

DATA LABEL: PUBLIC



COUNCIL EXECUTIVE

WEST LoTHIAN LEISURE 2024/25 FUNDING AGREEMENT

REPORT BY HEAD OF FINANCE AND PROPERTY SERVICES

A. PURPOSE OF REPORT

This report seeks Council Executive approval for the 2024/25 Annual Funding Agreement between the council and West Lothian Leisure (WLL).

B. RECOMMENDATION

It is recommended that Council Executive:

1. Approves the 2024/25 Annual Funding Agreement for WLL of £2.048 million;
2. Notes the terms and conditions set out in the Annual Funding Agreement for all funding to be paid by the council to WLL;
3. Notes the updates made to the Annual Funding Agreement;
4. Notes the updates on WLL's 2023/24 financial performance and 2024/25 budget.

C. SUMMARY OF IMPLICATIONS

I Council Values	Focusing on customers' needs, being honest, open and accountable, making best use of resources, working in partnership.
II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	Local Government (Scotland) Act 1975, Section 90: Following the Public Pound.
III Implications for Scheme of Delegations to Officers	Authority for agreeing minor changes to the management fee for WLL is delegated to the Head of Finance and Property Services.
IV Impact on performance and performance Indicators	The council funding for WLL enables the provision of a range of cultural and leisure services.
V Relevance to Single Outcome Agreement	Effective prioritisation of resources will be essential to achieving the targets contained in the Single Outcome Agreement.
VI Resources - (Financial, Staffing and Property)	The council is providing WLL with core funding of £2.048 million in 2024/25.
VII Consideration at PDSP	None.

VIII Other consultations

Education Services.
West Lothian Leisure.

D. TERMS OF REPORT**D.1 Introduction**

The updated Annual Funding Agreement between the council and WLL sets out the agreed management fee to be paid to WLL by the council for 2024/25. The agreement is attached in appendix 1 with the 2024/25 Financial Reporting Arrangements with WLL attached in appendix 2.

These detail the terms and conditions for payment of the management fee, including the provision of services provided by WLL in accordance with the Service Agreement, outline the monitoring and scrutiny of the financial performance of WLL to be undertaken by the council and cover termination and disputes, insurance and indemnity and governance.

D.2 2024/25 WLL Management Fee

The proposed annual management fee for 2024/25, along with the actual fee for 2023/24, is detailed below.

	2023/24	2024/25
	£'000	£'000
Core Funding Prior Year	1,972	2,118
Contribution to Real Living Wage increase	146	132
Approved Incremental Budget Saving	0	(250)
Core Funding Current Year	2,118	2,000
Voluntary Severance Advance Funding	(132)	(132)
Landlord Maintenance	180	180
Total Annual Management Fee	2,166	2,048

The 2024/25 WLL management fee is £2.048 million and is the fee paid to WLL for the provision of sports and leisure services within West Lothian in accordance with the Service Agreement.

The core funding element of the management fee less the repayment of the voluntary severance advance funding will generally be paid half yearly in advance, subject to the terms and conditions set out in the Annual Funding agreement continuing to be met by WLL.

The landlord maintenance element of the management fee are expected to be made at the start of 2024/25.

A timetable has been agreed with WLL to ensure current and relevant financial information is provided to the council. All financial information is regularly monitored and analysed by council officers and will continue to be reported to the West Lothian Leisure Advisory Committee, with a focus on implications for the council. WLL continue to closely monitor their financial position and implement mitigating action, within the current parameters, to minimise the impact of the financial pressures and risks.

D.3 WLL's 2023/24 Financial Performance and 2024/25 Budget

2023/24 Financial Performance

WLL latest financial forecast for 2023/24 was reported to its Board meeting on 21 February 2024. This shows a trading deficit of £570,000 and a year-end closing cash balance of £1.55 million. WLL originally budgeted a trading deficit of £1.18 million for 23/24, based on WLL continuing to operate all venues throughout 2023/24 but this has reduced significantly mainly due to WLL ceasing to operate 4 venues (three swimming pools and Howden park Centre) during 2023/24.

