



# **LEISURE SERVICES BUSINESS CASE**

**A**

**REPORT**

**BY**



**JULY 2015**

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### Introduction

- 0.1 Carmarthenshire County Council (CCC) are currently reviewing the future provision of its Leisure and Cultural Services. Following an options appraisal report in June 2014, the Council agreed an in principle decision to progress with either
- Establishing a new Not for Profit Distributing Organisation (NPDO) or Trust to operate the services, or
  - Partner with an existing NPDO to deliver the services
- 0.2 This report sets out the business case and future delivery plan to progress with one of these options, based on the current scope of the service which includes
- 11 Leisure Centres
  - 30 Cultural Facilities (including libraries)
  - 5 Main Countryside sites
- 0.3 Specifically excluded from the current scope is the archives, outdoor education centre and the legal aspects of rights of way (ROW).

### Current Budget and MTFS

- 0.4 We summarise in the table below the current budget and future MTFS targets and priority based budgeting (PBB) for the period up to 2017/18.

**Table 0.1 – Current Budget, excluding Archives, ROW and Outdoor Education**

£'000's	2014/15	2015/16	2016/17	2017/18
Net Controllable Cost	6,974	6,682	6,325	6,022
Total Cost of Service	10,968	10,498	10,141	9,839
Net Savings	N/A	-469	-357	-303

- 0.5 As can be seen the future savings identified in the MTFS amount to £469,000 in 2015/16, and a further £357,000 (2016/17) and £303,000 (2017/18), giving a total savings of £1.13 million by 2017/18, taking into account additional costs such as increments and asset rental charges.
- 0.6 Of these savings a total of £330,000 has been identified in 2017/18 to be delivered through either closure of facilities or an alternative model of delivery, with a further £35,000 identified in 2016/17.
- 0.7 Thus if the Council decide not to progress with an alternative model of delivery or the future delivery cannot deliver savings of £330,000, consideration will need to be given to closure of services or facilities in order to meet the PBB targets.

### Soft Market Testing

- 0.8 A soft market testing process was undertaken to establish whether there was interesting the market in partnering with CCC to deliver some or all of the services.

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0.9 11 organisations responded to the opportunity including existing NPDO's. The key findings from the soft market testing included

- The sport and leisure area was of greatest interest to the market with all of the companies saying they would be interested in operating this area of the business.
- There were 5 companies who responded saying they were definitely interested in the complete scope of the portfolio, with all of those interested saying they were possibly interested in the other areas.
- All of the companies identified a contract length of at least 10 years with the majority of them also seeking up to 20 years, with two companies suggesting a longer lease (circa 50 years).
- All of the companies would be prepared to invest capital in the facility portfolio, and anticipated being able to improve the financial performance.

0.10 Thus there is significant interest from existing NPDOs in partnering with CCC to deliver the services.

### Existing v New NPDO

0.11 We summarise in the table below the advantages and disadvantages of both an existing NPDO and a new NPDO.

**Table 0.2 – Advantages and Disadvantages**

Newly Established NPDO Option	
Benefits	Disadvantages
<ul style="list-style-type: none"><li>• Access to external funding (including people's time)</li><li>• Speed of reaction to market</li><li>• Less bureaucracy</li><li>• Tax Advantages</li><li>• Security of provision</li><li>• Single focus body</li><li>• Reinvestment in service</li><li>• Ability to 'grow' the business</li><li>• Local focus</li></ul>	<ul style="list-style-type: none"><li>• Control through funding agreement and lease – potentially limited due to independence</li><li>• Lack of wider corporate support</li><li>• Longer to vary service</li><li>• Possible difficulty in recruiting Trustees</li><li>• Slower to deliver financial savings</li></ul>

Existing NPDO or Hybrid NPDO Option	
Benefits	Disadvantages
<ul style="list-style-type: none"><li>• Access to funding</li><li>• Speed of reaction to market</li><li>• Less bureaucracy</li><li>• Financial benefits</li><li>• Security of provision</li><li>• Single focus body</li><li>• Commercial input</li><li>• Greater speed in delivering the financial benefits</li><li>• Greater Control through funding agreement and lease</li><li>• Greater capital investment opportunities</li></ul>	<ul style="list-style-type: none"><li>• Possible lack of full financial advantages (eg VAT)</li><li>• Leakage of surpluses away from Carmarthen</li><li>• Possible lack of local knowledge and 'buy in'</li><li>• Competing Priorities with other contracts</li></ul>

- 0.12 Overall there are a number of advantages which an existing or hybrid NPDO option has over a new NPDO and in addition to this is likely to save the Council circa £380,000 per annum as opposed to £314,000 per annum for a new NPDO.
- 0.13 These savings are based on tax advantages only and do not factor in future operational improvements other than those already factored in to the PBB savings.
- 0.14 This suggests that CCC should seek to partner with an existing NPDO due to the advantages and also the delivery of the financial savings.

### Scope of Partnership

- 0.15 Consideration has also been given to the scope of any partnership through an alternative delivery model. Taking into account the response from the soft market testing, the key services which should be transferred would be sport and leisure and theatres.
- 0.16 These areas account for the majority of the financial savings and also have the opportunity to operate in the most commercial way, with the levels of income generated.
- 0.17 The financial savings which are estimated from tax benefits are circa £191,000 with additional savings through operational and commercial improvements and also through the redevelopment of LLC.
- 0.18 Consideration may be given to initially entering into a partnership with Sports & Leisure and Theatres and then further consideration to other services if this proves successful.

### Affordability Level

- 0.19 Typically if a Council seeks to procure an alternative management options then they will set an affordability level, which they will present to the market so that

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expectations can be set on the level of future bids that would be received to deliver on the savings expectations.

- 0.20 It is proposed that CCC set an affordability limit for any future procurement which is set to deliver the savings within the MTFS and then an efficiency saving beyond this period.
- 0.21 Typically the affordability limit would be set for the management fee required as opposed to the overall Council budget. In this case we have assumed the management fee would include the following costs
- Net Controllable Budget for CCC
  - Maintenance Costs
- 0.22 These areas would effectively be the areas transferred to the partner, with the Council retaining the support services charge and also the capital charges. Thus the affordability levels would be as follows

**Table 0.3 – Future Affordability Levels**

*Complete Service*

£'000's	2016/17	2017/18	Annual Average		Total
			Years 3 - 10	Years 3 - 20	
10 Year Contract	6,645	6,342	6,063		61,493
20 Year Contract	6,645	6,342		5,772	116,890

*Sport & Leisure plus Theatres*

£'000's	2016/17	2017/18	Annual Average		Total
			Years 3 - 10	Years 3 - 20	
10 Year Contract	2,627	2,306	2,205		22,571
20 Year Contract	2,627	2,306		2,099	42,714

- 0.23 In addition to this there is the potential to include an affordability level for LLC, through the identification of a capital level and current revenue cost which bidders must deliver on. An example of this would be
- The Council will provide at least £4.5 million of capital, plus any further capital within the joint venture with Welsh Government
  - Further capital will be made available through prudential borrowing if the costs of the borrowing can be funded through revenue savings on the existing cost (2016/17 budget) of LLC (£555,585)
- 0.24 In this way the Council can seek to get the best commercial offer for the redevelopment of LLC.
- 0.25 In addition to these affordability levels there would be set up costs of circa £50,000 for the year 2015/16.
- 0.26 Typically in the market we would expect the affordability level to be the maximum and the market in general tends to be significantly less than the affordability level, with examples of up to £500,000 per annum lower than the affordability level being achieved.

### Recommendations and Way Forward

- 0.27 Taking these issues set out above and the overall review of the previous study as set out in the report we set out below the key recommendations for the future development.

