

 <p><b>Rushcliffe</b> Borough Council</p>	<p><b>Cabinet</b></p> <p><b>15 May 2018</b></p> <p><b>Parkwood Leisure Ltd – Lex Leisure Community Interest Company Proposal</b></p>	<p><b>8</b></p>
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**Report of the Executive Manager – Neighbourhoods**  
**Cabinet Portfolio Holder for Community and Leisure Councillor D Mason**

**1. Summary**

- 1.1 In August 2007 the Council contracted with Parkwood Leisure Ltd to provide leisure centre services at the Councils leisure centres, with the exception of East Leake Leisure Centre which is subject to a separate PFI agreement. Subsequently the Council agreed to permit Parkwood Leisure Ltd (the Leisure Operator) to sub contract the delivery of the leisure services to Parkwood Community Leisure, a non-profit distributing organisation (NPDO). NPDOs are a common business model used to deliver public services at arm's length that ensures profits are re-invested in services or business growth rather than being distributed to shareholders.
- 1.2 Officers have received a proposal from Parkwood Leisure Ltd (the Leisure Operator) to vary the contract to replace the NPDO with a Community Interest Company (CIC) operating model. If accepted, the Leisure Operator will end their sub contract arrangements with the NPDO and transfer staff and undertakings, under a new sub contract, to Lex Leisure CIC.
- 1.3 The Council's primary contract arrangement remains with Parkwood Leisure Ltd who retains all liability for the delivery of the contract and for the actions of their sub-contractor. In making this proposal Parkwood Leisure Ltd has offered the Council an incentive of £70,000 in year 1 and £120,000 per year thereafter, indexed linked, for the remainder of the contract, which expires on 31 July 2025

**2. Recommendation**

It is RECOMMENDED that Cabinet:

- a) Accept the proposal made by Parkwood Leisure Ltd to subcontract the delivery of leisure services to Lex Leisure CIC, and
- b) Give delegated Authority to both the Executive Managers – Neighbourhoods and Finance, and the Portfolio Holder for Community and Leisure to finalise the required legal variations to effect this change.

### **3. Reasons for Recommendation**

- 3.1 The proposal represents a total income of £790,000 (index linked) to the Council over the next 7 years to contribute to the Council's Transformation Plan and Medium Term Financial Strategy.
- 3.2 Officer due diligence on Lex Leisure CIC, both financial and speaking with others who have already allowed such arrangement, has not given any cause for concern over the CICs ability to deliver the Council's leisure services.
- 3.3 The Council's contract will remain with Parkwood Leisure Ltd, assuring the Council that they still have all the benefit of the Parent Company Guarantee given by them.

### **4. Supporting Information**

- 4.1 Lex Leisure is a Community Interest Company (CIC) that was established to build upon the legacy of two successful Paralympic games (London and Rio). The objectives of Lex Leisure are to carry out and deliver activities that benefit the community, and in particular to provide for persons in the UK with physical, mental or health inequalities who are faced by difficulties that limit their ability to access leisure, physical activities and sporting opportunities.
- 4.2 Lex Leisure CIC provide a focus on those persons who are registered or considered disabled, physically or mentally on a permanent or temporary basis as well as those who are at risk of social exclusion, who can be engaged to adopt a more active lifestyle. Lex Leisure CIC operate on a commercial basis with a view to generating a surplus that will be used for the sole purpose of attracting funds or grants from industry, commercial organisations and other bodies, to support persons who meet the criteria of its principle objective.
- 4.3 Lex Leisure CIC is a private company limited by guarantee managed by two Company Directors, both of whom have worked with Parkwood Leisure Ltd and wider leisure clients for over 20 years in legal and operational roles. Whilst independent from the Parkwood group, Lex Leisure CIC is part of a wider Parkwood Partnership Group and as such has secured access to the professional management support services of the Parkwood Group providing reassurance that Lex Leisure CIC can effectively perform the required duties.
- 4.4 Lex Leisure CIC employs around 700 staff across nine leisure facilities in London Borough of Bexley, Torbay, and Solihull. Lex Leisure CIC is budgeted to have a turnover of £14m in its current financial year. As a CIC, Lex Leisure are obliged to re-invest surplus it makes into the community interest objective and is eligible for VAT relief.
- 4.5 A financial check on Lex Leisure has confirmed that the company was registered and incorporated in March 2017. As the company is so young, it does not yet have a significant credit rating or contractual limit. Members are reminded however that the Rushcliffe contract remains with Parkwood Leisure Ltd, and it is therefore Parkwood Leisure's risk to sub contract to Lex Leisure CIC, and the Council will be protected by the indemnities afforded by Parkwood Leisure Ltd.

- 4.6 By being a CIC VAT efficiencies are generated as VAT is not charged on certain activities and therefore additional income is realised. If this proposal is accepted, Parkwood Leisure will pay the sum of £70,000 in year 1 and £120,000 for the remainder of the contract indexed annually in line with the current agreement. The reduced costs in year 1 are to reflect legal and set up costs.

## **5. Risk and Uncertainties**

- 5.1 The Contract with Parkwood Leisure has provision for receiving a share in operating surplus over 9.4%. As the CIC is required to re-invest profit, Parkwood Leisure proposes to retain this arrangement but to amend the baseline at which profit share is paid to the Council. The Contract has not reached a point for several years in which profit share has been awarded. It is felt that whilst there is a risk of slightly less opportunity for profit share, the loss is insignificant, when compared to the guaranteed annual lump sum being offered by Parkwood Leisure.
- 5.2 Lex Leisure CIC is a young company established in March 2017. Whilst all due diligence has shown that it ought to be capable of delivering the leisure services and the risk lies with Parkwood Leisure, it is still a fledgling company. Thorough contract management will remain in place, as always, during the transfer process and beyond, to ensure that any drops in service levels or performance are promptly rectified. All powers available through the contract to resolve performance concerns will remain available to the Council, should they be required.
- 5.3 The aspiration by both parties is to effect the change and complete the legal variation by 1 June 2018. Though the Council will not commit to any change until it is satisfied that all its requirements can be met. If transfer is delayed significantly, then the year 1 benefit may reduce proportionately from the £70,000 offered.
- 5.4 The Council expects VAT liabilities would rest with Parkwood (if for example there was a change in Regulations or HMRC's interpretation of what Parkwood were doing did not meet the CIC criteria) and this should be stated in the agreement.

## **6. Implications**

### **6.1 Finance**

The proposal made by Parkwood Leisure Ltd represents a £790,000 income for the Council over 7 years.

Paragraph 5.1 highlights the risk surrounding profit share and it is the Council's view that as the benefit of the proposal is shared the profit share position should remain unaltered.

## 6.2 Legal

A contract Deed of Variation will be required, to be signed under seal. Parkwood Leisure Ltd is leading the process of legal drafting. The Council's legal team will oversee the Council's input and ensure the Council's position is protected. External legal advice can be sought if it is felt necessary.

## 7. Corporate Priorities

- 7.1 The provision of leisure services supports the corporate priority of 'maintaining our resident's quality of life' and the proposal made by Parkwood Leisure with the associated income stream supports the 'transformation of the Council to enable the delivery of efficient high quality services'.

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<b>Background papers Available for Inspection:</b>	None.
<b>List of appendices (if any):</b>	None.