

Agenda Item

Executive Board

19 October '05

DjP



Leisure Services – transfer to a non-profit distributing organisation.

Summary

The report puts forward for consideration the legal documents (key provisions papers) which will formalise the transfer of Leisure services to a Trust, the proposed rules of the Trust and its Outline Business Plan.

Recommendation

- 1. That the key provisions papers and rules of the Trust, as outlined in Appendix 1, be approved in principle.**
- 2. That the Trust's Outline Business Plan, as outlined in Appendix 2, be approved in principle.**

a) Reasons for Recommendation

The key provisions papers are the prime legal documents which determine the obligations of the Council and the Trust in the new partnership. The rules of the Trust set out the characteristics and considerations of the Trust which is being constituted as an Industrial and Provident Society.

The Trust's Outline Business Plan provides the Council with a rationale for the Trust and describes how it will contribute to the strategic aims and objectives shared with the Council. In addition, it seeks to establish the Trust on a sound financial footing, though the figures have not yet been finalised and hence are presented as indicative in this document.

b) Alternative Options

The Project Board and the Council's legal advisors be asked to revisit the terms of the transfer and the proposed rules of the new organisation.

The Trust Shadow Board be asked to reconsider the content of its Outline Business Plan.

c) Risk Considerations

The legal documentation, the rules and Outline Business Plan (as proposed) are considered to be the best way of establishing a productive working partnership between the Council and the Trust and delivering a financially sound and robust Trust.

d) Policy and Budgetary Considerations

The recommendations are in line with the Executive Board's decisions at its meeting on 15 June 2005.

The detail of grant-aid to the Trust, over the next 3 years, is not yet finalised.

e) Date for Review of Decision

The Executive Board will be asked to consider further recommendations, leading to a successful transfer, at its November and December meetings (see Critical Path at Appendix 3)

1 Main Body of the Report

The Council has decided to transfer the management of the greater part of its Leisure Service operation to a non-profit distributing organisation with a proposed transfer date of 1 January 2006.

The new organisation will be an Industrial and Provident Society. A Shadow Board has been recruited and was scheduled to have its first meeting on 14 October.

Throughout the process leading up to the transfer, a number of assumptions have been held:

1. The purpose of transfer is to create a sustainable organisation, not merely to divest the Council of costs and risks.
2. Any savings will be jointly used by the Council and NPDO to ensure the arrangements and facilities are as sustainable as possible.
3. The change to NPDO status will be almost invisible in terms of customers and stakeholders.
4. The ethos behind the new organisation will remain very similar to that of an in-house service. This will be secured through a service level agreement attached to the annual grant.
5. The Council and NPDO will remain a very close partnership.

These assumptions underpin the recommendations made in this report.

The legal documentation has been prepared by the Council's legal advisors, Messrs Lawrence Graham of London, in consultation with the Council's Leisure Trust Project Team.

The documents are intended to represent a broad framework of understanding on which the detail of the transfer will be built. The key provisions papers and the rules of the Trust will have been referred to the Trust Shadow Board, on 14 October, at which meeting it is hoped the documents will have been approved.

The key provisions papers and rules documents are set out in Appendix 1 as follows:

- Business Transfer agreement
- Landlord / Tenant Lease agreement
- Service level agreement - Support Services
- Dual Use agreement
- Funding and Management agreement
- Rules for Leisure East Devon Ltd.

The Outline Business Plan provides a rationale for the Trust, describes how it will contribute to the strategic aims and objectives shared with the Council and seeks to establish the Trust on a sound financial footing. The Outline Business Plan will have been referred to the Trust at its October meeting.

In addition to the Business Plan, the Trust will also be required to submit for approval a Service Plan. The Service Plan will set out in detail how the Trust intends to meet its obligations in respect of the service delivery outcomes required by the Council.

Legal Implications

This report has been prepared in conjunction with Legal Services and no additional comment is required at this stage.

Financial Implications

The actual grant payment to the Trust has not been determined at this stage.

Consultation on Reports to the Executive

The recommendations contained in the report have been agreed by the Leisure Trust Project Board, membership of which includes the Portfolio Holder for Culture, the Chairman of the former Communities Overview Committee, a representative from East Devon Secondary School Heads group and a sports centre user.

Background Papers

- Options Appraisal on the future management arrangements for Leisure Services undertaken by Leisure Consultants PMP. (The subject of a report to the Executive Board on 24 November 2004).
- Report to the Executive Board on 15 June 2005 (Leisure Services - transfer to a non-profit distributing organisation)

David Pagett
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Executive Board
19 October 2005