#### Key Recommendations

It is recommended that CCC seek to enter into a partnership with an existing or hybrid NPDO through a procurement process using competitive dialogue, which has the key parameters set out in the procurement strategy below, which will seek to deliver the MTFS financial savings, in line with the affordability levels set out above. The procurement process would be without a bid submission from a newly established NPDO.

The initial scope of the partnership would be for Sports and Leisure plus Theatres, with further consideration given to other services once the contract has been operational.

If there is no interest in some or all of the services, CCC should then seek to establish a new NPDO for the services to deliver the financial savings within the MTFS.

- 0.28 The rationale for entering into a procurement process with an existing NPDO only as opposed to a process with a newly established NPDO bidding is as follows

- There is a need for a procurement process to be followed and if a newly established NPDO is bidding then the Council will need to establish both an evaluation team and bidding team, which could increase resources required
- Bidders may be put off bidding if a newly established NPDO is also bidding
- An existing NPDO is likely to deliver improved financial savings and in addition, experience has shown that these can be delivered more quickly.
- The Council may well be able to assert more control over an existing NPDO
- The soft market testing process suggests that some bidders may come forward with innovative new models which bring local input and operation to the future delivery

- 0.29 If this recommendation is agreed then the future procurement strategy has been developed to achieve the key outcomes, with a new partner in place for July 2016.

### Background

- 1.1 Carmarthenshire County Council's (CCC) Leisure Services portfolio plays a key strategic role in delivering services that contribute to corporate priorities and the community strategy including
  - Healthy and Active Living
  - Lifelong learning
  - Sustainable Communities
  - Strong Economy
- 1.2 Due to the increasing financial pressures facing the public sector and the need for CCC to make reductions in its revenue subsidy over the next few years, CCC is seeking to undertake a review of the management options in respect of the leisure and recreation portfolio.
- 1.3 Currently CCC operate its leisure and recreation portfolio directly through the Council.
- 1.4 CCC undertook a leisure options review in May 2014 which considered a number of different management options for the future operation, which broadly fall into 5 different types of organisation,
  - **In house option** – where the service is continued to be managed through an organisation on which the Council has total control, in effect maintaining the status quo in terms of control and governance. This would include direct provision and an organisation wholly owned by CCC.
  - **A new Not for Profit Distributing Organisation (NPDO)** – where the service is managed by a newly established NPDO specifically set up to run CCC services. The NPDO is established by CCC from the existing Leisure Services Department. The NPDO could be one of a number of different types including a Company Limited by Guarantee (CLG), Industrial Provident Society (IPS), Charitable Incorporated Organisation and could be a co-operative or mutual.
  - **An existing NPDO** – where the service is managed by an existing NPDO which operates services for other Councils, such as Celtic Community Leisure (managing Neath Port Talbot Leisure Facilities) or HALO Leisure (managing Bridgend Leisure Services). Typically these trusts have developed following an initial transfer of services through the creation of NPDO to deliver leisure services. They are usually either a CLG or an IPS but can be other types of NPDO and could be consider to be a co-operative
  - **Hybrid Trusts** – where the service is operated by a private sector Leisure Management Contractor, such as 1 Life (previously Leisure Connection), Places for People (previously DC Leisure), SLM, through a NPDO organisation. It should be noted that within the private sector all of the major operators also have different operating models which enable the benefits of NNDR savings and VAT to be realised, commonly known as Hybrid Trusts. Indeed some of the organisations are now established as registered charities, such as Active Nation. Typically these organisations are CLG's



## SECTION 2 – SOFT MARKET TESTING

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- **Private Sector** – where the service is operated by a private sector Leisure Management Contractor, such as 1 Life, Places for People, SLM, without the use of a NPDO organisation. All the operators offer this potential as well as their NPDO organisation (Hybrid Trusts). In addition there are a number of major FM companies who are now running services such as libraries and other facilities as part of a major outsourcing approach. A joint venture approach could also fall into this category

1.5 The previous study identified a number of key recommendations for the future delivery of the leisure service including

- Two management options, a new NPDO or an existing NPDO (or Hybrid NPDO) have the potential to deliver significant revenue savings for the Council
- There appears to be less interest in an existing NPDO operating other services than leisure, due to the established market for sports and leisure facilities
- The establishment of a new NPDO may better serve the cultural and countryside facilities, whereas an existing NPDO would deliver greater savings for the sports and leisure facilities
- There are opportunities to deliver significant revenue savings and reduced capital costs through a Design, Build, Operate and Maintain (DBOM) approach to the replacement of Llanelli Leisure Centre (LLC)
- The private sector option and retaining the service in house were not recommended as the most cost effective approach to delivery of the outcomes.

1.6 Cabinet agreed the recommendation in June 2014 and RPT Consulting was appointed in January 2015 to review the previous study and further develop a business case with recommendations as to the way forward.

1.7 This report presents the business case for the service and recommends a preferred management option which will deliver the outcomes that CCC are seeking, having reviewed the previous study and updated the information based on a number of key actions

- Document review of the previous information and assessment of any key changes
- Soft Market Testing – through an advert in the leisure press to identify the level of interest in operating the facilities
- Legal implications – a review of the key legal implications and approach to the future management options, in particular procurement issues

1.8 This business case sets out our review and the approach to the work based on consideration of the more detailed issues relating to the two recommended management options, either establishing a new NPDO or partnering with an existing NPDO (or Hybrid NPDO).

### Scope

1.9 The focus of the previous leisure services options appraisal is on CCC's leisure and recreation portfolio which includes

- Sport & Leisure

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- Sports and Leisure Centres
  - Health and Activity
  - Sports Development Unit
- Cultural Services
  - Town Libraries
  - Community, Mobile & School Libraries
  - Theatres
  - Museums
  - Arts and Galleries
  - Archives
- Countryside
  - Public Rights of Way
  - Millennium Coastal Park
  - Pembrey Country Park
  - Other Country Parks
- Other
  - Pendine Beach
  - Motor Sports Centre, Pembrey

1.10 Within all these services there are a number of services which are statutory services such as libraries.

1.11 Since the previous study there have been a number of changes to the structure of CCC and the following services are now considered to be outside of the scope of review, based on where they sit within the Council and the role and function. Thus the services listed below are not included in this business case

- Archives
- Public Rights of Way
- Outdoor Education

1.12 We have also considered the potential opportunities and implications for future cross border collaboration within neighbouring authorities and potential issues arising from the Williams review.

### Approach

1.13 The business case has been developed in partnership with CCC and has involved,

- Consultation with key officers in the Council, including finance, property, legal, personnel and leisure services, through the project team
- Document review
- Soft Market Testing
- Legal Implications
- Financial analysis

1.14 The business case work has not involved any primary research or detailed consultation with customers or non users, but has drawn upon other studies undertaken.

1.15 Our focus has been to ensure that whichever route is chosen for the future of the service, the service outcomes remain at the forefront of the delivery option,

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together with identifying appropriately “commercial approaches” which can generate financial savings, to deliver social objectives.

1.16 The remainder of the report is structured as follows

- Section 2 – Soft Market Testing – setting out the process and response to the Soft Market Testing undertaken
- Section 3 – Options Analysis – a summary of the analysis of the future option and potential implications, including key issues, such as governance and procurement, through the legal implications
- Section 4 – Financial Implications – an analysis and update of the financial implications, taking into account the medium term financial strategy
- Section 5 – Conclusions and Way Forward – including a detailed action plan

## SECTION 2 – SOFT MARKET TESTING

### Process

- 2.1 In order to consider the future management options, in particular the operation by an existing or hybrid NPDO, a soft market testing process has been undertaken, which involved the following key steps
- Advert placed in Leisure Press and also Sell2Wales inviting responses and expressions of interest
  - Preparation of a background document outlining the service and seeking responses to some key questions including
    - Level of interest in operating some or all of the facilities and services – is there a preference for parts of the service or for all of the service as described in section 2.
    - Would you be prepared to invest in the facilities and on what basis
    - Is there the potential to improve on the current performance
    - Would you have a preferred contract length for any partnership - the Council may consider long term arrangements (20 years plus)
    - Do you believe there are opportunities to bring in new or innovative approaches to the future operation – building on other opportunities elsewhere?
- 2.2 In particular CCC is keen to understand what the response to the market was for each aspect of the overall portfolio. The results from the soft market testing would not only help establish the level of interest but also inform the future procurement of any future option.

