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Our reference:
Your reference:
Date: 1 November 2010

To all Members of the Council

Dear Councillor

A meeting of the CABINET will be held on Tuesday 9 November 2010 at 7.00 pm in the Council Chamber, Civic Centre, Pavilion Road, West Bridgford to consider the following items of business.

Yours sincerely

Head of Corporate Services

AGENDA

1. Apologies for absence.
2. Declarations of Interest.
3. Minutes of the Meeting held on Tuesday 12 October 2010.
4. Leadership Model and Executive Arrangements
The report of the Head of Corporate Services.
5. Discretionary Rate Relief for Charitable and Non Profit Making Organisations - Review of Policy
The report of the Head of Revenues & ICT Services.
6. Licensing of Sexual Entertainment Venues
The report of the Head of Corporate Services.
7. Establishment of a Non Profit Distributing Organisation Arrangement for the Leisure Management Contract with Parkwood Leisure Ltd
The report of the Head of Partnerships and Performance.
8. Accommodation for Rushcliffe Community and Voluntary Service
The report of the Head of Community Shaping.

Membership

Chairman: Councillor J N Clarke

Vice-Chairman: Councillor J A Cranswick

Councillors D G Bell, J E Fearon, R Hetherington, Mrs D J Mason

Meeting Room Guidance

Fire Alarm - Evacuation - in the event of an alarm sounding you should evacuate the building using the nearest fire exit, normally through the Council Chamber. You should assemble in the Nottingham Forest car park adjacent to the main gates.

Toilets - Facilities, including those for the disabled, are located opposite Committee Room 2.

Mobile Phones – For the benefit of other users please ensure that your mobile phone is switched off whilst you are in the meeting.

Microphones - When you are invited to speak please press the button on your microphone, a red light will appear on the stem. Please ensure that you switch this off after you have spoken.

REPORT OF THE HEAD OF CORPORATE SERVICES

CABINET PORTFOLIO HOLDER – COUNCILLOR J N CLARKE

Summary

The report sets out the responses to the consultation undertaken on the Council's Leadership Model and Executive arrangements in order that Cabinet can recommend the preferred model, and the necessary changes to the Council's Constitution to reflect this, to the next meeting of Council.

Recommendation

It is RECOMMENDED that Cabinet having considered the consultation responses in relation to the Leadership Model and Executive arrangements recommend to Council that

- (i) the Leader and Cabinet Model is the preferred option as it would be most likely to assist in securing continuous improvement in the way the Council's functions are exercised; and
- (ii) the necessary changes to the Council's Constitution be made, as set out at **Appendix B**, enabling the preferred Leadership Model and Executive arrangements to be implemented at the next Annual Council meeting in May 2011.

Detail

1. At its meeting on 8 June Cabinet considered a report setting out proposals arising from the required changes to the Council's Leadership Model resulting from Part 3, Chapter 5 of the Local Government and Public Involvement in Health Act 2007. These changes have to be approved by the end of December 2010 for District Councils and required the Council to consult on the following models for Leadership and Executive arrangements:
 - A Mayor and Cabinet Executive, where the Mayor is directly elected by the public for a four year term and Cabinet Members are appointed by the Mayor from members of the Council
 - A Leader and Cabinet Executive, where the leader is elected by members of the Council for a period of four years, or until the Leader's current term of office as a Councillor ends. Cabinet Members are appointed by the Leader from Members of the Council.
2. Having considered the matter in June Cabinet considered that, subject to the results of the consultation to be undertaken, the Leader and Cabinet Model

would be most likely to assist in securing continuous improvement in the way the Council's functions are exercised. Additionally, Cabinet agreed the action plan detailing the consultation to be undertaken and recommended it to Council for approval. Subsequently Council considered and agreed Cabinet's recommendation at its meeting on 24 June and a period of low cost consultation began on 1 July ending on 30 September. The consultation process involved:

- A press release and details of the period on the Council's website
 - The provision of an online survey available via the Council's website
 - A letter to all Borough Councillors and the Parish Councils inviting their views and referring them to the online survey
3. The consultation received coverage in the Nottingham Evening Post and the Newark Advertiser.
 4. Shortly after the commencement of the consultation period, a letter was received from the Rt Hon Grant Shapps MP, Minister for Housing and Local Government, urging Councils to take a low-cost approach to the consultation in view of the fact that the Coalition Government intended to legislate to change the statutory requirements relating to executive arrangements and leadership models in local authorities. In view of the guidance given in the Minister's letter it was clear that the Council was taking forward an approach to the consultation consistent with government's direction.
 5. In addition to the Minister's letter the Department for Communities and Local Government (DCLG) have published a Structural Reform Plan which sets out the proposed measures to shift power from Whitehall to local councils. Within the plan reference is made to the identification of measures to allow councils to return to the committee system, however this has a timescale ending in November 2011. The plan indicates that the proposals in relation to a return to the committee system will form part of the localism bill which it is anticipated will amend the Local Government Act 2000, which set up the Executive System. Therefore Cabinet are advised that the present legislative framework requires compliance with the rules regarding the Leadership and Executive arrangements.
 6. Turning to the consultation undertaken and the responses a summary is provided as **Appendix A** of the report. In total there were 35 responses to the consultation with 23 expressing a preference for the Leader and Cabinet Model and seven for the Elected Mayor Model. Three respondents expressed no preference and two made reference to a return to the Committee system consistent with the proposals within the DCLG Structural Reform Plan as referred to in the previous paragraph.
 7. As a result of the consultation responses and Cabinet's previous confirmation that the Leader and Cabinet Model would be most likely to assist in securing continuous improvement in the way the Council's functions are exercised, it is suggested that this form of 'Executive Arrangements' be recommended to Council. The implementation of this model will require some minor changes to the Council's Constitution and **Appendix B** sets out these proposed changes. The report recommends that these changes be referred to the next meeting of Council for agreement as this will ensure that the necessary arrangements

are implemented and in place for the Annual Council meeting after the local elections in May 2011.

