presentation of this item at this point in time.

The 2014/15 net service expenditure for Leisure Centres, as set out in the budget book, is £1,139,300 as below.

Cost Centre	£
Employees	55,700
Premises Related Expenses	99,300
Supplies and Services	1,900
Transport Related costs	2,000
Management Fee	526,900
Utilities Inflation	121,000
Support Services	30,000
Other expenses	2,400
Capital Charges (depreciation)	405,800
Sub-Total	1,245,000
Less Income and contributions from third parties	(105,700)
Total	1,139,300

- 3.2. The analysis undertaken, and feedback from the soft market test, is that whilst these costs benchmark reasonably well in some respects there are clear opportunities to drive out savings in relation to both the Management Fee and the capital costs inherent in reinvestment in the centres.
- 3.3. The day to day management of the leisure centres undertaken by Tone is subject to ongoing review through the 6 monthly reports to the Community Life and Housing Scrutiny Panel. Overall the reports demonstrate a service that is delivering well against financial and service outcomes. Further background can be found in the Panel reports.

4. STAKEHOLDER LIAISON

- 4.1. The operation of the leisure centres involves, and impacts upon, a number of interested parties. A core requirement identified by the Member Working Group was that these stakeholders be closely involved in the review and that their views be sought and where, appropriate, incorporated. Liaison has taken place with the following organisations and their views sought. Further details were reported to Executive on 6th March 2014 (Minute E68/13).

Third Party	Nature of Interest
Tone Leisure	Operator
Dartmouth Town Council	Town Council
Dartmouth Academy	Potential Partner
Dartmouth Indoor Pool Trust	Potential Partner
Devon County Council	Dual use Agreement
Ivybridge Town Council	Town Council
Ivybridge Community College	Potential Partner
Kingsbridge Town Council	Town Council
South Hams Indoor Bowls Club	Tenant
Kingsbridge Community College	Dual use Agreement
Totnes Town Council	Town Council
KEVICC	Potential partner
Tadpool	Adjacent operator
Active Devon	County Partner
Sport England	Advisor and Grant Aid Body
West Devon Borough Council	Potential Contract partner

- 4.2. The feedback has been supportive of the Council moving ahead with a procurement that seeks to secure future delivery of the service in a cost effective manner. Specific responses will be taken into account in shaping the procurement exercise. A key issue raised by a number of stakeholders is the need to ensure the new service responds well to local circumstances and partners. This is expressed in two ways. The first is that local partners be given the opportunity to bid in as a potential operator and this is an issue that has come forward in both Totnes and Dartmouth.

The second is that across all communities there is an appetite for closer involvement in shaping and monitoring the delivery of the leisure service to ensure responsiveness to local needs. These comments are welcomed and taken into account in the proposed approach to the procurement exercise.

5. SOFT MARKET TEST

5.1. At the update report to Executive in March 2014 a soft market test exercise was agreed. Undertaken by the retained consultants this involved a national advert, direct approaches to providers and follow up with stakeholders. Further details are included in the background review but the headline outcomes were

- 14 expressions of interest
- Significant interest from national market (leisure management and developers)
- Includes interest from local partners for Totnes, Dartmouth (and Okehampton)
- That the financial revenue position could be improved
- That re-investment in facilities could be forthcoming if long term arrangements are put in place (at least 10 years but preferably 20 years plus)
- A preference for joint contract across South Hams and West Devon
- A need for a bespoke approach to Ivybridge to release potential.

5.2. The overall outcome gives confidence that procurement for a new contract could achieve the objectives set out in paragraph 1.5 of this report. In order to progress the procurement Member consideration of the following issues is sought. The following paragraphs give a brief summary of these issues and Members are referred to background consultants report for further information.

- Scope of Contract and Securing Investment
- Procurement process
- Lease and Repair Options
- Local Arrangements
- Ivybridge Options
- Governance
- Timescale

6. SCOPE OF CONTRACT AND SECURING INVESTMENT

6.1. When members first considered the leisure services review the following delivery options were identified.

- Outsource leisure services to the private sector;
- Outsource the service to a trust or related organisational arrangement (for example, Industrial Provident Society or Community Interest Company) to take advantage of business rate relief and VAT reductions to achieve savings. This option is similar to the current arrangement with Tone;
- Commission both leisure services and comprehensive asset redevelopment and/or ongoing estate management;