2024/25 Budget

WLL approved its 2024/25 budget at its Board meeting on 21 February 2024. This shows a trading deficit of £199,000 compared to the 2023/24 forecast trading deficit of £570,000 with the key movements resulting from a combination of the full year impact of ceasing to operate Xcite Livingston, Xcite Broxburn, Xcite Armadale and Howden Park Centre on 31 August 2023 and WLL ongoing plans for income generation and operational efficiency being partially offset by cost increases, particularly payroll and utilities. The 2024/25 budget shows a year-end cash balance of £1.80 million compared to the 2023/24 year-end cash balance of £1.55 million with the variance mainly relating to the annual trading deficit being more than offset by timing differences and non-cash items.

E. CONCLUSION

The updated Annual Funding Agreement between the council and WLL (i) sets out the agreed management fee to be paid to WLL by the council for 2024/25, (ii) details the terms and conditions regarding the payment of the management fee and potential other funding, including provision of services by WLL in accordance with the Services Agreement, (iii) sets out monitoring and scrutiny of the financial performance of WLL by the council and (iv) covers termination and disputes, insurance and indemnity and governance.

F. BACKGROUND REFERENCES

Performance Reports to WLLAC in 2023/2024

WLL Annual Funding Agreement 2023/24 – Report by Head of Finance and Property Services to Council Executive 21 March 2023

Revenue Budget Report 2023/24 – Report by Head of Finance and Property Services – West Lothian Council 21 February 2023

Revenue Budget Report 2024/25 – Report by Head of Finance and Property Services – West Lothian Council 22 February 2024

Appendices/Attachments:

Appendix 1 – Annual Funding Agreement between WLC and WLL
Appendix 2 – WLL Financial Reporting Arrangements

Contact Person: Robert Young, Senior Service Accountant
Email: robert.young@westlothian.gov.uk

Patrick Welsh
Interim Head of Finance and Property Services

12 March 2024

Annual Funding Agreement Document

Between

West Lothian Council

And

West Lothian Leisure

For the provision of facilities for recreational, sporting, cultural and social activities in terms of sections 14, 15 and 16 of the Local Government and Planning (Scotland) Act 1982.

1 April 2024 to 31 March 2025

**ANNUAL FUNDING AGREEMENT DOCUMENT FOR 2023/24
FOR THE DELIVERY OF
RECREATIONAL, SPORTING, CULTURAL AND SOCIAL ACTIVITIES**

Between

WEST Lothian Council established under the Local Government etc (Scotland) Act 1994 and having its principal offices at West Lothian Civic Centre, Howden South Road, Livingston, West Lothian EH54 6FF

And

WEST Lothian Leisure a company which is a Scottish charity (Scottish charity number SC027470) incorporated under the Companies Acts (company number SC543017) and having its registered office at Xcite Bathgate, Balbardie Park, Torphichen Road, Bathgate, West Lothian EH48 4LA

1. MANAGEMENT FEE

- 1.1 The council agrees, subject to the terms and conditions set out in the Agreement, to pay the management fee to the West Lothian Leisure (WLL) in consideration for the provision of services by WLL in accordance with the Services Agreement.
- 1.2 The management fee due in 2024/25 shall be payable by the council to WLL subject to receipt by the council of a valid VAT invoice issued by WLL relating to that element of the management fee. The 2024/25 management fee is shown below:
- The council will pay £1,868,169 for services in relation to the WLL's role in utilising its professional management and leisure skills to manage the council's sport and recreational facilities on its behalf and for the outcomes and services detailed in the Service Specification. This element of the management fee shall be paid in two instalments as follows:
 - First instalment for £934,084.50, to be invoiced at the start of the first quarter of 2024/25.
 - Second instalment for £934,084.50 to be invoiced at the start of the third quarter of 2024/25.
 - A contribution towards the cost of the following specific projects in 2024/25, to be invoiced at the start of the first quarter of 2024/25:
 - Landlord's Capital Maintenance (£180,000).
- 1.3 The sum will be reviewed in advance of each subsequent financial year, and a management fee will be agreed by the council as part of the council's revenue budget for the year ahead.
- 1.4 Authority for agreeing minor revisions to the management fee with WLL is delegated to the council's Head of Finance and Property Services.
- 1.5 In the event of there being any overpayment by the council for any reason, including where it has been determined that the council has over-compensated for provision of services, the council shall be entitled to recover any sums due either by repayment by WLL to the council or by deduction from future sums due by the council to WLL under this or any other agreement between the parties.