Risk and uncertainties

8. The Council would be in breach of the legislation if it failed to determine the preferred model for Leadership and Executive arrangements and bring into effect the change within the timescale specified by the legislation. If the Council fails to implement the required changes the Local Government and Public Involvement in Health Act 2007 provides for the Secretary of State to intervene and prescribe by order the application of a Leader and Cabinet Executive Model.

Financial implications

There were only minor costs directly associated with meeting the legislative requirements for the Leadership Model. These primarily related to the consultation which was delivered in line with the Government's expectation of it being a low cost exercise. Should a directly elected Mayor model be introduced, there would be the additional costs of holding a Mayoral election alongside the ordinary local government elections in May 2011.

Section 17 Crime and Disorder Act

None directly from this report.

Diversity

Strengthening the executive leadership will assist in securing continuous improvement, underpinning the delivery of the Council's diversity and equality responsibilities. The provision of the strong leadership model will help to maintain the robust governance arrangements that are in place reinforcing the Council's commitment to its statutory and non statutory equality and diversity obligations.

Background Papers Available for Inspection:

Local Government Act 2000

Part 3, Chapter 5 of the Local Government and Public Involvement in Health Act 2007

White Paper, 'Strong and Prosperous Communities' – 2006

Requirement to Consult under the Local Government and Public involvement in Health Act 2007- Letter from the Rt Hon Grant Shapps MP – Minister for Housing and Local Government – September 2010

Leadership Model Consultation – Response summary

Summary of electronic survey responses

Overall, 19 electronic survey responses were received as follows:

Number	Who	What
1	Anon	Option 1 - The existing system is working well, and this represents some fine-tuning.
2	Anon	Option 1 - This is similar to the current system which works well and there is no additional cost to this option.
3	Anon	Option 1 - I prefer option 1 because it is similar to the present system which works outstandingly well for the Borough of Rushcliffe with its rural and urban mix. The other option would be more appropriate for a wholly urban borough.
4	Anon	Option 1 - The role of a councillor to have the ability to influence decisions and effectively represent their constituents has already been eroded by a cabinet system. To move to a mayoral system would focus so much power into the hands of an individual, without, in real terms, accountability to the elected councillors, would reduce the effectiveness of local councillors even more and be detrimental to local democracy.
5	Anon	Option 1 – It's clear and less expensive
6	Anon	Option 1 - It is closest to the existing model. No one person has complete security of tenure during the four year term – under the other option the mayor would have that security. Option 1 avoids the cost of an additional election for Elected Mayor. The Civic element of the council's operations would remain in place and not watered down to a 'chairman'.
7	Anon	Option 1 - I think there is more contact with the elected members under this system
8	Anon	Option 1 - It is similar to what we have and works well. There should be no extra cost. Outside London, all powerful elected mayors have not been successful, and it is impossible to get rid of an elected mayor.
9	Anon	Option 2 - At least it offers the chance of more democratic choice
10	Anon	Option 2 - The people should pick the Mayor – not just muggins turn. Democracy not political elites handing out jobs to their friends.
11	Anon	Option 1 - To continue with current successful governance. To have the ability to remove the leader if events warrant it.
12	Anon	Option 1 - The leader could be voted out and no additional cost – I also like the ceremonial role of a civic mayor.

Number	Who	What
13	Anon	Option 2 - 1 I think the greater visibility and powers of the mayor would be better for local democracy and enable people to have a better understanding – and interest in - what is done in their name. At present I haven't a clue who the leader of the council is. 2. I have worked in a council with an elected mayor and it was turned round very quickly. (Does depend on the people electing someone good of course! But that's democracy).
14	Anon	Option 1 - No one should be in a position where they cannot be removed from office. At present any increase in expenditure is unwarranted.
15	Anon	Option 2 - I feel that this is a more democratic way of running Rushcliffe.
16	Anon	Option 1 - Elected councillors are more in touch with their electorate and have better knowledge of the problems in Rushcliffe
17	Anon	Option 2 - Present system seems fairly ineffective in getting the things done that really matter to local people. A democratically elected mayor focuses power and responsibility much more effectively, for example in Mansfield and London. A reform long overdue.
18	Anon	Option 1 - There are no additional costs to the Council.
19	Anon	Option 2 - It increases democracy.

Additionally nine responses were made using email and these are set out below.

Number	Who	What
20	Consultation Email	Option 1 - I would like to register my opinion that the council should remain with option one the Council leader and cabinet.
21	Consultation Email	Option 1 - I cannot see a problem with the present arrangement, if a mayor is elected and then cannot be removed from office before the end of their term then this position could be open to corruption and why should we pay more money for a title?
22	Consultation Email	Option 2 - I prefer a directly elected mayor as I hope it may work as well as the London one has, and I want there to be some alternative to the rampant cronyism and jobs for the boys that I currently perceive. (Though my hopes of either being achieved in this area are not huge).
23	Consultation Email	Option 1 - Please can you leave things as they are. The Mayor system can be abused, eg as in hartlepool, with people electing the local football mascot as mayor.
24	Consultation Email	Option 1 - I see no need for this, and I don't think either option is attractive. But if we have to choose then option 1 is nearest to what we have now and so is the least harmful. It's also the least costly. Hope this helps. Thanks.

Number	Who	What
25	Consultation Email	Option 1 - I understand that local government is now consulting with the electorate over the possible alteration to local representation by the introduction of an elected mayor. I am against such a move but would support it if there were suitable safeguards.
26	Consultation Email	Option 1 - That Rushcliffe Borough Council be advised that the preference of Ruddington Parish Council with regards to changes to the Council's governance structure would be 'Option 1' - Council leader and cabinet
27	Consultation Email	Option 1 - There were 6 Councillors present at the Parish Council Meeting on the 6 September of which 3 voted for option 1 and 3 abstained. Option 1 was felt favourable as it wouldn't incur any additional costs.
28	Consultation Email	Option 1 – This council considered the 2 models at last night`s meeting and preferred option 1 – council leader and cabinet.