- Provide leisure services in-house;
- Transfer leisure services to another Local Authority e.g. a Town Council
- Explore other forms of community based delivery in the context of the Localism agenda and current and emerging local investment plans in leisure facilities;
- Stop the service in its current form and develop new partnerships to achieve alternative provision and new leisure uses for existing or redeveloped buildings, or on alternative sites;

6.2. These options have been extensively analysed and tested through the stakeholder liaison, soft market test and associated work. The aspiration brought forward from Members and the communities of the South Hams is to maintain the leisure service based around the current centres. The arrangement that has developed through management by Tone leisure as an external operator is well respected and seen as a model for future operation (noting that some communities see opportunity for local delivery to be allowed to be tested through the procurement process). Options for bringing the service back in house or transferred to other local authorities are not favoured.

6.3. Given this feedback any future contract needs to attempt to secure a range of challenging outcomes – maintained public service, reductions in revenue costs and investment in capital. The soft market test indicated that these are achievable – but that the contract needs to provide favourable conditions including.

- Arrangements of 20 years or more
- Maximum number of centres within the contract. Inclusion of all 6 , including West Devon, is favoured as likely to deliver best value by focussing potential operators on achieving value from a larger operation
- Flexibility over local delivery of service against baseline requirement

6.4. The recommendation follows this approach and proposes a joint contract with West Devon Borough Council. The consultants report investigates this option and concludes that there are “significant financial advantages” to a joint contract. The contractor would provide a breakdown of their management fee between the six centres and SHDC will clearly see the separate accounts for the four SHDC centres. Therefore this allows a clear audit trail of individual authorities’ costs, whilst benefiting from joint economies of scale. It is noted that both Councils can at a later stage in the procurement decide to enter into separate contracts with different providers, however this means that the economies of a joint contract won’t be achieved. To achieve this the procurement would include the ability for the Councils to split the contracts if required. Entering into a joint contract is likely to bring financial benefits through appointing one provider and through the ability to have one support team and contract manager, meaning that there is not a need to duplicate head office and support costs. On a recent exercise with another joint contract the benefits to the overall contract were savings of circa £50,000 per annum as opposed to two separate contracts. The approach would also seek demonstration of how, and when, any operator would bring investment into the centres. Members will need to recognise that seeking external capital investment may decrease potential savings on any proposed management fee.

- 6.5. Through a favourable contract there will still be a need for significant investment to fund works (in particular at Ivybridge) There may be a case for the council undertaking prudential borrowing (based on a robust business case) as part of new contract arrangements in order to bring forward improvements to the centres. It is likely that the Council could undertake borrowing at favourable rates and the option for such arrangements will need to be fully explored through the procurement and competitive dialogue.
- 6.6. This approach to offering the contract and considering investment in the facilities as part of long term arrangements is considered by the consultants to have the “potential to significantly reduce the management fee”. On this basis it is proposed that the contract includes the below:

Town	Tender Requirements	Options
Ivybridge	<ul style="list-style-type: none"> • Operation of Ivybridge LC • Investment in New Build • Commercial development of part of site 	<ul style="list-style-type: none"> • Refurbishment • Reviewed Facility Mix
Kingsbridge	<ul style="list-style-type: none"> • Operation of Leisure Centre • Limited investment (refresh) 	<ul style="list-style-type: none"> • Watersports centre
Dartmouth	<ul style="list-style-type: none"> • Operation of Leisure Centre • Operation of Pool (if developed) 	<ul style="list-style-type: none"> • Operation of Leisure Centre only without pool
Totnes	<ul style="list-style-type: none"> • Operation of the combined pool and Leisure Centre • Limited investment (refresh) 	<ul style="list-style-type: none"> • Operation of Leisure Centre only without pool • Inclusion of King Edward VI college
Okehampton	<ul style="list-style-type: none"> • Operation of Parklands • Limited investment (refresh) 	<ul style="list-style-type: none"> • OCRA facilities included
Tavistock	<ul style="list-style-type: none"> • Operation of Meadowlands • Limited investment (refresh) 	<ul style="list-style-type: none"> • Refurbishment • Reviewed facility mix

7. PROCUREMENT PROCESS

- 7.1. There are clearly a range of procurement approaches that the Council could undertake. These could include the following that members have previously considered.
- Traditional bid against a tender;
 - Competitive dialogue where broad objectives are initially identified and subsequently refined in conversation with a limited range of interested leisure service providers/developers, to secure best value and take advantage of the potential providers expertise;
 - Create a broader leisure offer to increase market interest and reduce service delivery costs by packaging the 4 South Hams Centres alongside other Council's. The re-negotiation of the West Devon contract to align contract completion dates for the Okehampton and Tavistock Centres allows for such joint marketing.