### Analysis of Responses

- 2.3 There were 15 enquiries for a pack to be sent, of which 11 organisations responded to the pack and expressed an interest.
- 2.4 Those organisations expressing an interest included local to major national leisure management operators and a developer.
- 2.5 We summarise in the table below the responses to the key questions which were asked in the soft market testing pack.

**Table 2.2 – Summary of Responses**

Organisation	Areas of Interest			Length of Term (Years)	Capital Investment
	Sport & Leisure	Culture	Countryside		
Company 1	✓	✓	✓	15-20	Yes
Company 2	✓	?	?	10-20	Yes
Company 3	✓	✓	✓	10 + 10	Yes
Company 4	✓	?	?	10-15 minimum	Yes
Company 5	✓	✓	✓	10 - 20	Yes
Company 6	✓	?	?	20 +	Yes

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Company 7	✓	✓	✓	15 - 20	Yes
Company 8	✓	✓	?	10-15	Yes
Company 9	✓	?	✗	15-20	Yes
Company 10	✓	✓	✓	Not stated	Yes
Company 11	✓	?	✓	Long Lease	Yes

### Notes/Key

✓ = definitely interested in operating this area

? = possibly interested in operating this area

✗ = not interested in this area

2.6 As can be seen from the table above there are a number of key findings from the soft market testing, including

- The sport and leisure area was of greatest interest to the market with all of the companies saying they would be interested in operating this area of the business.
- There were 5 companies who responded saying they were definitely interested in the complete scope of the portfolio, with all of those interested saying they were possibly interested in the other areas, with the exception of Company 9 who weren't interested in Countryside.
- All of the companies identified a contract length of at least 10 years with the majority of them also seeking up to 20 years, with two companies suggesting a longer lease (circa 50 years).
- With the exception of Company 11, who are interested in a long lease on an asset transfer basis, the remaining companies were interested in leisure management contracts.
- All of the companies would be prepared to invest capital in the facility portfolio.

2.7 In addition to this feedback, all of the companies indicated that they are likely to be able to improve the financial performance, although this is based on their experience on other contracts, as opposed to a detailed analysis of the current financial performance.

2.8 Company 7 also presented an option where they would seek to partner with the Council through use of a local Trust supported and wholly owned by Company 7, but utilising the benefits of local trustees.

2.9 Overall there is significant interest in the CCC portfolio, which has implications for any future procurement which is discussed in the next section. In particular the level of interest in Sports & Leisure and Theatres is the most significant.

### Introduction

- 3.1 The previous study undertaken identified two principle options for the future delivery of the leisure management, which are
- Establishment of a new NPDO for Carmarthenshire
  - Partnering with an existing NPDO or hybrid NPDO
- 3.2 Both of these options have the potential to deliver revenue savings of between £318,000 and £385,000 per annum, which we review in the next section.
- 3.3 In addition the previous report considered the future redevelopment and investment in Llanelli Leisure Centre (LLC), which indicated the potential for a new build option which could be delivered through a Design, Build, Operate and Maintain (DBOM) approach, with a new capital build of circa £16 million.
- 3.4 Funding for this could be provided through a combination of capital reserves and funding through invest to save opportunities, with future revenue improvements enabling the Council to borrow capital against these savings.
- 3.5 Within this section we consider the two options having reviewed a number of different aspects, including
- Governance and approach
  - Procurement
  - Legal Implications
- 3.6 By reviewing these areas, we have been able to identify potential issues with the future options and then consider the financial implications within the next section.

### Governance and Approach

- 3.7 There are a number of key differences between governance and Council relationship between the two management options, in particular the key difference being that the new NPDO is a new start up organisation as opposed to an existing organisation.
- 3.8 Typically the new NPDO is established as either a Company Limited by Guarantee (CLG) with charitable status or an Industrial and Provident Society (IPS). An existing NPDO or Hybrid NPDO will also have a similar company structure and could be a CLG or IPS.
- 3.9 We set out some of the key differences in the table below.

**Table 3.1 – Governance Approach Comparison**

Area	Newly Established NPDO	Existing NPDO/Hybrid NPDO
Governance	<ul style="list-style-type: none"> <li>• A CLG or IPS, with surpluses reinvested in service,</li> <li>• Memorandum and articles will determine the business of the NPDO, to include where they can do business and what they can deliver, for example whether it is limited to Carmarthen.</li> <li>• Governed by an independent Board of Directors, with limited (less than 20%) Council representation, typically 11 Board member.</li> <li>• Local people on Board appointed by CCC</li> <li>• A charity – regulated by charity commission</li> </ul>	<ul style="list-style-type: none"> <li>• A separate company (charitable structure in place)</li> <li>• Board are unlikely to be local people – although there is the possibility they could be, through different structures and local board representation (for example through a subsidiary NPDO)</li> <li>• No Council representation on the board</li> </ul>
Council Relationship	<ul style="list-style-type: none"> <li>• Lease of the buildings granted on peppercorn rent to partner, freehold ownership of the facilities remains with Council</li> <li>• Management Agreement attached to lease requiring partner to deliver outcomes and service standards, linked to a performance monitoring system if underperform</li> <li>• Management Agreement includes for annual service development plans to be produced and agreed by Council</li> <li>• Council pays management fee for the delivery of the outcomes</li> <li>• There is a need to potentially limit the level of control to ensure independence of the NPDO</li> </ul>	<ul style="list-style-type: none"> <li>• Lease of the buildings granted on peppercorn rent to partner, freehold ownership of the facilities remains with Council</li> <li>• Management Agreement attached to lease requiring partner to deliver outcomes and service standards, linked to a performance monitoring system if underperform</li> <li>• Management Agreement includes for annual service development plans to be produced and agreed by Council</li> <li>• Council pays management fee for the delivery of the outcomes</li> </ul>

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Area	Newly Established NPDO	Existing NPDO/Hybrid NPDO
Service Delivery	<ul style="list-style-type: none"> <li>• Council specifies prices, outcomes and service quality through specification and contract, however there is a need to ensure independence of the NPDO and as such there may not be the same level of control with an existing NPDO</li> <li>• Operational risk sits with the NPDO, however in the early years they may not have the reserves and as such the Council may have to fund any shortfall</li> <li>• Maintenance responsibility will be with partner, level of responsibility (full repair and renewing or operational maintenance) to be decided</li> <li>• partner need consent of Council for any capital works or variation to building use</li> </ul>	<ul style="list-style-type: none"> <li>• Council specifies prices, outcomes and service quality through specification and contract</li> <li>• Operational risk sits with partner</li> <li>• Maintenance responsibility will be with partner, level of responsibility (full repair and renewing or operational maintenance) to be decided</li> <li>• partner need consent of Council for any capital works or variation to building use</li> </ul>
Staffing Arrangements	<ul style="list-style-type: none"> <li>• Partner employs staff , after an initial TUPE transfer – staff transfer on same terms and conditions, including pension. This may include staff not within Leisure Centres budgets (such as central support)</li> <li>• Pension to be admitted body status or similar. Council responsible for contributions relating to pension deficit up to transfer. Partner responsible for any deficits arising from their own actions</li> </ul>	



