

Report to: Councillor James MacCleary, Leader of the Council

Date: 5 March 2021

Title: Wave Leisure Trust Funding and Management Agreement

Report of: Ian Fitzpatrick, Deputy Chief Executive and Director of Regeneration and Planning

Ward(s): All

Purpose of report To delegate authority to the Deputy Chief Executive/Director of Regeneration and Planning to:

1) undertake all necessary actions to complete a 10-year extension and variation of the existing Funding and Management Agreement with Wave Leisure Trust to commence from 1 April 2021.

2) agree the rent arrangements to be put in place at Seahaven Swim and Fitness and Downs Leisure Centre following previous Cabinet delegated authority to complete leases at these sites.

Decision type: Non-key

Officer recommendation(s): To delegate authority to the Deputy Chief Executive/Director of Regeneration and Planning to undertake all necessary actions to complete a 10-year extension and variation of the existing Funding and Management Agreement with Wave Leisure Trust. To agree the rent arrangements being put in place at Seahaven Swim and Fitness and Downs Leisure Centre.

Reasons for recommendations: On 19 March 2018 Cabinet delegated authority to the Deputy Chief Executive/Director of Regeneration and Planning to conclude leases at Seahaven Swim and Fitness and Downs Leisure Centre. Rental arrangements were not discussed and are therefore being presented within this report for completeness. In addition, the existing contract arrangements with Wave Leisure Trust come to an end on 31 March 2021 and the extension and variation of these arrangements to reflect the new lease arrangements therefore needs to be put in place to commence on 1 April 2021.

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1 Introduction

- 1.1 Wave Leisure Trust (WLT) operates the Council's leisure services at a variety of sites – some of these are operated directly within the Council's freehold ownership via leases and some are operated on behalf of the Council within East Sussex County Council owned properties via leases and or tri-partite arrangements. Alongside the leases and arrangements themselves, there is also a Funding and Management Agreement between the Council and WLT under which sits a number of related operational agreements.
- 1.2 In March 2018, as part of a move away from continuing to grant fund WLT, Cabinet approved the granting of new leases at the Council owned sites Seahaven Swim and Fitness and Downs Leisure Centre, and delegated authority to the Deputy Chief Executive/Director of Regeneration and Planning to complete the relevant leases. As the Cabinet paper was silent on future rental arrangements, for completeness, this paper outlines the arrangements that will be in place.
- 1.3 The Cabinet paper made mention of the Funding and Management Agreement expiring in 2021 but was silent on the arrangements that would be put in place afterwards. Since that time, it has become evident that this agreement will need be in place in order that operational agreements can continue to exist. This paper requests the authority to complete an extension of the existing Funding and Management Agreement and to make the necessary variations to that agreement to reflect the new arrangements accordingly.
- 1.4 In view of the fact that the existing leases for Seahaven Fitness and Swim and Downs Leisure Centre and the Funding and Management Agreement all terminate on 31 March 2021, new arrangements need to be in place for 1 April 2021.

2 Proposal

2.1 Leases at Seahaven Swim and Fitness and Downs Leisure Centre

Following Cabinet delegated approval to enter into new leases with WLT at these sites, Heads of Terms have now been agreed.

Liabilities will continue to operate in broadly the same way as per the existing leases, with WLT responsible for the day-to-day repairs and maintenance and the Council major renewal and replacements. The actual liabilities will be set out within a schedule appended to the lease.

The new leases reflect the fact that the Council no longer grant-funds WLT and that a rent will therefore be payable. In order to ensure that WLT are not unduly impacted by the rent responsibilities and can continue to concentrate on managing leisure services, and to reflect the current uncertainty in the market as a result of the impact of the pandemic, both leases will include a rent-free period and turnover rent provisions whereby rent will only be payable when a defined

level of turnover is reached; this is a common arrangement within leisure services.

2.2 Funding and Management Agreement

The current contractual arrangements with WLT expire on 31 March 2021.

Although leases would be in place to continue to manage the various properties on a day-to-day basis there are a number of operational arrangements attached to the existing Funding and Management Agreement. These operational arrangements include those around pension contributions for WLT staff and use of equipment in the Council's buildings. In order for these arrangements to continue from 1 April 2021 as the Council would wish them to do, the existing agreement needs to be extended with some variations for a further 10 year period.

Essentially the extended and varied Funding and Management Agreement will reflect the ethos of the current Funding and Management Agreement, however, it will strip away any unnecessary service obligations and reflect the fact that the Council will no longer grant-fund WLT.

The other incidental agreements that continue as a result of extending the Funding and Management Agreement include:

- Transfer Agreement
- Equipment Agreement
- Admissions Agreement
- Novation Agreement relating to Lewes Leisure Centre
- Novation Agreement relating to Meridian Leisure Centre & Gym Peacehaven
- Novation Agreement relating to Seaford Head Pool
- Performance Agreement relating to Lewes Athletics Track
- Performance Agreement relating to Meridian Sports Centre, Peacehaven
- Performance Agreement relating to car hire agreement

3. Legal implications

The Council has the power under Section 19 of the Local Government (Miscellaneous Provisions) Act 1976 and Section 1 of the Localism Act 2011 to provide financial and other assistance to the WLT as proposed in the varied and extended Funding and Management Agreement to assist the WLT in the provision of certain leisure services in the District of Lewes.

The extended Funding and Management Agreement is not intended and does not create a public contract within the meaning of the Public Contracts Regulations 2015 nor a concession contract within the meaning of the Concessions Contract Regulations 2016. The variations included as part of the extension of the Funding and Management Agreement reflect the decision of the Cabinet on 19 March 2018 to move away from such an arrangement in the future.

4. Appendices

None

5. Background Papers

Cabinet 19 March 2018: Wave Leisure Annual Service Delivery Plans 2018/19
<https://democracy.lewes-eastbourne.gov.uk/Data/Lewes%20District%20Council%20Cabinet/201803191430/Agenda/ZVQVdnD2byH2Z7Y50EjfTFZU8jJDV.pdf>