7.2. A range of approaches have been reviewed and the recommended approach is to initiate a tender process that allows for interested parties to bid and progress through a competitive dialogue route. This is considered to have the widest opportunity to bring interested parties forward and achieve the best outcome against objectives. A joint procurement with West Devon BC will maximise interest and a key strand to the procurement will be to require potential operators to make proposals for how they will achieve the optimum service delivery and best financial position for the councils. The suggested approach to the range of bids within the procurement is set out below. Bidders can bid for one or all of bids 1-5, which enables local bidders to only bid for one facility, but also allows all bidders to bid for all of the facilities. The listing anticipates that a joint contract approach is agreed. If Members require a separate contract approach at the outset a more complex arrangement of separate bids for each council would be established to take through the procurement. The precise details of the presentation of bids will be confirmed as discussions with third parties are concluded ahead of the summer tender exercise.

- Bid 1. All facilities
- Bid 2. Ivybridge, Kingsbridge and Tavistock
- Bid 3. Totnes Pavilion (combined and separate operation)
- Bid 4 Dartmouth (combined and separate operation)
- Bid 5 Okehampton.
- Other. Any optional bids can be submitted by bidders to improve the commercial position

7.3 Given the potential complexities within the service the more flexible competitive dialogue route is proposed. This should allow for securing an operator partner who will deliver the objectives identified at para 1.5. The key principles which should form the basis of the procurement should include

- The partner should be able to deliver required financial savings and capital investment as well as the objectives
- The contract should be for a minimum of 20 years to enable the capital investment
- Documentation will be developed which translates the objectives in to a specification and key requirements the operator must deliver, in partnership with the key local partners
- An appropriate payment mechanism is developed which enables the Council to make deductions from the management fee for non performance
- Evaluation criteria which ensure there is a robust evaluation of both the financial and service outcome delivery
- The affordability position of the Council should be the existing cost of the service, with key revenue savings identified. The affordability level will allow for the prudential borrowing, if agreed by members
- Establishment of Local Liaison Groups to assist in the monitoring, review and service delivery.
- Proposals from operators detailing how activities based at the centres will reach out and promote healthy lifestyles in the hinterlands.

8. LEASE AND REPAIR OPTIONS

- 8.1. Current arrangements (for both South Hams and West Devon) include a split of repairs and maintenance responsibility. This makes use of existing in house capacity – but also creates complexities in management and leaves a recurring liability with the council. Current market practice accepts the greater simplicity of passing all repairs and maintenance to the operator and this is the recommended route. Clearly this may have an upward pressure on the required management fee – but this will need to be set against in house savings.

9. LOCAL ARRANGEMENTS

- 9.1. The stakeholder liaison and the soft market test have confirmed the high level of local interest in the successful operation of the centres (a theme also reflected in West Devon). As reported to Executive in March 2014 there is interest from Dartmouth (DDIPT) and Totnes (Tadpool) in there being options for combined operation of the centres. It is recommended that these individual options be allowed for in the procurement exercise – but on the basis that the individual costs of removing these centres from an overall contract are itemised in order that the full financial cost of local operation can be ascertained and understood.
- 9.2. Conversely there are also likely to be financial benefits from the Totnes and proposed Dartmouth Pools being run as combined facilities with the adjacent leisure centres as part of a large scale contract. It is therefore recommended that this option also be included in the procurement – but again with a requirement that any additional costs of such an approach are itemised separately within any bids to that any additional costs attributable to these third party pool facilities can be identified and understood.
- 9.3. Irrespective of specific contract arrangements in Dartmouth and Totnes there is clear merit in local communities having a role in monitoring and delivery of leisure services. It is proposed that the procurement exercise will include a requirement for providers to provide Annual Service Development Plans as part of local liaison arrangements.

10. IVYBRIDGE OPTIONS

- 10.1. Ivybridge leisure centre presents unique challenges and opportunities (as summarised at 2.1). The poor condition of parts of the building and constraints on facilities limit the level of use and activity at the centre. The dilapidated outdoor lido, small indoor pool and aging fabric detract from the ability for the centre to maximise footfall and be a strong catalyst for community wellbeing and town centre regeneration. The planning and strategic context set a clear framework for rejuvenation of the leisure provision and the turn of contract is the obvious time to consider how to take this forward.
- 10.2. Alongside the soft market test an enhanced piece of work has been undertaken to ascertain the level of interest in refurbishing or rebuilding Ivybridge Leisure Centre. This has demonstrated commercial interest in providing a leisure centre as part a mixed use regeneration on the SHDC land at Ivybridge.