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Area	Newly Established NPDO	Existing NPDO/Hybrid NPDO
Support Services	<ul style="list-style-type: none"> <li>NPDO decides on support services they need and where they purchase these services from</li> <li>NPDO can purchase services from Council through SLA but NPDO decision</li> <li>Savings in the central support services through no longer delivering support to leisure services can be achieved</li> <li>There will be a need for a proportionate commissioning/client role in the Council</li> </ul>	<ul style="list-style-type: none"> <li>Existing NPDO will have their own central support services – thus no option for continued provision by Council</li> <li>There will be a need for a proportionate commissioning/client role in the Council?</li> </ul>

3.10 As can be seen from the table there are a number of similarities for both options in that there will be a similar management agreement which the Council is able to specify the outcomes. Some of the key differences between the two options are

- A new NPDO will have a local Board of Directors and any surpluses (at least initially) will be invested in the leisure services within Carmarthenshire. Longer term the surpluses may be invested in other aspects of the NPDO portfolio.
- There is potentially more opportunities for the Council to control the service with an existing NPDO, as they do not have to consider the independence of the organisation. Increasingly the Charities Commission are scrutinising agreements between the Council and newly established NPDO's to ensure there is independence. This means that the level of control may not be as great with a new NPDO.
- There is greater risk transfer with an existing NPDO, at least initially until reserves have been established by the newly established NPDO
- There is greater opportunity for the Council to enter into a support services agreement with a new NPDO as opposed to an existing NPDO which will have its own support services.

3.11 Thus some of the decisions over the future options will be linked to the approach CCC wish to take in delivering the leisure services. Both options can potentially deliver financial savings (Section 4) and have demonstrated with other Councils improvements to the service.

### Procurement

3.12 One of the key issues to consider within the future options is the approach to procurement.

3.13 The key issues identified in procurement for consideration include the following

- The new Public Contracts Regulations 2015 have removed the previous Part B services contract exemptions (which leisure was part of) and there is a general need for some form of market testing
- It is unlikely that the Council could set up a newly established NPDO without going through some form of procurement process

3.14 Following the soft market testing process undertaken (as summarised in the previous section) there is clearly market interest in the leisure portfolio and as such it would appear that CCC will need to follow a procurement process, which could take one of two forms

- Procurement for an existing NPDO, without a bid submission from a newly established NPDO
- Procurement for both an existing NPDO, with a bid from a newly established NPDO

3.15 If the Council decided to progress with the procurement to include a newly established NPDO, then consideration will need to be given to managing both a procurement process and also supporting the establishment of a new NPDO. In particular this will mean that the Council is likely to have two different teams which operate in parallel, meaning greater resources.

3.16 An alternative approach would be to undertake a procurement process which does not have a newly established NPDO within the process, but if there is no interest from the market or indeed no suitable bids coming forward, then the newly established NPDO is a fall back position.

### Legal Implications

3.17 We summarise below some of the issues

- **Local Authority Powers**

The powers of CCC to establish a new NPDO or enter into a partnership are based on both the wellbeing powers of an Authority and the ability to run leisure and cultural services. The establishment of NPDOs and partnerships is well established in the Local Authority market and a number of new NPDOs and Existing NPDOs operate in the leisure sector.

- **TUPE**

Transfer of Undertakings (Protection of Employment) Regulations 1981 (TUPE) apply in any transfer to any of the delivery options presented, except in house. This means that staff that spend the majority of time providing the

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services are entitled to transfer on their existing terms and conditions with no break in service.

This clearly applies to those staff who work directly for the services being transferred (predominantly the leisure services staff), but it may also apply to other staff who work in other departments but spend the majority of their time on leisure services work. Typically this would relate to staff spending more than 50% of their time, but each case would need to be looked at individually.

It is possible that in CCC's case there are staff in central support (such as finance, IT, Personnel) and possibly the property/maintenance teams to whom this may apply to in addition to the staff within the leisure service. If the Council decides to transfer the service to either a new or existing NPDO then detailed analysis of timesheets and roles of central support teams will need to be undertaken to identify any potential TUPE transfers. However this may be mitigated through the continuation of the provision of support services for the initial years, meaning that any TUPE transfer may be undertaken for these staff in a few years.

The other key area in relation to TUPE is to ensure effective staff consultation and management of staff concerns during the transfer process.

- **Pensions**

If CCC enters into a partnership then there is a requirement for the contract to include pension protection for all transferring employees, which is defined as the right to acquire pension benefits which are the same or broadly comparable. In practice this would typically mean that a new NPDO would gain admitted body status to the Local Government Pension Scheme (LGPS).

For existing and hybrid NPDOs their positions on pensions will vary with some of them providing their own similar schemes and others joining the LGPS, although typically most hybrid NPDO's will provide broadly comparable as opposed to gaining admitted body status. The Council can however require that a partner gains admitted body status.

Typically existing and hybrid NPDOs will also if they have joined the LGPS seek to make it a 'closed' scheme that is only available to existing employees. Often newly created NPDOs will also make the schemes closed.

The normal approach to costs is that the Council is responsible for contribution costs which relate to any deficit and the partner would be responsible for any changes in contribution as a result of their actions. In effect however the net cost of pensions does not change across any of the delivery options.

- **Property**

In order to gain NNDR relief the property must be occupied and used for mainly charitable purposes. A lease is a presumption of occupation therefore in general to ensure maximum rate relief is achieved it is recommended a lease is entered into with the partner.

The other key issue in relation to property is whether the lease is a full repairing and renewal lease or whether the maintenance responsibilities are split with the Council retaining structural maintenance and major equipment replacement responsibility and the partner undertaking all other maintenance.

Typically most contracts would tend to be with a maintenance split, although increasingly existing and hybrid NPDO's are taking on full repair and renewal responsibilities. However this will come at a price as the operator will usually price in a risk factor, although sometimes this would be offset by economies of scale they can achieve.

We recommend that if a transfer is considered by the Council then the current approach is retained where the Council continues to undertake maintenance at the sites with the partner undertaking day to day maintenance.

- **Asset Transfer**

There are a number of assets which may need to be transferred in any new partnership, including equipment, ICT, supply contracts, intellectual property, operational manuals, membership databases, user information. It is important in the transfer that CCC's position is protected and we recommend that CCC either loan or licence the assets rather than transferring them.

In this way the partner has an obligation to maintain and repair them as appropriate and then return the asset at the end of the agreement in a good state of repair or updated as necessary.

To ensure this works properly an inventory of the assets will need to be undertaken prior to transfer.

- **NNDR**

There are two ways in which NNDR relief can be achieved, either mandatory or discretionary relief. Mandatory relief is granted to charitable organisations and is 80%. In general to achieve mandatory NNDR relief there needs to be occupation by a charitable organisation and the facilities used for predominantly charitable purposes. The establishment of a NPDO with charitable purposes would satisfy this requirement. In addition there is the potential for additional top up discretionary relief to 100%.

Discretionary relief is granted by the Local Authority and up to 100% relief can be granted, which could also include a 20% top up where mandatory relief is granted.

Whilst there is local retention of business rates in England which impact on these savings, this is not the case in Wales and we understand is not likely to be introduced in the near future.

- **VAT**

Fees for sport and recreation can qualify as exempt from VAT if supplied by an eligible body, which is typically a non profit making body, such as a NPDO. It should however be recognised that if the fees are exempt from

## SECTION 3 – OPTIONS ANALYSIS

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VAT it does also mean the VAT on expenditure (Input Tax) cannot be recovered, so would be an additional cost to the organisation.

Some of the hybrid NPDO's have also promoted structures which enable them to claim back VAT through not for profit organisations. If the Council enter into a partnership with a private sector operator then detailed assessment of these structures should be undertaken.

- 3.18 The overall approach is that there is the legal ability to undertake a procurement process and a number of issues that will need to be managed as CCC progresses the project. These will be factored into the project plan.