- 1.6 WLL shall keep secure and maintain until two years after the final payment of all sums due under the Agreement, full and accurate records of all expenditure incurred by the WLL in its performance of those services, and of all payments made to it by the council, by service users or by third parties in that regard.

2. 2018/19 ADDITIONAL FINANCIAL SUPPORT FOR ONE-OFF STAFFING COSTS

- 2.1 The council provided WLL £270,000 of additional funding in 2018/19 in a re-profiling of the management fee to cover one-off staffing costs required to deliver the 2018/19 savings, as agreed by Council Executive.
- 2.2 The management fee provided by the council will be reduced in eight equal annual instalments of £33,750 commencing in 2021/22 and ending in 2028/29. This £33,750 reduction has been taken into account in determining the management fee noted on Section 1.2.

3. 2019/20 ADDITIONAL FINANCIAL SUPPORT FOR ONE-OFF STAFFING COSTS

- 3.1 The council provided WLL £783,000 of additional funding in 2019/20 in a re-profiling of the management fee to cover one-off staffing costs required to deliver the 2019/20 savings, as agreed by Council Executive.
- 3.2 The management fee provided by the council will be reduced in eight equal annual instalments of £97,875 commencing in 2021/22 and ending in 2028/29. This £97,875 reduction has been taken into account in determining the management fee noted on Section 1.2.

4. RESCHEDULING OF DEBT PAID THROUGH SELF-FINANCING

- 4.1 As part of the 2019/20 funding agreement, the council rescheduled debt due to the council from WLL, paid through self-financing. The total overall value of repayments due by WLL to the council has not changed. The total debt has been combined and will be paid back in equal instalments over the period 2019/20 to 2041/42 (other than in 2020/21 when no amount was paid back).

5. MONITORING

- 5.1 The council is obliged to set, and thereafter monitor and control, the amount of management fee paid and/or payable by the council to WLL.
- 5.2 WLL will maintain financial records in relation to work planned and undertaken and will provide the following financial information to the council on a regular basis:
- Actual and forecast trading account and balance sheet
 - Forecast cashflow for the remainder of the financial year
 - Key assumptions used to compile forecasts
 - Update on key risk areas e.g. income generation from memberships
 - Material movements from previously reported position
 - Potential impact of the projected financial position on the council
 - Actions being taken to manage the impact on WLL of the proposed reductions in funding over the period 2023/24 to 2027/28
- 5.3 Generally, this reporting will be every two months in line with committee timetables, to allow a separate finance report to be prepared and presented to the West Lothian Leisure Advisory Committee by the council's Head of Finance and Property Services. Council Executive revenue budget monitoring reports at period 4, 6 and 9 will contain a specific section on WLL to give an update on financial performance.

- 5.4 An annual timetable will be provided to WLL by the council prior to the start of the financial year confirming when the financial information will need to be submitted. Timescales will be in line with the approved committee cycle meetings of the West Lothian Leisure Advisory Committee.
- 5.5 The annual timetable will include the requirement for WLL to provide a detailed and balanced budget for the following financial year and the requirement for longer term budget strategy to ensure financial sustainability of the organisation.
- 5.6 The annual timetable will be updated as required to reflect any conditions agreed by Council Executive.
- 5.7 WLL will submit to the council as soon as possible, but not later than mid-September each year, its annual report and accounts audited by a qualified accountant, and will allow inspection of its accounting records by officers of the council if requested, within 14 days' notice of receiving a written request to that effect.
- 5.8 Financial performance will be reviewed in depth on an annual basis. The annual review will build on the regular meetings of the council/WLL review group and liaison between the liaison officers. This review will use the WLL final accounts and related audit reports.
- 5.9 WLL will demonstrate, to the reasonable satisfaction of the council, the existence and implementation of internal quality assurance systems to ensure effective working practices and robust financial systems are in place and appropriate to the standards required by the council and the needs and wishes of the service users.
- 5.10 WLL will demonstrate, to the reasonable satisfaction of the council, the existence and implementation of budgetary control processes which enable effective monitoring and quality financial control of the Service.
- 5.11 When requested by the council in writing, WLL will provide in a form agreed with the council, all and any information and documentation relevant (and no matter in what form that information is stored), in the reasonable opinion of the council, to demonstrate the quality of the service and to allowing the council to monitor, assess and evaluate the Provision of the Service by WLL.
- 5.12 WLL shall provide to the council all inspection reports or any other documents making recommendations by or setting out requirements from the Office of the Scottish Charity Regulator relating to the Services, and of any proposals by the Commission to cancel WLL's registration, within seven working days of receipt by the WLL.
- 5.13 The council reserves the right to commission, at its own cost, internal or external evaluations of the financial performance of WLL to which WLL will provide any information requested.