- 10.3. It is recognised that significant investment will be needed for refurbishment to provide a fit for purpose building. For benchmarking a typical current market cost for a new leisure centre with a 25m pool is in the region of £7m. This presents a clear challenge over the way forward and how the council, and future operator, fund either refurbishment or new build.
- 10.4. There is merit in the Council investigating further a comprehensive solution to future leisure provision for Ivybridge. It is recommended that further detailed feasibility takes place to test out options for providing a leisure centre providing a 25m pool, gym and sports hall as part of a mixed use regeneration. It is proposed that this study run alongside the procurement preparation and be concluded for inclusion in the formal procurement exercise to be launched in the summer. This exercise will need to include
- Development of a master plan for the site
 - Further consideration to the facility mix for Ivybridge LC
 - Detailed stakeholder discussions with other potential local delivery partners about site locations or alternative delivery options
 - Detailed financial analysis
 - Presumed design, build and operate approach

11. GOVERNANCE

- 11.1. To date the detailed work on assessing background and emerging options has been led by the Member Working Groups at both South Hams and West Devon. The last two meetings of the groups has been undertaken jointly and involved detailed review with Robin Thompson (the retained consultant) to refine the options that underpin this item,
- 11.2. On the assumption that at very least a joint procurement is agreed then there is clear merit in combining the work of the group and consolidating Member representation, officer support and consultant advice. It is proposed that details be agreed between the Council Leaders and that the Board operate to an agreed "Joint Procurement Protocol" established between the Councils. The Board will take forward the work but will not have decision making powers. Any amendments to the process will take place under the delegation set out at Recommendation 11 or, if substantive, through reference back to Executive.

12. TIMESCALE

- 12.1. To meet the November 2016 contract end a proposed procurement project plan is given at **Appendix 1**. Members are asked to consider this and note needs to be taken of when matters will need referring back to members for agreement later in the year.

13. LEGAL IMPLICATIONS

- 13.1 The provision of leisure services is a discretionary activity. It is therefore up to the Council what level of service it provides. Members should however note that in the current economic climate there has been Judicial Reviews of council decisions to cut funding to local services. Many of the successful cases have focused on the preparatory work undertaken before a decision to curtail a service is made; in particular highlighting that consultation should be carried out when proposals are at a formative stage.
- 13.2 Other legal challenges have been mounted on the basis of the Public Sector Equality Duty, e.g. a lack of prior consideration by the Council of the impact of the proposed cuts on particular groups within society. The recommendations in this report propose continuing the service (at or about current levels) and testing this with the market. At this stage no reduction or loss of service is anticipated.

14. FINANCIAL IMPLICATIONS OF PROVIDING LEISURE SERVICES

- 14.1 The contract fee payment to Tone for 2014/15 is budgeted at £526,900. There was a separate utilities inflation payment estimated to be £121,000. The annual subsidy reduces over the life of the contract. At the start of the contract in 2007/08 the payment was £738,826 reducing to £558,937 in 2016/17 (these figures include inflation and exclude VAT).
- 14.2 The future approach will not be helped by the lack of certainty about the level of funding available for discretionary services in the medium/long term, particularly in view of possible changes to the way local government is funded. Nevertheless leisure services are assessed as being a service the Council wishes to maintain and the proposed procurement process set out in this item seeks to establish the degree to which revenue savings and capital investment can be secured in a cost effective manner for the Council.
- 14.3 The need for investment in the centres, particularly Ivybridge, may be capable of being supported through prudential borrowing. This could only be contemplated if there was a rigorous and robust business plan underpinning the proposed borrowing. This option will be tested out during the procurement and results reported back to members for consideration.