### Summary

- 3.19 Both of the future management options identified in the earlier report would be able to deliver improved opportunities for CCC leisure services portfolio, with a number of advantages and disadvantages for each option as summarised in the table below

**Table 3.2 – Advantages and Disadvantages**

Newly Established NPDO Option	
Benefits	Disadvantages
<ul style="list-style-type: none"><li>• Access to external funding (including people's time)</li><li>• Speed of reaction to market</li><li>• Less bureaucracy</li><li>• Tax Advantages</li><li>• Security of provision</li><li>• Single focus body</li><li>• Reinvestment in service</li><li>• Ability to 'grow' the business</li><li>• Local focus</li></ul>	<ul style="list-style-type: none"><li>• Control through funding agreement and lease – potentially limited due to independence</li><li>• Lack of wider corporate support</li><li>• Longer to vary service</li><li>• Possible difficulty in recruiting Trustees</li><li>• Slower to deliver financial savings</li></ul>

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Existing NPDO or Hybrid NPDO Option	
Benefits	Disadvantages
<ul style="list-style-type: none"><li>• Access to funding</li><li>• Speed of reaction to market</li><li>• Less bureaucracy</li><li>• Financial benefits</li><li>• Security of provision</li><li>• Single focus body</li><li>• Commercial input</li><li>• Greater speed in delivering the financial benefits</li><li>• Greater Control through funding agreement and lease</li><li>• Greater capital investment opportunities</li></ul>	<ul style="list-style-type: none"><li>• Possible lack of full financial advantages (eg VAT)</li><li>• Leakage of surpluses away from Carmarthenshire</li><li>• Possible lack of local knowledge and 'buy in'</li><li>• Competing Priorities with other contracts</li></ul>

3.20 Of particular relevance is also the need to undertake a procurement process and as such the Council will need to consider whether to include a newly established NPDO within the process.

## SECTION 4 – FINANCIAL IMPLICATIONS

### Introduction

4.1 In this section we consider the financial implications for both of the future options that are being considered through the following analysis

- Analysis of the current medium term financial strategy (MTFS) and budgets
- Review of the previous financial analysis, including any key changes
- Identification of a future affordability level for the service

### Existing Budget and MTFS

4.2 We summarise the current budget and MTFS for the complete service in the table below.

**Table 4.1 – Existing MTFS (Complete Service)**

£'000's	2014/15	2015/16	2016/17	2017/18
Income	-5,959	-6,047	-6,221	-6,663
Controllable Expenditure	13,384	13,111	12,936	13,084
<b>Net Controllable Cost</b>	<b>7,425</b>	<b>7,064</b>	<b>6,715</b>	<b>6,421</b>
Capital Charges	3,172	3,011	3,011	3,011
Support Services	1,143	1,126	1,126	1,126
<b>Total Cost of Service</b>	<b>11,739</b>	<b>11,201</b>	<b>10,853</b>	<b>10,559</b>
<b>Net Savings</b>	<b>N/A</b>	<b>-538</b>	<b>-348</b>	<b>-294</b>

4.3 Thus the net cost of the service in 2017/18 would be £10.559 million a savings of £1.18 million on the 2014/15 budget. This is for the complete service and we summarise in Table 4.2 below the net cost and savings excluding Archives, Rights of Way (ROW) and Pendine Outdoor Education Centre which are considered outside of the scope of the review.

4.4 It should also be noted that within the MTFS savings there are savings of £330k identified in 2017/18 from alternative delivery models, thus any savings identified would be to deliver on these savings and not be additional.

**Table 4.2 – MTFS excluding Archives, ROW and Outdoor Education**

£'000's	2014/15	2015/16	2016/17	2017/18
Net Controllable Cost	6,974	6,682	6,325	6,022
Total Cost of Service	10,968	10,498	10,141	9,839
Net Savings	N/A	-469	-357	-303

4.5 Bearing in mind the level of interest in Sports and Leisure plus Theatres from the soft market testing, we also consider the future MTFS for Sport & Leisure plus theatres.

**Table 4.3 – MTFS Sports & Leisure plus Theatres**

£'000's	2014/15	2015/16	2016/17	2017/18
Net Controllable Cost	2,755	2,687	2,467	2,146
Total Cost of Service	4,530	4,091	3,871	3,550
Net Savings	N/A	-439	-220	-321

## SECTION 4 – FINANCIAL IMPLICATIONS

- 4.6 In addition to these costs there is a notional allocation for maintenance costs on revenue of £320,000 in 2014/15 for the department (which includes properties from Economic Development and Pendine Outdoor Centre, although the apportionment of these costs is relatively small. There is also a notional capital budget allocation of circa £400,000
- 4.7 The net cost of the service excluding the out of scope services in 2017/18 would be £9.839 million, a saving of £0.568 million on 2014/15 (or £2.146 million in 2017/18 for Sport & Leisure plus Theatres). The savings presented above are based on a number of savings and costs as summarised below.

**Table 4.4 – Summary of Savings and Additional Costs**

£'000's	2014/15	2015/16	2016/17	2017/18
Efficiency Savings				
Policy	n/a	-59	-158	-428
Managerial	n/a	-330	-344	0
Additional Costs/(Savings)	n/a	-80	145	125
<b>Net Costs/(Savings)</b>	<b>n/a</b>	<b>-469</b>	<b>-357</b>	<b>-303</b>
Net Costs/(Savings) – Sport & Leisure + Theatres				

Note:

1. The additional costs/savings include increments, validations, housekeeping (virements), asset rental changes, etc
  2. A negative number is a saving or income
  3. These savings and costs are only for the services which are considered in scope
- 4.8 The additional costs or savings are effectively linked to additional costs such as increments or costs which are unavoidable and non controllable. The key cost in 2015/16 is a reallocation of the ROW budget so that the legal statutory duties are out of scope but maintenance of the ROW remains in scope and hence the additional costs, due to a budget realignment.
- 4.9 There are however a number of efficiency savings which have been identified and summarised in the table presented above. These include the following

### *Sport and Leisure*

- Increased income through health and fitness memberships
- Review of wet and dry programme leading to realignment and reduction in costs at the main Leisure Centres.
- Transfer of bowls centres to voluntary organisations with a reducing subsidy, with CCC retaining maintenance responsibility
- Reduction in some opening hours potentially at dual use facilities (shared with school sites)

### *Countryside*

- Service and staff review as part of service realignment, resulting in a reduction in the staffing levels

### *Culture and Heritage*



## SECTION 4 – FINANCIAL IMPLICATIONS

- Service and staff review as part of service realignment, resulting in a reduction in the staffing levels
- Oriel Myrddin transferred to independent Trust from 2016/17
- Review of delivery models for community and mobile libraries, including electronic / on line solutions and co-location of premises.
- Reduction in service specification and review of theatres delivery model

### *Department*

- Closure of a number of leisure facilities or alternative service delivery model, such as Trust model.

4.10 Thus there are a number of opportunities leading to a number of revenue savings through changes to operations, however of particular importance to this process is the savings identified to come from either an alternative delivery model or through closure of facilities.

4.11 The level of savings identified for this are £35,000 in 2016/17 financial year and a further £330,000 in 2017/18. We review these amounts in comparison to the savings identified from the earlier work below.

### **Financial Savings**

4.12 The previous report identified a number of savings for each of the two options. We have reviewed these savings based on the amendments to the scope and also updated the budget based on the amended 2014/15 budget, to reflect the corporate re-validation for only partial delivery of the efficiency savings associated with recharging schools.

4.13 The previous financial analysis was based on the approved 2014/15 budget and as such is still relevant. The table below summarises the savings compared to the previous report.