Below are the other responses received in the six letters from Parish Councils and one via a telephone call.

Number	Who	What
29	Letter	Option 1 - No major changes to the current system – support for option one (letter attached)
30	Letter	Third, unoffered option - Would prefer to choose a third option not presented by the Council – returning to the Committee System (letter attached)
31	Letter	Option 1 - Prefer option one (letter attached)
32	Letter	Neither - No comment (letter attached)
33	Letter	Third, unoffered option - Would prefer to choose a third option not presented by the Council – returning to the Committee System (letter attached)
34	Letter	Neither - No change is necessary in the current financial climate (letter attached)
35	Telephone Call	Neither - The Leader should not appoint the Cabinet – everyone should get a fair chance.

**Leadership Model and Executive Arrangements
Potential changes to the Constitution - Schedule of proposals**

Article 7 – The Cabinet to be amended as follows:

7.2 Form and Composition

(First paragraph amended to read)

The Cabinet will consist of the Leader together with at least two, but not more than nine, Councillors appointed by the Leader at the annual Council meeting, following the local government elections, at which the Leader is appointed.

7.3 Leader

(To be amended to read)

The Leader will be a Councillor elected by the Council at their annual meeting following the local government elections for a period of four years or until the Leader's term of office as a Councillor ends.

The Leader shall otherwise continue to hold office as above unless:

- The Council by resolution removes the Leader during his or her term of office whereupon his or her term of office as Leader shall end on the day of that Council meeting; or
- He /she resigns from the office; or
- He/she is suspended from being a Councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension).

If the Council removes a Leader by resolution, the Council must elect a new Leader at the same meeting.

The Leader shall determine the number of Councillors who may be appointed to the Cabinet subject to a maximum of ten, including the Leader. The Leader will appoint Councillors to the Cabinet positions.

The Leader shall appoint one of the Members of the Cabinet to be his or her Deputy.

The Deputy Leader shall hold office for the same term as the Leader unless:

- a) He or she is removed from office by the Leader; or ceases to be a Councillor; or
- b) He /she resigns from the office; or
- c) He/she is suspended from being a Councillor under Part III of the Local Government Act 2000 (although he/she may resume the role of Deputy Leader at the end of the period of suspension).

The Leader shall allocate Cabinet portfolios to other Cabinet Members.

The Leader shall report to the Council on all appointments to and changes to the Cabinet.

If for any reason the Leader is unable to act or the office of Leader is vacant, the Deputy Leader must act in place of the Leader.

If for any reason the Leader and Deputy Leader are both unable to act or their offices are vacant, then the Cabinet must act in the Leader's place or arrange for a Member of the Cabinet to do so.

7.4 Other Cabinet Members

(To be amended to read)

Other Cabinet Members will be appointed by the Leader on his appointment at annual Council meeting and shall hold office until:

- (a) they are replaced by the Leader at any time; or
- (b) they resign from office; or
- (c) they cease to be a Councillor; or
- (d) he/she is suspended from being a Councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension).

7.6 Responsibility for functions

(To be amended to read)

The Leader shall allocate Cabinet portfolios to other Cabinet Members.

The Council will determine any delegation of responsibility to individual members of the Cabinet, committees of the Cabinet, officers or joint arrangements for the exercise of particular executive functions. The delegations arrangements are set out in Part 3 – Responsibility for Functions of this Constitution.

PART 3 - RESPONSIBILITY FOR FUNCTIONS

2. RESPONSIBILITY FOR COUNCIL FUNCTIONS

- (a) The following Committees will be appointed by the Council with the terms of reference set out in the constitution (Articles 6 to 9)

Remove Cabinet from this list

PART 4 – RULES OF PROCEDURE – COUNCIL PROCEDURE RULES

1. ANNUAL MEETING OF THE COUNCIL

(Point vii to be amended to read)

To elect the Leader for a period of four years or until the Leader's term of office as a Councillor ends. (This appointment only occurs at the Annual Council meeting following the local government elections).

(Remove point viii which reads)

- viii agree the number of Members to be appointed to the Cabinet and appoint those Members of the Cabinet.



CABINET

9 NOVEMBER 2010

**DISCRETIONARY RATE RELIEF FOR
CHARITABLE AND NON PROFIT MAKING
ORGANISATIONS - REVIEW OF POLICY**

5

REPORT OF THE HEAD OF REVENUES & ICT SERVICES

CABINET PORTFOLIO HOLDER – COUNCILLOR J A CRANSWICK

Summary

Charging Authorities have the discretionary power to grant rate relief to eligible non-domestic ratepayers under the provisions contained in Section 47 of the Local Government Finance Act 1988. Authorities may award relief for all or part of the amount of rates payable, or may “top up” mandatory relief. In support of this discretion, clearly understood policies for determining the granting of relief should be in place. The policy relating to discretionary relief from the National Non-Domestic Rate (NNDR) was last reviewed at a Cabinet meeting on 11 July 2006.

Recommendation

It is **RECOMMENDED** that Cabinet renews the existing policy for a further 4 years with effect from 1 April 2012.

Background

1. The current policy is in effect until 31 March 2012. Therefore, there is a requirement for the policy to be reviewed during the 2010/11 financial year as twelve months notice of any variation to the level of relief awarded must be given to qualifying organisations. This report describes the policy and associated criteria and invites Cabinet to renew the existing policy for a further 4 years with effect from 1 April 2012.
2. This report does not cover other types of rate relief that are available to businesses through Hardship Relief and Rural Rate Relief for qualifying properties that are located in a rural settlement with a population of 3000 or less. Any application for either Hardship Relief or the discretionary element of Rural Rate Relief would be brought before the Head of Revenues & ICT in conjunction with the Portfolio Holder for Finance to be considered on merit.