15. CONCLUSION

- 15.1 In deciding the way forward, Members will wish to carefully balance a range of issues:
- Leisure is a discretionary but front line service. Leisure Centres have capacity to further develop at the heart of healthy local communities.
 - Local communities cherish local leisure facilities and wish to see continued council support
 - Two Centres require significant investment moving forward (Ivybridge and Tavistock (WDBC))

- The other Centres require refresh and general upkeep including condition survey work
- There is local interest in partnering with the Council in a number of areas, in particular Totnes, Dartmouth and Okehampton
- The opportunity to combine wet and dry facilities at Totnes and Dartmouth (with the new indoor pool) can potentially bring savings for the Council, due to the critical mass and the provision of staffing already in place. This will be tested.
- There is significant interest from the market in a future contract (preferably a joint contract)
- A joint contract approach to the market would be best value for the Councils, however at the minimum the Councils should enter a joint procurement
- Any facility developments should be delivered through a Design, Build and Operate approach, with the potential for a 25 year contract

15.2 The response from the soft market test has been encouraging and opens the opportunity for further delivery that provides an improved revenue position, capital investment and continued community focussed service. Embarking on procurement through the competitive dialogue route will allow these objectives to be tested and outcomes reported back to members for consideration.

16. RISK MANAGEMENT

16.1 The risk management implications are appended to this report as **Appendix 2**.

17. OTHER CONSIDERATIONS

Corporate priorities engaged:	Community Life
Statutory powers:	S19 Local Government (Miscellaneous Provisions) Act 1976 - Leisure is a discretionary service Localism Act 2011
Considerations of equality and human rights:	The Council currently operates four main leisure facilities. While there are alternative leisure facilities available in surrounding areas, those with limited access to private transport will find travelling longer distances difficult.
Biodiversity considerations:	None
Sustainability considerations:	Access to local facilities may reduce travel
Crime and disorder implications:	Access to local affordable facilities may reduce elements of anti social behaviour
Background papers:	Leisure Options Report: Confidential
Appendices attached:	1. Project Plan 2. Strategic Risk Assessment

APPENDIX 2

STRATEGIC RISKS

No	Risk Title	Risk/Opportunity Description	Inherent risk status				Mitigating & Management actions	Ownership
			Impact of negative outcome	Chance of negative outcome	Risk score and direction of travel			
1	Future leisure service delivery costs greater than currently anticipated	Recent asset condition survey coupled with proposed stakeholder engagement will improve understanding of future cost pressures. Soft Market test indicates opportunities for improved position	4	3	12	↔	Joint Member board established with West Devon. Joint Procurement Protocol and Evaluation criteria established. Effective stakeholder consultation arrangements	NE & RM
2	Balancing future service provision and financial challenges	Conflicting Member ambitions to either improve the future leisure service or manage long term costs may create tension across the Council	4	3	12	↔	Need to formally test and establish revenue and capital costs against affordability	NE & RM
3	Internal capacity and expertise	Both SHDC and WDBC have externalised leisure provision and over time a range of internal corporate expertise is inevitably lost	4	4	16	↔	Continue to allocate support budget to bring in external leisure and legal expertise	NE & RM
4	Managing the level of expectation of key existing stakeholders and potential future partners	Formulating an affordable leisure offer that is fit for purpose in the medium to longer term	4	4	16	↔	Continue to handle discussions sensitively, maintaining positive relationship with stakeholders and investing time developing relationship with potential providers to promote opportunities rather than have the future financial challenges perceived negatively.	Member/Officer Working Group
5	Council reputation	Significant changes to future service delivery perceived to be solely driven by financial pressures will need to be agreed within the context of a clear strategy for future use	5	4	20	↔	Careful consideration of the strategic options with significant decisions linked to a communication strategy.	Member/Officer Working Group

No	Risk Title	Risk/Opportunity Description	Inherent risk status				Mitigating & Management actions	Ownership
			Impact of negative outcome	Chance of negative outcome	Risk score and direction of travel			
		of current assets, and potential access to alternative facilities						
6	Legal challenge	Legal challenge could come from:(a) a potential provider who feels “unfairly” excluded from a bidding opportunity;(b) as a community right to challenge bid under the Localism Act (in force from 27.6.12) to enforce a procurement exercise; (c) a third party	(a) 4 (b) 3 (c) 4	1 1 2	4 3 8	↔	(a) Mitigation arises through being aware of all the options, not excluding any too early, and having clear reasons for all steps taken. (b) A Localism Act “challenge” is now possible and should be taken into account in the assessment of options and attendant risks in due course. (c) Before any decision is made to reduce the future service, an appropriate consultation exercise is undertaken, as well as an assessment on the impact of the service reduction on particular groups within society. Positively allowing for local bids (where interest has been identified)	Member/Officer Working Group

Risk Score 20-25: very high; 12-19: high; 8-12; medium; <8: low
Direction of travel symbols = ↓ ↑ ↔