

## Delegated Officer Report

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| <b>Decision Maker:</b>   | <b>Katrina Stephens – Director of Public Health</b>  |
| <b>Date of Decision:</b> | <b>July 2021</b>   |
| <b>Subject:</b>          | <b>Sport Development – TUPE to Oldham Community Leisure (OCL)<br/>Schools Swimming – Secondment to OCL</b> |
| <b>Report Author:</b>    | <b>Neil Consterdine – Assistant Director Youth, Leisure and Communities</b>                                |
| <b>Ward (s):</b>         | <b>N/A</b>   |

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**Reason for the decision:**

This report sets out the proposed change in the delivery of both the Sports Development and School Swimming Services following formal consultation.

Approval is sought to fully transfer the Sports Development service from the Council to the Council's leisure provider, Oldham Community Leisure (OCL). This will require a TUPE transfer of staff. The contract management arrangements will be retained within the Council, undertaken by the Assistant Director of Youth, Leisure and Communities.

Approval is also sought to second the School Swimming Service to OCL, this is initially for a 12-month period with quarterly reviews built in as part of the contract monitoring arrangements

Both changes require a variation to the existing Leisure Management Contract to allow this to happen.

**Summary:**

A commitment was made by the Council's Reform Directorate to achieve a saving of £24k in the 2021/22 annual budget round.

In order to achieve this saving a review of both the Sport Development and School Swimming Services was undertaken.

The purpose of the reviews was not only to contribute to the corporate savings but also to assess the agility, flexibility, and responsiveness of the services to

determine that they provided the best service to our customers.

Although the services provided a good level of service a mixed model of strategy and delivery for our sport and leisure provision is considered not the best way to deliver the service going forward. In addition, by aligning delivery to the leisure provider, a small saving could be identified for the Council albeit an increased subsidy to the OCL would be required.

Discussions were undertaken with OCL to gauge the appetite to deliver these services on the Council's behalf, this resulted in a positive response and agreement in principle to vary the existing contract.

The proposal for Sport Development that went out to formal consultation to both the staff and the trade unions, was a full transfer of the service which would require a TUPE transfer of staff. Consultation went well, there were no alternatives suggested and therefore if approval is given to this the intention is to proceed with a TUPE transfer of staff with effect from 6<sup>th</sup> September 2021.

The proposal for School Swimming that went out to formal consultation to both the staff and the trade unions, was a secondment of the staff to OCL. This would initially be for a 12-month period reviewed quarterly in line with contract monitoring arrangements.

This consultation was more challenging than Sport Development, the staff were not fully on board with this and therefore we had to go through the alternative options in more detail. The other options considered for this service were to restructure in house, which would undoubtedly have an impact on terms and conditions given it was the only way to make a saving. The other option was to TUPE transfer the staff to OCL, however at the present time this was prohibitive given the costs and pension implications as staff are all on teacher's terms and conditions.

Agreement has however been reached by the staff to sign the secondment agreements when issued if approval is given to progress this.

Going forward as and when vacancies arise in this service it is intended to appoint any new staff on NJC terms and conditions. Having regard to the age profile of the workforce and therefore over time having a full staff team on these terms and conditions (if appropriate) can be achieved naturally.

It is intended to review the secondment arrangement quarterly in line with contract monitoring arrangements

as it is recognised the position may change as a result of the Council's direction.

***What are the alternative option(s) to be considered? Please give the reason(s) for recommendation(s):***

**Option 1-** Transfer the delivery element of the Sports Development Service to the Council's leisure provider, OCL. Resulting in a TUPE transfer of 17 FTE staff along with casuals.

Second the School Swimming Service to the Council's leisure provider, OCL, initially for 12-months with quarterly reviews.

This would align the all delivery of sport and leisure in one place rather than across two organisations. These changes would achieve a saving of circa £24K in total.

A variation to the Leisure management contract would be required to facilitate these changes.

**Option 2 – Do nothing.** This option would not achieve the identified saving and continue to have a mixed model of delivery and strategy split across two parts of the service in the Council.

***Consultation: including any conflict of interest declared by relevant Cabinet Member consulted.***

Early engagement with staff across the service commenced on 8<sup>th</sup> December 2020. Several team meetings were held with the wider service, and the approach to being involved in the consultation early was positively received by staff and the trade unions.

Sport Development - Formal consultation with staff and the trade unions commenced on 20<sup>th</sup> April 2021 again with several subsequent meetings and follow up questions and answers. No alternative proposals were put forward from staff.

School Swimming – Formal Consultation with staff and trade unions commenced on 10<sup>th</sup> May 2021 along with subsequent meetings and follow up clarifications, questions, and answers. No alternative proposals were put forward and staff agreed to signing a secondment agreement at the appropriate time.

Engagement with the teacher's unions with regard to the School Swimming Service has been extensive, this was however required given the challenges identified above.

The Cabinet Member has also been briefed and staff have also been given the opportunity meet with the CEO of OCL.