Eligibility and Assessment Criteria

3. Non-domestic ratepayers eligible for this type of relief are registered charities and non-profit making organisations. Examples of the various categories are shown at **Appendix 1**, which also details the current policy. Members will note that this classifies organisations into various categories and that each organisation within a category is then treated in a similar manner. The exception is category G – Miscellaneous – where each application from any organisation that cannot be placed into one of the other groups, is considered

separately on its own merit by the Head of Revenues & ICT in conjunction with the Portfolio Holder for Finance under delegated powers.

4. It should be noted that authorities do not have discretion to grant relief on a property that is occupied by a charging or precepting authority unless the authority is a charitable trustee and occupies the property wholly or mainly for charitable purposes.
5. In assessing whether organisations are eligible for relief and how much relief to grant, the Communities and Local Government has issued guidance detailing the criteria that authorities may apply when making their decisions, although the list is not intended to be exhaustive.
6. The guidance is framed as a series of questions:
 - (a) *Is membership open to all sections of the community and is it drawn from people mainly resident in the Borough? There may be legitimate restrictions placed on membership, which relate, for example, to the achievement of a standard in the field covered by the organisation, or where the capacity of the facility is limited. Clubs should not be considered if they have membership rates set at such a high level as to be exclusive.*
 - (b) *Does the organisation actively encourage membership from particular groups in the community, for example, young people, women, older age groups, persons with disabilities? An organisation that encourages such membership might deserve more sympathetic treatment than one that made no effort to attract members from specific groups.*
 - (c) *Does the organisation provide training or education for its members or facilities that indirectly relieve the authority of the need to do so, or enhance and supplement those that it does provide? An organisation providing such facilities might deserve more support.*
 - (d) *Are the facilities made available to people other than members? For example, schools, casual public sessions etc. The wider use of facilities should be encouraged and rate relief might help.*
 - (e) *Have the facilities been provided by self-help or grant aid? The fact that a club uses or has used self-help might be an indicator that they are more deserving of relief.*
 - (f) *Is the organisation affiliated to local or national bodies, for example, sports or arts councils? If so, they may be actively involved in local/national development of their interests.*
 - (g) *Is the amount of relief awarded reasonable taking into account the interests of council taxpayers as a whole?*

Awarding Relief and Financial Consequences

7. Where **mandatory** relief applies (always at 80%), the authority may award **discretionary** relief of up to a further 20% (making 100% in total). In such cases 75% of the discretionary element is borne by local council taxpayers

and 25% by the NNDR pool. Where amounts are borne by the pool, the amount collected by the Borough and passed on to the Government for redistribution to all authorities is reduced, thus reducing the overall business rate yield.

8. In the case of properties that qualify solely for **discretionary** relief where anything up to 100% may be awarded, 25% is borne by local council taxpayers and 75% by the NNDR pool.

Current Position

9. The existing policy has served the Council well over the past four years. Indeed, it represents a continuation of the policy that has applied since 1990. All new applications have either fallen within the categories defined in the policy (**see Appendix 1**) or have been considered individually by the Head of Revenues & ICT in conjunction with the portfolio holder for finance because they fell into Category G – Miscellaneous. **Appendix 2** shows the cost to the Council should the current policy be renewed.

Financial Comments

The 2010/11 revenue budget provision for discretionary rate relief is £32,100 which is sufficient to cover the cost to the Council should the current policy be renewed.

Section 17 Crime and Disorder Act

There are no direct Section 17 implications arising from the matters in this report

Diversity

There are no known diversity issues associated with this policy, however, an equality impact assessment will be prepared.

Background Papers Available for Inspection: NIL

CATEGORY	EXISTING POLICY 2008/2012	PROPOSED POLICY 2012/13 - 2015/16
A	Social Welfare Organisations	Relief to be granted at 10% discretionary relief in addition to 80% mandatory relief. In the case of Cotgrave Miners Welfare discretionary relief to be limited to 5% in addition to mandatory relief.
B	Old Peoples Welfare	Relief to be granted at 10% discretionary relief in addition to 80% mandatory relief.
C	Educational establishments	Relief to be limited to 80% mandatory entitlement only.
D	Sports Clubs and Pavilions	Discretionary relief normally be granted at 80% where proof that an application for Community Amateur Sports Club (CASC) status has been refused by HMRC. No additional relief to be granted where there is a mandatory element.
E	Village Hall/Halls	Relief be granted at a total of 90% (mandatory and/or discretionary).
F	Youth Organisations	Discretionary relief of 20% be granted in addition to 80% mandatory entitlement.
G	Miscellaneous	Decided by the Head of Revenues & ICT In conjunction with the portfolio holder for finance
H	Charity Shops	Relief to be limited to 80% mandatory entitlement only. Discretionary relief be granted at 80% and no additional relief to be granted where there is a mandatory entitlement.
I	Hybrid Leisure Trusts	Relief to be limited to 80% mandatory entitlement only. Discretionary relief be granted at 80% and no additional relief to be granted where there is a mandatory entitlement.

Appendix 2

Category	Current Level of Relief	No.	2010/11	2010/11	2010/11	2010/11	2011/12
			Mandatory Relief	Top up Relief (a)	Discretionary Relief (b)	Cost to Charging Authority (75%xa) + (25%xb) after TR	Estimated Cost to RBC After TR
			£	£	£	£	£
A. Social Welfare Organisations	80% Mandatory + 10% Discretionary	19	-£94,552	-£10,172	£0	-£7,629	-£7,060
B. Old People Welfare	80% Mandatory + 10% Discretionary	0	£0	£0	£0	£0	£0
C. Educational Establishments	80% Mandatory only	21	-£1,231,645	£0	£0	£0	£0
D. Sports Club & Pavilions	80% Mandatory or Discretionary	48	-£68,565	£0	-£59,845	-£14,961	-£15,055
E. Villages Halls	80% Mandatory + 10% Discretionary	23	-£28,562	-£3,375	£0	-£2,531	-£2,490
F. Youth Organisations	80% Mandatory + 20% Discretionary	19	-£14,356	-£3,589	£0	-£2,692	-£2,923
G. Miscellaneous	variable	9	-£14,678	-£3,670	-£6,091	-£4,275	-£4,562
H. Charity Shops	80% Mandatory only	10	-£48,092	£0	£0	£0	£0
I. Hybrid Leisure	80% Discretionary only	0	£0	£0	£0	£0	£0
Totals		149	-£1,500,451	-£20,805	-£65,936	-£32,088	-£32,090

REPORT OF THE HEAD OF CORPORATE SERVICES

CABINET PORTFOLIO HOLDER – COUNCILLOR J E FEARON

Summary

This report recommends that the Council adopts legislation which will have the effect of extending the licensing regime that currently applies to sex shops and sex cinemas to other sexual entertainment venues, such as lap dancing clubs, although there are no such establishments currently licensed in the Borough.