**Table 4.5 – Financial Savings Compared**

Service Area	Financial Savings/(Costs) (£'000's)			
	Previous Report		Revised Analysis	
	New NPDO	Existing/ Hybrid NPDO	New NPDO	Existing/ Hybrid NPDO
Countryside	55	70	52	67
Sports and Leisure	163	200	163	200
Cultural Services	139	149	137	147
Other	(13)	(9)	(5)	(1)
<b>Complete Service</b>	<b>318</b>	<b>385</b>	<b>314</b>	<b>380</b>

Note: the complete service is not the total of all of the others, due to the VAT calculations

4.14 It can be seen that the savings previously identified are still broadly the same once the revised positions have been taken into account. There is still the opportunity for partnering with an existing NPDO to deliver circa £380,000 of

## SECTION 4 – FINANCIAL IMPLICATIONS

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savings per annum and for a new NPDO, circa £314,000 of savings. Thus the existing NPDO delivers greater savings.

4.15 Transfer of Sports and Leisure plus Theatres to an existing NPDO would account for circa £191,000 of the savings.

4.16 Within the MTFS a figure of £330,000 has been used for the savings attributable to alternative delivery models from 2017/18.

4.17 These savings are based on the following key assumptions and factors

- **NNDR Relief** – a NPDO can gain up to 80% mandatory relief from NNDR, with the potential for a further 20% discretionary relief. This is the case for new, existing and hybrid NPDO's. It will be important that if the Council progresses with a hybrid or existing NPDO utilising this structure, then the risk of tax relief is taken by the partner and that the legal structure proposed is reviewed in some detail.

The level of NNDR that the Council will save is based on 80% mandatory relief it saves plus a further 25% of any top up discretionary relief. Thus a total of 85% could be saved, however we have assumed the mandatory relief of 80% only is saved in our analysis.

The total potential savings allowed for NNDR relief are £510,000 per annum across the service.

- **VAT Benefits** – an analysis of the VAT implications is presented in the attached spreadsheet and represents the savings made through income which was standard rated now being exempt. The supply by a non profit making body to individuals or services for sport, physical activity and education can be exempt, as can the supply of cultural services be exempt through a non profit making body and includes entrance fees and charges. This does not apply to a Local Authority, albeit some charges made are exempt. It is assumed the prices would remain the same to the customer and the NPDO would make the savings on the move from standard rated income to exempt. Set against these savings is the irrecoverable VAT on expenditure (including maintenance) which the NPDO cannot recover due to its level of exempt income.

There may also be the possibility that if the NPDO makes the capital investment the NPDO cannot claim back the VAT on the capital giving rise to a significant VAT cost. If the Council can use prudential borrowing then it will be important a structure is place where the Council invests the capital but the NPDO takes the risk on repayments and capital cost overrun.

It should also be noted that there may be implications if currently organisations who hire facilities recover VAT, however the VAT analysis at present suggests that the majority of standard rated activities appear to be end users.

- **Central Support Costs** – if the services are transferred to a partner (whether existing NPDO, hybrid or private sector) then there is no longer the need for the Council to provide central support services, however there will be a need for additional services which the partner will need to provide. For a new NPDO typically the Council will continue to provide support services to

## SECTION 4 – FINANCIAL IMPLICATIONS

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the new NPDO through a service level agreement (SLA) for a period of 1-2 years.

The financial implications associated with support services will be dependent on a number of issues

- The level of reductions which the Council can make in the support services if they are no longer providing support services to leisure services
- The costs of support services which are required for each of the different management options.

The difference between the reductions and the costs will provide the financial implication for the Council. At this stage of the analysis we have assumed a 20% reduction in the Council budget if support services are no longer provided. This 20% reduction is based on examples from elsewhere and allows for the fact that there will be circa 80% of costs which cannot be saved. This will need further work as the project develops and should be a target for savings.

We have then used market comparisons to assess the future support service costs required under each option (typically existing NPDO uses 5% of turnover and for a new NPDO this is circa 6%).

If the Council decide to transfer the service then a more detailed assessment will need to be made of the level of savings that can actually be made, through detailed timesheet analysis. There may be TUPE implications for staff who spend the majority of their time on leisure services.

It should also be recognised that whilst the transfer of leisure services may not have a significant impact on the central support charges, if other services are transferred in the future, then it may be a greater impact and lead to a fundamental shift in the central support structure.

- **Set Up Costs** – these have been excluded from the savings presented above but have been included within the attached spreadsheet. These would apply to the service in year 1 (2015/16) of any transfer and relate to the costs associated with either a procurement process (in the case of an existing/hybrid NPDO) or the establishment of a new organisation (new NPDO). We have estimated these costs at £50,000 (procurement of existing NPDO) and £75,000 (new NPDO) based on our previous experience of undertaking similar projects. This relates to the costs of external advice (such as legal, financial and project management) as opposed to officer time, and would incorporate current costs of RPT Consulting.

For the establishment of an existing partnership the set up costs would be in the region of £50,000 which are predominantly for legal and external advice, to include the already commissioned leisure and financial advice.

- **Future Operational Enhancements** – there is the potential for different management options to deliver improved revenue and reduced expenditure in comparison to the in house, for a number of reasons, including:

## SECTION 4 – FINANCIAL IMPLICATIONS

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- Commercialism – an existing NPDO/Hybrid and a new NPDO will have the potential to develop additional revenue through a more commercial approach.
- Health and Fitness – the management and approach to health and fitness has shown to improve significant revenue enhancements through a more proactive and established management of facilities with a sales focus. This has been shown on numerous examples
- Economies of Scale – for the existing partner there is the potential for economies of scale reducing costs, such as utilities or maintenance/equipment reduction in costs
- Flexibility – there is the ability for new NPDO's and existing organisations to be more flexibility in the operation, for example, the ability to operate with a flexible workforce in facilities which require it (such as theatres) where events can mean that there is a need to be flexible to get resources to meet the needs of the market. Other examples could include sales incentives for staff such as fitness staff.
- Additional investment schemes such as energy efficiency and other investment schemes to generate income can also be delivered

4.18 Both options therefore still have the potential to deliver significant financial savings, simply through the delivery of tax advantages, and in addition there is the potential to deliver further revenue savings through a more commercial operation.

## SECTION 4 – FINANCIAL IMPLICATIONS

### LLC Redevelopment

4.19 The previous study identified a number of options for LLC and potential opportunities for the future development of LLC, which are summarised below.

**Table 4.6 – LLC Development Options**

	<b>Option 1</b> (Minor Refurbishment)	<b>Option 2</b> (Major Refurbishment)	<b>Option 3</b> (New Facility – Existing Site)	<b>Option 4</b> (New Facility – Old Castle Works Site)
Capital Cost (£m)	3.2	18.6	16.0	16.0
Potential Funding (£'m)	-	-	4.5	9.0
Net Capital Required (£'m)	3.2	18.6	11.5	7.0
Revenue Cost/(Surplus) (£'000's)	354	191	(56)	(56)
Revenue Savings (£'000's)	-	163	410	410

4.20 There are a number of options which the Council would be able to develop through the revenue savings of £410,000 which would fund the capital shortfall of circa £7.0 million.

4.21 The overall development of LLC should be viewed as a potentially stand alone scheme which could be factored in to any procurement process to work in partnership with an alternative provider to deliver future developments. For example, the initial stage of the procurement process could ask for input from the market as to the most appropriate way to develop the LLC and the level of capital required.

4.22 The Council could then determine the most appropriate way forward once receiving this feedback. We discuss this further in the next section.

### Affordability Levels

4.23 CCC currently has identified in its MTFS a number of savings which is expected to be delivered through changes to the operation of the Leisure Services, as set out earlier in this section (Table 4.2), excluding Archives, Public Rights of Way and the Outdoor Education. Equally there are similar levels for Sport & Leisure plus Theatres (Table 4.3)

4.24 Typically if a Council seeks to procure an alternative management options then they will set an affordability level, which they will present to the market so that expectations can be set on the level of future bids that would be received to deliver on the savings expectations.

4.25 It is proposed that CCC set an affordability limit for any future procurement which is set to deliver the savings within the MTFS and then an efficiency saving beyond this period.