6. TERMINATION AND DISPUTES

- 6.1 This agreement may be terminated by either party giving the other six months' notice in writing of its intention to do so.
- 6.2 If WLL has a receiver or administrator appointed, becomes insolvent, apparently insolvent, or is sequestrated or signs a Trust Deed for the behoof of its creditors, or goes into liquidation (other than voluntary liquidation for the purposes of reconstruction or amalgamation) or is wound up by the Court or is voluntarily wound up by creditors or by members, the council may terminate the Agreement by written notice with immediate effect.
- 6.3 If in the opinion of the council, WLL commits a material breach of the terms and conditions of the Annual Funding Agreement document then the council may terminate the Agreement by written notice with immediate effect.

7. INSURANCE AND INDEMNITY

- 7.1 WLL shall be responsible for ensuring that appropriate and adequate insurance is maintained throughout the duration of the funding agreement for employer's liability, public liability, professional liability, malpractice, building and contents, and will on request provide evidence to the Purchaser that such cover has been affected and all due premium payments have been paid.
- 7.2 If WLL has motor vehicles utilised for the purposes of the service users therein, they shall maintain appropriate vehicle and passenger insurance and shall supply to the purchaser, on request, copies of all or any of the relative policies with confirmation that all due premium payments have been paid.
- 7.3 WLL shall indemnify the purchaser fully against all claims, proceedings, actions, damages, legal costs, expenses and any other liabilities in respect of any financial loss, death or personal injury, or loss of or damage to property unless WLL is able to demonstrate that such financial loss, death or personal injury or loss of or damage to property was not caused or contributed to by their negligence or default or the negligence or default of their staff or any circumstances within their control. WLL shall affect and maintain with a reputable insurance company a policy or policies of insurance providing an adequate level of cover in respect of these risks.

8. GOVERNANCE

- 8.1 In signing this agreement WLL is agreeing to the conditions of funding as set out in this Annual Funding Agreement and in the Services Agreement.

Signed on behalf of the Council

Signature:

Name: Patrick Welsh

Position: Interim Head of Finance and Property Services

Date:

Signed on behalf of WLL

Signature:

Name: Ben Lamb

Position: Chief Executive

Date:

DATA LABEL: PUBLIC**2024/25 FINANCIAL REPORTING ARRANGEMENTS WITH WEST LOTHIAN LEISURE****FINANCE REPORT ON WEST LOTHIAN LEISURE BY COUNCIL TO WEST LOTHIAN LEISURE ADVISORY COMMITTEE****1. BACKGROUND**

The council's Head of Finance and Property Services will present a financial report to the West Lothian Leisure Advisory Committee (WLLAC) at each of its meetings covering the financial performance of West Lothian Leisure (WLL). The various reports presented over the course of the year will include an update on budget development and approval, WLL audit reports and projected outturns in relation to the trading and cash-flow, focussing on key risks and potential implications for the council.