Recommendation

It is RECOMMENDED that Cabinet recommend to Council that pursuant to paragraph 2(2) of Schedule 3 to the Policing and Crime Act 2009, the Council resolves that Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 as amended by Section 27 of the said 2009 Act, shall apply to the Borough of Rushcliffe with effect from 1 February 2011.

Background

1. The Local Government (Miscellaneous Provisions) Act 1982 introduced for the first time a licensing regime for sex establishments, i.e. sex shops and sex cinemas. The provisions were adoptive and the Borough Council resolved to adopt them with effect from 1 January 1983, setting up a Sex Establishment Sub-Committee of the Housing and Health Committee in December 1983 (both of which are now defunct). Other forms of sexual entertainment (e.g. lap dancing clubs) fell to be licensed under the old public entertainment licensing system, which itself was replaced in 2003 by the new alcohol and entertainment regime under the Licensing Act of that year. Consequently, none of the more rigorous controls specific to sex establishments could be applied by Councils outside of London, London having its own licensing legislation.
2. The Policing and Crime Act 2009 sought to address this issue by amending the 1982 Act to include “sexual entertainment venues” and giving Councils the option to re-adopt the 1982 Act provisions as amended.

Adoption Decision

3. If a Council does not resolve to adopt the amended 1982 Act provisions by 6 April 2011, it must carry out a consultation exercise with local people before deciding whether to adopt. If it does not adopt then the existing Licensing Act 2003 regime will continue to apply. The wider powers available under the 1982 Act include the power to impose conditions e.g. relating to opening

hours, adverts and the visibility of interiors to passers by. Councils will also be able to refuse to grant or renew a licence on the grounds that such an establishment would be inappropriate having regard to the character of the area, the use of other premises in the area (e.g. local schools). There are currently no such establishments licensed in Rushcliffe.

4. Having regard to these greater controls, it is considered appropriate that the Council resolves to adopt the 1982 Act provisions as amended. Nottingham City Council has already adopted this legislation and it is understood that all of the other district councils in Nottinghamshire are likely to do so too.

Timetable

5. A resolution adopting the amended 1982 Act provisions must state the date when it comes into effect, which must be at least one month after the resolution. It would be possible for the Council to pass the appropriate resolution at the meeting on 16 December. The resolution must be advertised in a local newspaper for two consecutive weeks, with the first advertisement being published at least 28 days before commencement. To facilitate this advertising it would be recommended that the resolution has effect from 1 February 2011.

Financial Comments

There are no direct financial implications arising from this report.

Section 17 Crime and Disorder Act

Adoption of the legislation supports the Council's work in delivery of its Section 17 responsibility as it gives the Authority greater controls to regulate and control sexual entertainment venues.

Diversity

There are no implications.

Background Papers Available for Inspection: Nil



CABINET

9 NOVEMBER 2010

**ESTABLISHMENT OF A NON PROFIT
DISTRIBUTING ORGANISATION ARRANGEMENT
FOR THE LEISURE MANAGEMENT CONTRACT
WITH PARKWOOD LEISURE LTD**

7

REPORT OF THE HEAD OF PARTNERSHIPS AND PERFORMANCE

CABINET PORTFOLIO HOLDER – COUNCILLOR J E FEARON

Summary

1. This report brings forward proposals to support Parkwood Leisure Ltd in the establishment of a Non Profit Distributing Organisation (NPDO) which will realise significant financial benefits through the ability to claim discretionary rate relief on the NNDR business rates payable for the five leisure centre sites covered by the Leisure Management Contract. This opportunity was identified for implementation following agreement of the 2010/11 budget proposals by Council on 4 March 2010.
2. Over the last few months detailed negotiations have been taking place with Parkwood on the fundamental contractual elements of this proposal. The attached proposal summarises these negotiations and present an agreed position that meets both parties' aspirations.
3. Throughout these negotiations Parkwood have been insistent that the five year contract extension and changes to the basket of terms and conditions are essential elements. The Council has been equally insistent that the Council's risk is minimised and that the five year extension continues to provide good value for money. External legal advice in respect of any potential procurement challenge has been sought and officers are assured that this presents no significant risk.
4. The proposal offers the Council a five year extension to the contract for an additional £565,000 which equates to approximately £113,000 per year. This provides significant security going forward for the Council.
5. The Parkwood contract has now been in operation since August 2007 and has been subject to regular performance and scrutiny reviews. The performance has met the Partnership Philosophy and key performance indicators set out in the contract.
6. To summarise if accepted, Parkwood Leisure Ltd will continue to operate the contract on behalf of Rushcliffe Borough Council, but this would be through a sub contract to Parkwood Community Leisure Ltd, the NPDO Company.

Recommendation

It is RECOMMENDED that:

- a) The proposal put forward by Parkwood Leisure Ltd to establish a new contractual arrangement for the Council's leisure management contract

- covering the creation of an NPDO be accepted.
- b) A five year extension of the current contract be agreed.
 - c) The proposed changes to the basket of terms be agreed.