## SECTION 4 – FINANCIAL IMPLICATIONS

4.26 Typically the affordability limit would be set for the management fee required as opposed to the overall Council budget. In this case we have assumed the management fee would include the following costs

- Net Controllable Budget for CCC
- Maintenance Costs

4.27 These areas would effectively be the areas transferred to the partner, with the Council retaining the support services charge and also the capital charges.

4.28 The earliest any new arrangement could be introduced is April 2016 and as such the MTFS from 2016/17 illustrates the following level of budgets

**Table 4.6 – MTFS Budgets**

£'000's	Whole Service		Sport & Leisure plus Theatres	
	2016/17	2017/18	2016/17	2017/18
Net Controllable Budget	6,325	6,022	2,467	2,146
Maintenance Allocation	320	320	160	160
<b>Net Cost</b>	<b>6,645</b>	<b>6,342</b>	<b>2,627</b>	<b>2,306</b>

4.29 The figures presented above exclude Archives, ROW and Outdoor Education Centre. We have assumed that 50% of the maintenance budget is attributable to Sports & Leisure plus Theatres.

4.30 In addition to these figures the Council could consider an efficiency target of a further 1% of savings per annum over the life of the contract. Thus we summarise the affordability levels for a 10 and 20 year contract in the table below

**Table 4.7 – Future Affordability Levels**

*Whole Service*

£'000's	2016/17	2017/18	Annual Average		Total
			Years 3 - 10	Years 3 - 20	
10 Year Contract	6,645	6,342	6,063		61,493
20 Year Contract	6,645	6,342		5,772	116,890

*Sport & Leisure plus Theatres*

£'000's	2016/17	2017/18	Annual Average		Total
			Years 3 - 10	Years 3 - 20	
10 Year Contract	2,627	2,306	2,205		22,571
20 Year Contract	2,627	2,306		2,099	42,714

4.31 In addition to this there is the potential to include an affordability level for LLC, through the identification of a capital level and current revenue cost which bidders must deliver on. An example of this would be

## SECTION 4 – FINANCIAL IMPLICATIONS

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- The Council will provide at least £4.5 million of capital, plus any further capital within the joint venture with Welsh Government
- Further capital will be made available through prudential borrowing if the costs of the borrowing can be funded through revenue savings on the existing cost (2016/17 budget) of LLC (£555,585)

4.32 In this way the Council can seek to get the best commercial offer for the redevelopment of LLC.

### **Summary**

4.33 Both options still have the potential to deliver significant revenue savings and there is still the potential to deliver the redevelopment of the LLC as part of any procurement

4.34 We consider the future approach and key conclusions within the next section.

## SECTION 5 – CONCLUSIONS AND WAY FORWARD

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### Delivery of Outcomes

- 5.1 A key focus of the service that CCC is seeking to deliver is to identify the outcomes which the service should deliver and the success of the service be measured against.
- 5.2 Our review of the previous study has confirmed that the conclusions identified are still relevant in that
- Both a new NPDO and an existing NPDO have the potential to deliver significant revenue savings (up to £379,000 per annum) through a partnership, which focuses on delivering the outcomes
  - A partnership with an existing NPDO is likely to deliver greater financial savings
  - There is the potential to deliver a new or refurbished LLC through using revenue savings to fund capital required
- 5.3 In addition our review has identified a number of other key factors which may impact on any future decision making, including
- The new public contracts regulations 2015 suggest that there is a need for CCC to undertake some form of procurement process whether establishing a new NPDO or partnering an existing NPDO
  - There would appear to be two options for procurement, either with or without a bid submission from a newly established NPDO
  - Soft market testing has identified a significant level of market interest in the leisure services portfolio, in particular the sport and leisure centres
  - The MTFS has identified a number of savings for the service up until 2017/18
- 5.4 Taking these issues set out above and the overall review of the previous study as set out in the report we set out below the key recommendations for the future development.

#### Key Recommendations

It is recommended that CCC seek to enter into a partnership with an existing or hybrid NPDO through a procurement process using competitive dialogue, which has the key parameters set out in the procurement strategy below, which will seek to deliver the MTFS financial savings, in line with the affordability levels set out below. The procurement process would be without a bid submission from a newly established NPDO.

The initial scope of the partnership would be for Sports and Leisure plus Theatres, with further consideration given to other services once the contract has been operational.

If there is no interest in some or all of the services, CCC should then seek to establish a new NPDO for the services to deliver the financial savings within the MTFS.



## SECTION 5 – CONCLUSIONS AND WAY FORWARD

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5.5 The rationale for entering into a procurement process with an existing NPDO only as opposed to a process with a newly established NPDO bidding is as follows

- There is a need for a procurement process to be followed and if a newly established NPDO is bidding then the Council will need to establish both an evaluation team and bidding team, which could increase resources required
- Bidders may be put off bidding if a newly established NPDO is also bidding
- An existing NPDO is likely to deliver improved financial savings and in addition, experience has shown that these can be delivered more quickly.
- The Council may well be able to assert more control over an existing NPDO
- The soft market testing process suggests that some bidders may come forward with innovative new models which bring local input and operation to the future delivery

5.6 If this recommendation is agreed then the future procurement strategy is set out below to deliver on the future outcomes, as well as consideration of the LLC redevelopment.

### **Future Procurement Strategy and Way Forward**

5.7 We consider a number of key issues for the procurement strategy, which sets the framework for the overall process, including.

- Key Outcomes
- Bid Options and Structure
- Affordability Levels & Financial Implications
- Evaluation Criteria

5.8 The overall approach and timetable is based on a new contract being in place for April 2016 and is based on a competitive dialogue process and will consist of the following stages

- Pre Qualification (PQQ)
- Invitation to Submit Detailed Solutions (ISDS)
- Invitation to Submit Final Tenders (ISFT)
- Preferred Bidder and Contract Award

### *Key Outcomes*

5.9 There are a number of key outcomes which the future Leisure Management Partnership is expected to deliver, which include

- *Facility Investment*
  - Refurbishment or replacement for LLC, based on the feasibility studies undertaken

## SECTION 5 – CONCLUSIONS AND WAY FORWARD

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- Investment in other leisure and cultural facilities to ensure long term sustainability and delivery of commercial opportunities
- Life Cycle costs responsibility to sit with the contractor, although it is recognised that some costs and issues which are difficult to predict may sit better with the Council
- *Service Delivery*
  - Maintain the level of quality of provision as current as a minimum, with continuous improvement
  - Deliver on the Council's key outcomes which include
    - People can access opportunities to be active
    - More children are hooked on leisure/cultural activity for life (0-18)
    - More People (18+ years) are active in Leisure and Culture
    - People are affiliated to clubs/community groups or facilities
    - People are given the skills to become physically and creatively literate for life
    - People achieve their potential
    - Our facilities and services are well managed and efficient
  - Provision of pricing for disadvantaged groups and core prices and maintaining current pricing levels
- *Financial Implications*
  - Affordability levels to be based on existing revenue costs, and the savings identified in the MTFS
  - Any capital investment to be funded through revenue savings over and above those levels of capital identified for LLC.
  - Surplus Share to be included based on simple 50:50 share of surplus above management fee submission, to provide income generation for the Council.
  - Utilities benchmarking to be included based on price benchmarking only – Contractor responsible for energy consumption

5.10 We consider the affordability level later in this section.

### **Bid Options and Structure**

5.11 We set out in Table 5.1 overleaf the structure of the bid (both mandatory and optional submissions) for the ISDS phase which will mean bids which will enable the Council to consider the future options before narrowing down the options at ISFT.