2. REPORTING ARRANGEMENTS FOR REMAINDER OF 2023/24 COMMITTEE CYCLE

Committee meetings have been scheduled for 25 March 2024 and 21 May 2024. A further meeting is expected to be scheduled for August 2024. The financial information to be covered in the reports at each of the meetings will include the following:

Date of WLLAC Meeting	Key areas to be covered in financial report for WLLAC	Financial Information to be provided by WLL to WLC
25 March 2024	<ul style="list-style-type: none"> Approved budget for 2024/25 Update on 2023/24 WLL performance 	<ul style="list-style-type: none"> Approved budget for 2024/25 Latest projected outturn report for 2023/24 including trading account and cash-flow
21 May 2024	<ul style="list-style-type: none"> Draft accounts for 2023/24 	<ul style="list-style-type: none"> Report on draft accounts for 2023/24 including trading account and cash-flow
Expected to be scheduled for August 2024	<ul style="list-style-type: none"> Final accounts for 2023/24 	<ul style="list-style-type: none"> Report on final accounts for 2023/24 including trading account, balance sheet and cash-flow

The following timetable outlines the key dates and tasks required to allow reports to be prepared and presented to the WLLAC for approval at these remaining meetings:

WLL to provide latest financial information to WLC * (Head of Finance, WLL)	WLC/WLL Review Group Meeting **	Agree Financial report with Head of Finance & Property Services (C Bohne)	Financial Report to Committee Services (C Bohne)	Present Report at WLLAC Meeting (R Young)
07/03/24	11/03/24	18/03/24	18/03/24	25/03/24
07/05/24	06/05/24	13/05/24	14/05/24	21/05/24
TBC	TBC	TBC	TBC	TBC

*financial information to be provided to Christine Bohne, Accountant in WLC four working days prior to WLC/WLL review Group Meeting

**includes discussion on financial performance

3. REPORTING ARRANGEMENTS FOR 2024/25 COMMITTEE CYCLE

The timetable below outlines the key dates for 2024/25 financial reporting and the areas to be covered within each report. This will be updated once consultation with WLL on future meeting dates is complete.

Information to be reported*	WLL to provide latest financial information to WLC	WLC/WLL Review Group Meeting**	Agree Financial report with Head of Finance & Property Services	Financial Report to Committee Services	WLLAC Meeting
Period 3 forecast 24/25	August 2024	TBC	TBC	TBC	TBC
Period 5 forecast 24/25	October 2024	TBC	TBC	TBC	TBC
Period 7 forecast 24/25	November 2024	TBC	TBC	TBC	TBC
Detailed budget for 25/26	December 2024	TBC	TBC	TBC	TBC
Period 9 forecast 24/25	February 2025	TBC	TBC	TBC	TBC
Period 11 forecast 24/25 Budget update 25/26	April 2025	TBC	TBC	TBC	TBC
Draft accounts 24/25 Latest forecast 25/26	June 2025	TBC	TBC	TBC	TBC

*information not to be restricted to this and may include other relevant financial updates which will be requested in advance

**exact dates to be confirmed, but meeting will be held in advance of the deadline for agreeing the financial reporting information with the Head of Finance and Property Services

The approved budget and final outturn will be presented to the WLLAC meeting immediately after these tasks are finalised by WLL. In addition to these tasks, each committee meeting will consider the latest forecast position from WLL. The financial information required for each meeting in respect of the latest projected outturns should include:

- Forecast trading account and balance sheet
- Projected cash-flow for the remainder of the financial year

- Key assumptions used to compile forecasts
- Update on key risk areas e.g. income generation from memberships
- Material movements from previously reported position
- Potential impact on the council

The financial information should be provided, in excel format, by the WLL Head of Finance of West Lothian Leisure to Christine Bohne (Accountant, Financial Management Unit) a minimum of four working days prior to the WLC/WLL Review Group.

In addition to the existing routine monitoring and scrutiny to the WLLAC, the Head of Finance and Property Services will include updates on the WLL financial position to the Council Executive within the Revenue Budget monitoring reports at period 4, 6 and 9 throughout the 2024/25 financial year and beyond.

4. ADDITIONAL INFORMATION TO BE PROVIDED

WLL will submit to the council by mid-September each year its annual report and accounts audited by a qualified accountant, and will allow inspection of its accounting records by officers of the council if requested, within 14 days' notice of receiving a written request to that effect. This will allow further review of WLL's annual financial performance at the WLL Review Group before being reported to WLLAC.

In addition, with the agreement of the WLL Chief Executive, future audit reports will be presented to the WLLAC once these become available.

5. ADDITIONAL FUNDING

This document will be updated, as required, if any additional funding for 2024/25 is agreed by Council Executive.