Background

7. Parkwood Leisure Ltd have presented an opportunity to establish a Non Profit Distributing Organisation (NPDO) covering the Council's Leisure Management Contract which has significant financial benefits for both parties associated with the ability to claim NNDR discretionary rate relief. To achieve this Parkwood Leisure Ltd have formed Parkwood Community Leisure Ltd which has now been in operation for just over three years and is already operating on five of their current contracts, as detailed below.
 - Portsmouth City Council – taken over as a NPDO
 - Cherwell District Council – taken over as a NPDO
 - Wycombe Borough Council – taken over as a NPDO
 - Staffordshire Moorlands District Council – agreed change to existing contract including 10 year contract extension
 - North Somerset District Council – 5year contract extension
8. The potential for Rushcliffe Borough Council to enter into a similar arrangement covering the current contract with Parkwood Leisure Ltd was identified as an efficiency saving which Council and Cabinet agreed should be progressed to help meet some of the Council's identified budget shortfall in 2010/11 and beyond.
9. The following paragraphs summarise the key areas for agreement including the financial benefits and operational implications of introducing this arrangement

NNDR Discretionary Relief

10. Discretionary Rate Relief is available under section 47 of the Local Government Finance Act 1988.
11. Relief is available for up to 100% of the NNDR due in respect of property occupied by the relevant body for its non-profit making/charitable or club purposes. The local authority meets a portion of the costs of NNDR Relief under these sections. In practice, whilst some authorities grant 100% relief the usual practice including Rushcliffe's current policy limits this to 80%, at which point the government meets 75% of the cost of the relief.
12. Relief is dependent both upon:
 - the nature of the organisation and activity being carried out at the relevant property; and
 - satisfaction by the organisation of the normal rating requirements for occupation. As regards the latter point it is the organisation itself that has to be in paramount occupation of the property – it cannot, for instance, occupy through a sub-tenant.

Parkwood Model

13. The principles behind the approach adopted by Parkwood Leisure Ltd elsewhere is as follows:

- Parkwood Leisure Ltd retains its role as main contractor and contracts directly with the Authority. In this way the Authority has the comfort of knowing that ultimate responsibility for the provision of the service remains with/is assumed by Parkwood Leisure Ltd;
- Lease of the relevant properties are granted to Parkwood Leisure Ltd;
- Parkwood Leisure Ltd subcontracts the provision of all or the majority of the operation of the services to Parkwood Community Leisure Ltd. Brief details of Parkwood Community Leisure Ltd are as follows:
 - Parkwood Leisure Ltd has established Parkwood Community Leisure Ltd under company number 6054092. Date of Incorporation 16th January 2007.
 - It is a company limited by guarantee and Parkwood Leisure Ltd is the sole member of Parkwood Community Leisure Ltd.
 - Parkwood Leisure Limited and Parkwood Community Leisure Ltd. share common directors.
- Parkwood Leisure Ltd grants sub-leases of the relevant properties to Parkwood Community Leisure Ltd;
- Depending upon the exact contractual arrangements Parkwood Leisure Ltd may retain direct responsibility for the provision of some services (e.g., catering, vending, etc) (referred to as “excepted services”) but not so as to give it rights of occupation of the properties superior to the interest of Parkwood Community Leisure Ltd;
- Parkwood Community Leisure Ltd is responsible for the day to day operation of the services (other than any excepted services) and employs all the staff working at the centres;
- Parkwood Leisure Ltd provides management resources to Parkwood Community Leisure Ltd under a Service Level Agreement, along with professional and other central support services (ie HR, accountancy, payroll, marketing etc);
- Parkwood Leisure Ltd receives the deficit funding payment from the Authority and, effectively, indemnifies Parkwood Community Leisure Ltd against any shortfall of costs over income from users (which it retains);
- Any profits made by Parkwood Community Leisure Ltd would be used for sports development within the area of the Authority;
- The deficit funding arrangement is varied to assume that Parkwood Community Leisure Ltd will obtain NNDR Relief;
- Parkwood Leisure Ltd is contractually obliged to require Parkwood Community Leisure Ltd to apply for NNDR Relief;
- If the application for NNDR Relief is unsuccessful at any time (for instance, because of a change of eligibility or a failure by the rating authority to exercise its discretion to award relief – it must be remembered that the discretion always lies with the Authority to refuse an application on economic or other grounds) the Authority is obliged to pay an additional subsidy to Parkwood Leisure Ltd equating to the amount of relief lost (to the maximum of the assumption made when varying the deficit funding arrangement).

14. The implementation of a similar approach at Rushcliffe in relation to the existing contractual arrangements would involve, from the Council's

perspective, the following documentation and checks:

- A deed of variation to the Management Contract permitting the sub-contracting and sub-leasing; including provisions varying the deficit funding arrangements, the obligation to apply for NNDR Relief and the consequences of relief being unavailable at any time and all other commercial variations arising as a result of these discussions (ie revised term/workforce code variations).
- Surrender and regrant of leases with associated Landlord and Tenant Act Notices. The new leases would include consent to grant sub-leases by Parkwood Leisure Ltd to Parkwood Community Leisure Ltd.
- The formation of a sub-contract between Parkwood Leisure Ltd and Parkwood Community Leisure Ltd.
- Sub-leases from Parkwood Leisure Ltd to Parkwood Community Leisure Ltd including all associated Landlord and Tenant Act notices.
- Legal checks on Parkwood Community Leisure Ltd as to its entitlement to claim NNDR relief

Financial Benefits

15. The main financial benefit associated with the establishment of a NPDO relates to the ability to reduce the liability for National Non Domestic Rates (NNDR) for the five leisure centre facilities covered by the Leisure Management contract.
16. As the main company in occupation, Parkwood Community Leisure Ltd will still have to pay the NNDR rates but they can then apply to the Council for discretionary relief in accordance with the Council's policy. The Council's current discretionary relief policy states for Hybrid Leisure Trusts (NPDO) – discretionary relief is to be normally granted at 80% and no additional relief will be granted where there is a mandatory requirement. Any discretionary rate relief Rushcliffe grants to an organisation is funded in a 75:25 split between the NNDR pool (ie central govt) and the Council.
17. The current NNDR payable at the five leisure centre sites managed by Parkwood together with the projected impact of the application of this NNDR discretionary rate relief is as follows:

Property	Year	Rateable Value	Net Charge	80% discretionary relief	RBC contribution towards discretionary relief 25%
Cotgrave Leisure Centre	2010/11	£183,000	£75,762	£60,609	£15,152
Rushcliffe Arena	2010/11	£190,000	£78,660	£62,928	£15,732
Keyworth Leisure Centre	2010/11	£84,500	£26,289	£21,031	£5,258
Bingham Leisure Centre	2010/11	£185,000	£70,794	£56,635	£14,159
Rushcliffe Leisure Centre	2010/11	£165,000	£68,310	£54,648	£13,662
Nottinghamshire Gymnastics Club	2010/11	£54,500	£22,563	£18,050	£4,512
TOTALS			£342,378	£273,901	£68,475

18. Based on the above figures a reduction of £273,901 in NNDR is anticipated but the Council would be required to pay a contribution of £68,475 leaving a potential saving associated with this arrangement of £205,426. Parkwood Leisure Ltd currently propose that this saving is shared by both parties following the deduction of set up and administration costs associated with the establishment of the NPDO arrangement. In a typical year this is estimated to equate to an annual saving (before deduction of administration costs) of around £102,713 for both the Council and Parkwood Leisure Ltd.
19. The sharing arrangements and value of the legal and ongoing administration costs for operating the NPDO still require further negotiation between both parties.

Term of Contract

20. The current Leisure Management contract term is ten years with the ability to extend for a further five years. The contract commenced on 1 August 2007 and to ensure that a sufficiently long contract is available for the NPDO Parkwood Leisure Ltd are requesting that the Council approve this five year extension as part of this arrangement.

Basket of Terms

21. The Council wanted to ensure that terms and conditions of staff appointed by Parkwood after the commencement of the contract were closer in comparison to those of staff being transferred under TUPE regulations from the Council. The cost to the Council of this is £20,000 per contract year. In the time since the commencement of the contract a large proportion of staff have either left through natural wastage or opted to transfer to Parkwood Leisure contracts due to changes in jobs and promotions. This has resulted in a very small number of staff (6) remaining on their original contract terms and conditions and they will continue to do so. Parkwood Leisure Ltd has requested this payment is phased out over a three year period. Should the Council determine to establish the NPDO, Parkwood wish to appoint all staff engaged after the commencement of the NPDO on to their standard terms and conditions. This is in line with their overall approach with Rushcliffe being the only contract with staff on different conditions.

Overall financial benefits associated with the proposals

22. The Council achieved £400,000 per year cost savings when first entering into the contract for leisure management which has enabled the Council to retain its current level of provision. The opportunity to enter into a NPDO arrangement will generate further savings. For the original 10-year term of the contract an additional saving of £1,121,750 would be realised. Should the contract term be extended to 15 years under this arrangement then the savings realised would be in the region of £1.9m over the original anticipated costs over the same term. The proposal offers the Council a five year extension to the contract for an additional £565,000 which equates to approximately £113,000 per year. This provides significant value for money, security going forward and savings associated with not having to undertake a further procurement exercise in 2017.

Council Liability/Risk

23. The Council has taken external legal advice in relation to this change to the contract and the associated risks.
24. The principal risk for the Council is that NNDR relief is not granted or that a change in legislation prevents it in future, as referred to in the last bullet point of paragraph 13. The original heads of terms offered by Parkwood proposed that in the event of a failed application or a change of law then all associated costs of reversion (including Parkwood's) should be borne by the Council. This would have created an unquantifiable risk to the Council and following further negotiations, they have now agreed that the Council's liability for their costs would be capped at £10,000 in this eventuality.
25. The existing contract documentation already provides significant protection against risks such as poor performance, change in the leisure portfolio and economic circumstances. There are both strategic and operational governance regimes in place to monitor these arrangements.

Financial Comments

The budget proposals approved at Council on 4 March 2010 included a saving of £95,000 per annum relating to the Council entering a trust arrangement as described in the body of the report. The budget assumed this saving would materialise from 1 September 2010. The detail within the report confirms that this level of saving can be substantially achieved but the commencement has been delayed due to protracted negotiations of terms.

This saving of £92,713 after deduction of administrative costs is achievable under the existing legislation however there is a risk that Central Government may change the rules and remove the option of discretionary rate relief at some point in the future. However, there is no indication that this is likely to happen and there would be minimal impact and cost to revert back the current arrangements. Further savings would be made in year 3 as a result of the changes to the basket of terms of £20,000.

It is considered that the recommendations will provide value for money for the authority by agreeing to this proposal put forward by Parkwood.

Section 17 Crime and Disorder Act

There are no implications in relation to this report

Diversity

There are no implications in relation to this report

Background Papers Available for Inspection:

Letter from Parkwood Leisure Ltd dated 24 September 2010

REPORT OF THE HEAD OF COMMUNITY SHAPING

CABINET PORTFOLIO HOLDER – COUNCILLOR J A CRANSWICK

Summary

This report considers the current accommodation leased to Rushcliffe Community and Voluntary Service (RCVS) at Park Lodge and proposes alternative, more suitable accommodation at Bridgford House (the Civic Centre building). This report is being presented because RCVS receive grant funding from Rushcliffe Borough Council so are not a standard commercial tenant.

Recommendation

It is **RECOMMENDED** that Cabinet approves that Rushcliffe Community and Voluntary Service (RCVS) be offered alternative accommodation at Bridgford House (the Civic Centre building).