**Table 5.1 – Bid Requirements**

<b>Bid</b>	<b>Requirements</b>
Mandatory Solution (MS)	<ul style="list-style-type: none"> <li>• Operation of the portfolio of sport and leisure plus theatres portfolio to include <ul style="list-style-type: none"> <li>◦ Design, Build, Operate and Maintain for either a refurbishment or new build for LLC</li> <li>◦ Investment in other facilities to deliver on the outcomes and affordability levels</li> </ul> </li> <li>• Full responsibility for the buildings including operational delivery (in accordance with specification) and life cycle costs</li> <li>• 20 Year Contract Term from 1 April 2016</li> <li>• Bidders should include construction programme and should price for interim operation of the existing facilities until the new facilities are open</li> <li>• Bidders can include any additional commercial facilities which improve the overall financial offer.</li> </ul>
Mandatory Variants (MV)	MV1 – As per the MS but with operation of the existing facilities with no capital investment
Optional Variants (OV)	<p>The bidder can submit any additional variant bids which provide added value to the Council and deliver either an improved service or better value for money. In particular some of the areas which the Council has identified as possible added value items include</p> <ul style="list-style-type: none"> <li>• Commercial development (such as soft play, extreme sports, climbing) which deliver enhanced opportunities and finances</li> <li>• Differing contract terms (either longer or shorter)</li> <li>• Different risk profiles, such as life cycle costs</li> <li>• Different prices to customers</li> <li>• Only certain facilities</li> </ul>

5.12 The bid structure presented above would be refined following the PQQ stage.

### **Affordability & Financial Implications**

5.13 We summarise over the following paragraphs the affordability and financial implications, with further detail presented in Section 4.

5.14 Currently the Council has developed a MTFS which delivers future savings and on the assumption that a new delivery model will be in place for 2016/17 then there is the potential to deliver an improved model which can deliver the following future cost to the Council

## SECTION 5 – CONCLUSIONS AND WAY FORWARD

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**Table 5.2 – Future Affordability Levels**

*Sport & Leisure Plus Theatres*

£'000's	2016/17	2017/18	Annual Average		Total
			Years 3 - 10	Years 3 - 20	
10 Year Contract	2,627	2,306	2,205		22,571
20 Year Contract	2,627	2,306		2,099	42,714

5.15 In addition to this there is the potential to include an affordability level for LLC, through the identification of a capital level and current revenue cost which bidders must deliver on. An example of this would be

- The Council will provide at least £4.5 million of capital, plus any further capital within the joint venture with Welsh Government
- Further capital will be made available through prudential borrowing if the costs of the borrowing can be funded through revenue savings on the existing cost (2016/17 budget) of LLC (£555,585)

5.16 There will then be additional (non controllable) costs which are within the Council and remain as budgets in the Council.

5.17 It will be important to set out for the bidders this affordability position which considers a number of different factors including the revenue position of the Council and the capital input the Council is prepared to make.

5.18 We recommend that affordability position for the Council is set out as follows:

### **Council Affordability**

£4.5 million of capital and a revenue budget for the 20 year term of £42.714 million have been identified as the affordability limit. If bidders require any additional capital funding the Council have the ability to provide further capital assuming that the scheme stays within the affordability limits, for which bidders will need to account for repayment costs in accordance with the amounts set out below.

The £4.5 million identified is allocated to the refurbishment or redevelopment of LLC, with further potential from the joint venture.

At this stage of the project the Council has identified the potential to borrow the capital identified above but it will be dependent on overall affordability at the time and subject to any changes in legislation, etc when the capital is required.

The affordability evaluation will be undertaken based on the capital being provided by the Council through prudential borrowing.

For any capital that is provided through prudential borrowing the following repayment costs should be clearly shown within bidders submissions.

- Based on interest rate of 3.63% with a 25 year term
- £59,378 per annum per £1 million borrowed

Thus if a bidder is borrowing £3 million then they should include a repayment of £178,134 per annum in their financial submission.

The actual interest rates (including the provision for MRP) which will be used for any borrowing will be determined at the time of drawdown, but for the purposes of evaluation bidders should use the above figures.

5.19 The Council can then also consider what length and level of borrowing it undertakes once bids have been received, for example, other councils have borrowed over the life of the asset as opposed to the contract (such as 40 years). There will also be a need to consider the cashflow for the project once bids have been received and the borrowing can be factored to accommodate this.

### **Evaluation**

5.20 The approach to evaluation will be to deliver a bidder who provides the most economically advantageous bid to take into account any design and capital build, service quality and commercial arrangements.

5.21 Bidders' Detailed Solutions will be scored against the evaluation criteria set out in the Evaluation Model. The Evaluation Model also sets out the maximum weightings that have been given to each criteria.

5.22 Tenders will be evaluated against the award criteria set out below, with more detailed criteria developed under each of these principle areas as the project develops.

## SECTION 5 – CONCLUSIONS AND WAY FORWARD

Evaluation Criteria	Weighting
Services	40%
Technical	10%
Commercial	50%
Total	100%

5.23 An Evaluation Team shall be responsible for evaluating the Detailed Solutions and raising clarification issues with Bidders and ultimately making short listing recommendation(s) to the Council's Project Boards and Members.

5.24 The Evaluation methodology and Evaluation Model will be applied by the Council to score and rank Bidders and will be used to determine which Bidders and Detailed Solutions will be short-listed for the detailed dialogue phase leading to call for Final Tenders.

5.25 Bidders should note that at the Final Tender stage it will be a submission requirement that Bidders submit a solution that reflects the dialogue to date and does not step back or renege from the solution proposed in dialogue.

5.26 The Council will score the Detailed Solutions (and Final Tenders) against the Tier 2 (and where applicable Tier 3) sub-criteria. Each response, will be marked out of a total possible score of 10.

Score	Rating	Criteria for Awarding Score
0	Unacceptable	Does not meet any of the Council's requirements.
1-2	Very Weak	Insufficient information provided / unsatisfactory.
3-4	Poor	Fails to meet the minimum standard, some major concerns
5-6	Acceptable	Satisfactorily achieves the minimum standard, acceptable, no major concerns
7-8	Very Good	Exceeds the requirements, good, full and robust response, gives confidence and will bring added value/benefit to the Council
9-10	Excellent	Considerably exceeds requirements, outstanding, and will bring significant added value/benefit to the Council, shows innovation and the Council has full confidence in response.

5.27 The pass mark for the following evaluation areas is 5 out of 10 and any responses scoring less than 5 for any area listed below will be considered to not meet the requirements and therefore fail the evaluation and the submission will be rejected. These evaluation areas are

- Health & safety
- Staffing

5.28 For the evaluation of affordability the following scoring mechanism will be used, and will apply to the overall annual average Management Fee, to include any costs of capital through prudential borrowing requirements.

## SECTION 5 – CONCLUSIONS AND WAY FORWARD

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5.29 The Council is expecting that the overall cost of the Detailed Solutions submitted will be within the Council's affordability threshold.

5.30 The Council reserves the right to reject any Detailed Solutions which exceed the affordability threshold as being non-compliant.

5.31 At ISDS the overall annual Management Fee of the Detailed Solution will be scored on a scale which is fixed as follows:

- (a) an overall annual Management Fee which achieves the affordability threshold will score 1
- (b) an overall annual Management Fee that exceeds the affordability threshold will score 0.
- (c) an overall annual Management Fee of £500,000 under the affordability threshold or less will score the maximum score of 10

5.32 The scores will be calculated to one decimal place. A worked example is shown below based on a management fee which is £350,000 below the affordability level:

- Receives 1 mark for achieving the affordability level
- receives a further 6.3 marks for the pro rata'd amount between affordability level and £500,000 below, i.e.  $350,000/500,000 = 0.7 \times 9$  marks (difference between 1 & 10) = 6.3
- total marks received is 7.3 marks (1+6.3)

5.33 A project plan, setting out actions and timescales, will form part of the process and is structured to allow flexibility throughout the process including dialogue with any potential partners (if appropriate) to ensure that CCC achieve a solution that not only delivers the financial savings but also will deliver the outcomes.