Attached in **appendix 1 and 2** are the consultation documents for the services.

**Recommendation(s):**

**Option 1** is the recommended option given it achieves a budget efficiency but also aligns the delivery of sport and leisure in one place rather than parts of delivery in the Council and parts in the Leisure Trust.

In order to facilitate these changes a variation to the existing contract is required.

**Implications:**

What are the **financial** implications?

1. Budget reduction:

As part of the Council's budget setting for 2021-22 a budget reduction proposal was approved for the Sports Development Team to transfer to the Council's leisure provider, OCL, and second the School Swimming Service to OCL for an initial period of 12-months. The estimated full year saving identified is £24k.

The saving will be achieved by reducing non pay costs in supplies and services as this is budget is not in scope to transfer to OCL.

2. Transfer of service delivery to OCL

The 21-22 budget for Sports Development is:

|                              | £               |
|------------------------------|-----------------|
| Staff costs                  | 649,180         |
| Income from schools buy back | <u>-577,980</u> |
| Net budget                   | <u>71,200</u>   |

The budgetary information above would allow for a maximum management fee to OCL of £71k in a full financial year.

3. Secondment of the School Swimming Service

The secondment of the service is on the basis that there is nil cost to the Council, i.e. no additional management fee to OCL. The Council will continue to pay the employee's salaries due to the complexities around the staff's terms and conditions.

The current cost of the service is:

|                    | £                |
|--------------------|------------------|
| Staff              | 174,800          |
| Hire of facilities | 154,040          |
| Transport          | 136,910          |
| Income             | <u>(465,750)</u> |
| Net cost           | <u>0</u>         |

OCL will take responsibility for paying costs and income collection excluding salaries. The Council will recharge the full salary costs to OCL on a monthly basis.

(Nicola Harrop – Finance Manager)

*What are the **legal** implications?*

The consultation exercise conducted with staff and unions has been adequate and appropriate and the proposals contained in the report appear to be reasonable and proportionate in order to achieve the outcomes stated in the body of the report. Subject to approval of the proposals the Leisure Management Contract will need to be varied to reflect the new arrangements. It is not considered that a procurement process is required as the modification proposed to the contract as the modifications proposed are insubstantial having regard to the totality and nature of the contract and Rule 17 of the Council's Contract Procedure Rules.

(Colin Brittain)

*What are the **procurement** implications?*

The Commercial Procurement Unit supports the recommendations outlined in the report. The transfer of service delivery from the Council to Oldham Community Leisure will prompt a contract modification of which in this circumstance meet the criteria as outlined in clause 17 of the contract procedure rules.

(Emily Molden)

*What are the **Human Resources** implications?*

If the recommend option is approved this will require a TUPE transfer of Sport Development staff to the Council's leisure provider, OCL. This will be undertaken in line with appropriate policy and procedure and will be legally compliant.

Secondment agreements will be drawn up for individual staff members, liaison between the Council's HR service and OCL HR service will be undertaken to agree content of these agreements before sharing with the staff for sign off.

Work is underway to grade the role of swimming teacher under the NJC scheme and undertake a comparison of terms and conditions. It is intended to recruit to a post that has just become vacant due to a career break on NJC terms and conditions to provide a test/pilot to inform how to proceed going forwards. A business case will be developed when appropriate.

Emma Gilmartin, Strategic HR Business Partner

*What are the **Children and Young People** Implications?*

*None*

***Equality and Diversity Impact Assessment** attached or not required because (please give reason)*

*Not required*

What are the **property** implications? None

**Risks:** The main risk is the transfer process taking longer than is anticipated and logistics of the transfer of staff and any infrastructure. In addition, the loss of staffing from the Council and subsequent capacity issues to cover wider work.

**Co-operative agenda** The Teams are aligned to a cooperative way of working and work directly within schools to deliver sport and physical activity whilst also linking to wider community activity.

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Has the relevant Legal Officer confirmed that the recommendations within this report are lawful and comply with the Council's Constitution? Yes

Has the relevant Finance Officer confirmed that any expenditure referred to within this report is consistent with the Council's budget? Yes

Are any of the recommendations within this report contrary to the Policy Framework of the Council? No

**There are no background papers for this report**

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| <b>Report Author Sign-off:</b><br>Neil Consterdine – Assistant Director<br>Youth, Leisure and Communities |  |
| <b>Date:</b>  | July 2021  |

Please list and attach any appendices: -

| <b>Appendix Number or Letter</b> | <b>Description</b>   |
|----------------------------------|--|
| Appendix 1                       | Consultation document Sport Development including staffing and structures<br><br><br>Consultation Document Sports Dev |
| Appendix 2                       | Consultation document School Swimming including staffing and structures<br><br><br>Consultation Document School Swi   |

In consultation with Director / Strategic Director

Signed:  Julia Veal Date: 02/07/2021

Signed:  Katrina Stephens Date: 02/07/2021