Background

1. RCVS has been based in Park Lodge since 1997, with some additional office space in the Civic Centre (an office on level 4 and a workstation in Strategic Housing).
2. RCVS is an infrastructure organisation which works to ensure that local voluntary and community groups and organisations get the support they need. It provides its members with a wide range of essential services and development support and acts as the voice of the local voluntary sector.
3. In addition to this representation and advocacy role, RCVS provides the following:
 - A Volunteer Centre – putting potential volunteers in touch with organisations that need them (there was contact with over 1,000 volunteers in 2009/10)
 - Transport scheme – to provide access to transport for people in Rushcliffe that have no other means to travel. Volunteers use their own cars to transport people for a wide range of purposes including shopping and hospital visiting. The scheme coordinates the requests for transport; promotes the scheme; recruits; trains and supports volunteer drivers; ensures that drivers receive their mileage expenses; monitors the scheme. Last year drivers completed 12,188 journeys (up 18% on previous year); covered a distance of 73,490 miles and recruited 8 new volunteer drivers (55 in all now)

- First Contact, Community Outreach Advisor, Activity Friends and Rushcliffe Supports – helping older people to retain independence and dignity in the community
 - Community Engagement – involving local people in the work of Rushcliffe Children’s Centres, co-ordinating Rushcliffe Race Awareness Forum and Rushcliffe Community Cohesion Network
 - Health initiative – working with colleagues from health agencies to ensure local people have a say in how healthcare is delivered in Rushcliffe
 - Whatton Prison Visitor Centre – providing support to visitors at the Prison
4. RCVS leases Park Lodge from Rushcliffe Borough Council but this accommodation is not really suitable. Park Lodge has limited accessibility, was not designed as an office space, has limited insulation and so is expensive to run and is not big enough to house all of the RCVS team. The First Contact scheme operates out of an office in the Civic Centre.
 5. Options including extending Park Lodge and refurbishing the Stable Block have previously been investigated as potential solutions to RCVS’s accommodation needs but have not be pursued due to cost and planning implications.

Proposal – RCVS accommodation

6. It is proposed that RCVS be offered accommodation in the void space of Bridgford House (Level 3A, above the Council Chamber). This space is larger than the floor space at Park Lodge and is much more accessible for disabled visitors.
7. The accommodation has a separate entrance to the Civic Centre (the same entrance as the flats) and this would help to maintain RCVS’s independence from the Council. There would be external signage at their entrance like other tenants in the building have.
8. This accommodation has been difficult to let to a commercial tenant as there is a right of access required by the other tenants on the floor (Fostering People) for a fire exit and means of escape.
9. Whilst RCVS had been keen to retain their central West Bridgford location, they appreciate that accommodation options in West Bridgford have been exhausted and through leaflets and information provision in the new Customer Service Centre and the library, they can maintain a presence in central West Bridgford.
10. The accommodation will need some refurbishment to make it appropriate, namely a disabled access toilet, some reconfiguration of the office units, some redecoration/cleaning and a remote access entry system.
11. Park Lodge will then be available for rent or sale. Officers will prepare a report on Park Lodge at a later date.

12. RCVS would rent the space on level 3A of the Civic Centre on similar terms to Park Lodge (ie they receive a grant from RBC to cover the costs of a commercial rent).

Financial implications

13. RCVS has a service level agreement (SLA) with RBC to deliver the services outlined in paragraph 3 and receives a contribution of £44,548 per annum (SLA is up to 2011). RCVS pays RBC £8,100 per annum rent for Park Lodge (lease is up to 2014) and so receives a net amount of around £36,448 plus accommodation. RCVS funds its activities through this SLA, a grant from Nottinghamshire County Council and other project specific funding secured.
14. Currently, Nottinghamshire County Council is reviewing its grants to district CVSs. At the same time, RCVS is involved in a bid for funding from Nottinghamshire County Council as part of a "South Alliance" group. This would involve back office services being provided via RCVS for the South Notts CVSs. Rushcliffe CVS will continue to be based in Rushcliffe and whilst the organisation is subject to the same squeezes on funding as other public and voluntary sector organisations, it is positive about its foreseeable future, albeit may need to make some redundancies if funding streams are reduced.
15. It is estimated by the council's property department that basic revisions to the void area will cost in the region of £10,000. This funding has been identified from underspends in the Community Shaping budget. Any additional revisions will be paid for by RCVS.
16. RBC currently pays business rates for the void. Once rented out this will no longer be charged. It is estimated that savings would be in the region of £6,000. This will have to be confirmed by the district valuer.

Conclusions

17. The void is not currently let and is a difficult space to market to a commercial organisation. It is costing RBC around £6,000 in business rates. It is more suitable accommodation for RCVS than Park Lodge.
18. 21. Allowing RCVS to move in to the void would free Park Lodge up to be let to another commercial tenant or be disposed of. RCVS would rent the void on equivalent terms to Park Lodge (ie they receive a grant from RBC to cover the costs of a commercial rent).
19. The sooner Park Lodge can be relet or disposed of, the sooner the Council will have additional income from that property.
20. The savings in business rates for the void will be an ongoing saving to the Authority.

Financial Comments

This proposal would utilise an asset currently vacant and the potential to free up an asset for sale.

The current arrangement with RCVS gives rise to a net revenue impact of £36,448 made up of the grant paid to them £44,548 offset by the rent receivable £8,100. If they were allowed to move in to the void area (level 3A) on equivalent terms, any increase to the rent would need to be offset by an increase in the grant paid.

It is estimated that alterations to level 3A, to accommodate the move, would cost approximately £10,000. There is nothing specific in the revenue budget currently to cover this, however, it is felt that the costs can be met by virement from other Community Shaping revenue budgets in 2010/11.

As stated above, RBC currently pays business rates of around £6,000 per annum for the void area and once rented out this will no longer be charged. If the property remained vacant business rates would become payable on Park Lodge (from April 2011) of £2,480 per annum.

Section 17 Crime and Disorder Act

There are no Section 17 implications.

Diversity

Rushcliffe CVS provides support for the Rushcliffe Race Awareness forum and coordinates the Rushcliffe Community Cohesion Network.

Background Papers Available for Inspection: Nil