

10. SHARED SERVICES DELIVERY (CULTURE) - FUTURE MANAGEMENT OF SPORTS LEISURE AND CULTURAL SERVICES AND FUNCTIONS

The Council Executive considered a report (copies of which had been circulated) by the Depute Chief Executive providing an update on proposals for modernised trust model arrangements in West Lothian.

The report recalled that West Lothian Leisure (WLL) was set up in 1998 as an Industrial and Provident Society (IPS) under the Industrial and Provident Societies Act 1965 to provide sports and leisure facilities and activities to the communities of West Lothian. It was currently governed by the Co-operative and Community Benefit Societies Act 2014.

WLL was responsible for the strategic and operational management of key sport and leisure facilities which it leased from the council. The council was WLL's key funding partner and as such there were agreements and joint plans in place between the organisations covering areas such as core outcomes, actions, resources, proposed measures of success/improvement and key targets.

Earlier this year WLL agreed in principle that it would convert its legal model from an IPS to a Company Limited by Guarantee. In March 2016 Council Executive agreed that the council would become Sole Member of WLL in the event of such a conversion, having been asked by WLL Board to consider this. The target date for conversion was 1 August 2016.

In line with the revenue budget decisions taken by the council in January 2015 and February 2016, £750,000 of savings were agreed across sports, leisure and cultural services in financial years 2016-17 and 2017-18. These savings were to be made through a combination of workforce management measures and changes to activities.

The council also agreed a further £532,000 of savings which were to be delivered through modernised trust model arrangements and as such optional appraisal was undertaken to review and score the following high-level options:-

- Option 1 – Do nothing
- Option 2 – Transfer management of certain sports, leisure and cultural facilities to a new trust
- Option 3 – Transfer management of certain sports, leisure and cultural facilities to the converted WLL.

The report then explored the methodology and criteria used for the appraisal, with further details contained in Appendix 1 attached to the report. It was noted that in addition to the options appraisal exercise and investigations into comparative approaches successfully implemented in other local authority areas, council officers had also obtained external legal advice around the three options. In summary the advice was that it was competent for the council to transfer the management of additional facilities and functions to the newly converted WLL.

Appendix 2 attached to the report detailed those sports, leisure and cultural facilities and functions which officers considered, as a maximum, could be transferred to the converted WLL for management through the modernised trust model arrangements. The scope had been refined to include facilities and functions which fitted strategically and operationally with WLL's current remit.

In terms of the facilities listed, formal legal agreements would require to be made to ensure their effective transfer. Such arrangements were being explored and would be effected in the most appropriate manner identified. It was to be noted that certain facilities were subject to PPP arrangements which would be instructive of what could be reasonably achieved by way of transfer.

Any employee considered to be assigned to those functions proposed to be transferred would undergo a transfer to the converted WLL and this would be governed by TUPE Regulations. As such, appropriate and meaningful consultation would require to be undertaken with union representatives of employees who could be affected by any transfer. Any such consultation and provision of information could only take place once detailed proposals had been developed.

It was also to be noted that any employees displaced as a result of the aforementioned £750,000 of efficiency measures, which would be delivered through a combination of workforce management measures and changes to activities and which did not relate to any transfer, would not be in scope for transfer as they would not be considered to be assigned to a transferring function.

The report continued to provide details of how the transfer proposals would be developed by officers and would include consideration and identification of details relating to financial settlement, in terms of the annual payment to be made by the council to the converted WLL. It was also noted that any such transfer must ensure that the fees, charges and concessions which had been agreed by the council for the period up to and including financial year 2017-18 be maintained by the converted WLL.

It was recommended that Council Executive :-

1. Notes the intention of West Lothian Leisure (WLL) to convert to a Company Limited by Guarantee, with the council as Sole Member, by 1 August 2016;
2. Notes the external legal advice received that it would be competent for the council to transfer the management of facilities and functions to the converted WLL;
3. Notes the high-level options appraisal undertaken and agree the relative merits of the option for the council to transfer the management of facilities and functions to the converted WLL, as summarised in Appendix 1;

4. Agree, that in view of the external legal advice received and the options appraisal undertaken, proposals to transfer the management of the facilities and functions detailed in Appendix 2 to the converted WLL, be explored in detail and developed by council officers for the purpose of discussion with the Board of the converted WLL;
5. Notes that in the event of any transfer of functions to the converted WLL, staff considered to be assigned to those functions would also transfer, under the terms of the Transfer of Undertakings (Protection of Employment) (TUPE) Regulations;
6. Note the statutory consultation requirements under the TUPE Regulations as summarised in Section D3 and agree that, in addition to these requirements, in the event of any such transfer, individual members of staff affected by the proposal would be kept informed about matters to any transfer and what these would mean for them;
7. Agree the high-level remit for development of the transfer proposals and the key outcomes for their implementation, as detailed in Section D4;
8. Agree that the transfer proposal must ensure that the fees, charges and concessions, agreed by the council for the period up to and including financial year 2017-18 for the facilities and functions detailed in Appendix 2 be maintained by the converted WLL up to and including financial year 2017-18
9. Agree to delegate authority to the Chief Executive to implement the transfer of the management of all or part of the facilities and functions listed in Appendix 2 to the converted WLL by 1 April 2017, following development of the transfer proposals in line with the high level remit and key outcomes, and their formal acceptance by the Board of the converted WLL; and
10. Agree that regular progress updates on the above matters be reported to the Culture and Leisure PDSP and WLL Advisory Committee as appropriate.

Motion

“The Council Executive agrees recommendations 1 to 10 as detailed in the report, subject to amending recommendation 9 to require the Chief Executive to bring a report back to Council Executive once transfer proposals have been developed, seeking approval prior to their implementation.

Council Executive agrees to add a further recommendation 11 as follows :

- Agrees that the Chief Executive explore with West Lothian Leisure the potential to have a Union Representative on its Board following implementation of the approved transfer proposal, and its position

on compulsory redundancies.

- Moved by Councillor King and seconded by Councillor Fitzpatrick

Amendment

“Council Executive notes the intention of West Lothian Leisure to convert to a Company Limited by Guarantee, with the council as a Sole Member, by August 2016.

Council Executive agrees to make the external legal advice supplied to the council on this issue available to elected members.

Council Executive further agrees;

1. That the option of a Social Enterprise delivering all current services from the Low Port Centre be considered along with the option of transferring such functions to West Lothian Leisure.
2. That alternative arrangements, similar to the Regal Community Theatre, Bathgate, be considered for the management of Howden Park Centre.
3. That full details of the proposal to transfer the management of the sports, leisure and cultural accommodation and ancillary facilities for school and community use, at all West Lothian Secondary schools to West Lothian Leisure must be considered by all appropriate school bodies and their views reported to elected members prior to a decision being made on this issue.
4. Agrees that the Chief Executive explore with West Lothian Leisure the potential to have a Union Representative on its Board following implementation of the approved transfer proposal, and its position on compulsory redundancies

Council Executive further agrees that no decisions in respect of the transfer of council facilities, functions and staff will be undertaken until detailed proposal on each of these issues have been consulted upon with appropriate stakeholders, and thereafter fully considered through the council’s PDSP process”.

- Moved by Councillor Johnston and seconded by Councillor Anderson

It was agreed that a roll call vote be taken which resulted as follows :-

Motion

Tom Conn

Jim Dixon

Lawrence Fitzpatrick

Dave King

Amendment

Peter Johnston

Frank Anderson

Danny Logue

John McGinty

Anne McMillan

Angela Moohan

Cathy Muldoon

George Paul

Decision

The motion was successful by 10 votes to 2 and it was agreed accordingly.