

# **Report of the Overview and Scrutiny Task Group – Council’s Leisure Contract**

**November 2017**



# CONTENTS PAGE

	Page
<b>INTRODUCTION</b>	<b>3</b>
<b>TASK GROUP INFORMATION</b>	<b>3</b>
<b>RECOMMENDATIONS</b>	<b>5</b>
<b>BACKGROUND</b>	<b>5</b>
<b>WITNESS INTERVIEWS</b>	<b>6</b>
<b>PULSE REGENERATION FINDINGS</b>	<b>8</b>
<b>CONCLUSION</b>	<b>16</b>

## INTRODUCTION

The management of Chorley Council's leisure facilities is outsourced to Active Nation on a 15 year contract. That contract is due to expire in March 2020, and the Overview and Scrutiny Committee wanted to understand what options were available for the Council to choose from in regards to the future management arrangement of its leisure facilities.

A Task Group was established and met five times between June and November 2017. This report details information about the witnesses with whom the Task Group met; the information the Task Group received and the conclusion reached. It also includes a recommendation that for the Executive Cabinet's consideration.

I would like to thank my fellow members who took part in the Task Group for their dedication and contributions to the review.

I would also like to thank those partners and officers of the Council who provided evidence at the meetings.



Councillor Alistair Morwood – Chair of the Overview and Scrutiny Task Group

### Membership of the Task Group

The following members served on the Task Group -

- Councillor Alistair Morwood (Chair)
- Councillor Charlie Bromilow
- Councillor Doreen Dickinson
- Councillor June Molyneaux
- Councillor Mick Muncaster
- Councillor Debra Platt

#### Officer Support:

##### Lead Officers

Louise Elo                      Head of Early Intervention and Support  
Angela Barrago                Health and Wellbeing Manager

##### Democratic Services

Cathryn Filbin Democratic and Member Services Officer

## Scoping the Review

At its first meeting the Task Group received a presentation from officers of the Early Intervention and Support directorate. The purpose of the presentation was to gain a better understanding of how the Council's leisure facilities contract was being managed. The review was subsequently scoped as follows -

### Objectives:

1. To understand the current contract and performance of the leisure centre contract with Active Nation.
2. To understand the broad range of leisure services model options that could be delivered, and consider the best model for Chorley.
3. Consider broadening the aims of the leisure services model with a view to incorporating a package of health and wellbeing initiatives for users to access.

### Desired Outcome

To submit a list of leisure service models available, and propose the preferred model, with any recommendations for key considerations to the Executive Cabinet.

## Terms of Reference

To review the performance of the leisure service contract with Active Nation due to expire in 2020 for the management of All Seasons Leisure Centre, Clayton Green Sports Centre and Brinscall Swimming Pool.

To understand the different leisure centre models in use at other Councils; to understand the current model; and suggest the best model for service delivery in Chorley.

To identify what services should be delivered by the leisure model, and if those services should be based on delivering a complete health and wellbeing package.

## WITNESSES

The following witnesses met with the Task Group and shared information –

### **Partners**

Stuart Martin, Managing Director, Active Nation

Kevin Lane, Operations Director, Active Nation

Phil Gooden, Services Manager, Lancashire Care Foundation Trust

### **Chorley Council Officers**

Louise Elo, Head of Early Intervention and Support

Angela Barrago, Health and Wellbeing Manager

Jane McDonnell, HR Services Manager

Simon John, Solicitor

## RECOMMENDATIONS

The Executive Cabinet is asked to consider implementing the following recommendation:

Conduct more detailed analysis to determine the financial feasibility of contracting out or bringing the contract back in house, by specifically focussing on:

- Analysis and understanding of Active Nation central costs
- Conducting a detailed active market financial appraisal
- Determine actual anticipated impacts of on-costs
- Analysis of control and efficiencies to be gained by bringing in-house in comparison with a contracted out model

Use this information to inform the decision required in readiness for the formal contract review period commencing in 2018.

## BACKGROUND

The management of Chorley Council's leisure facilities is currently outsourced to Active Nation on a 15 year contract due to expire on 31 March 2020.

The Council owns three leisure facilities –

- All Seasons Leisure Centre
- Brinscall Swimming Baths
- Clayton Green Leisure Centre

Overall, the present contract is worth £4,445,000, with payments being made by instalments as a monthly management fee. The contract between the Council and Active Nation is complex and stipulates in detail how the leisure facilities should be managed including both parties responsibilities in regards to maintenance.

In preparation for its expiration in 2020, the contract with Active Nation is due to be officially reviewed in 2018. While under review, a clause in the contract could be triggered if it was decided that the Council wished to terminate the contract earlier than 2020.

## Challenges and Options

The current contract arrangements presented a number of challenges which included –

- Negotiating items for replacement or repair via the asset maintenance schedule was time consuming as the responsibility for replacement of assets was with the Council, while repair of assets was Active Nations responsibility.
- Managing a contract that was outsourced to a third party increased demand on Council officers as it slowed down decision making and did not allow for enough joined up working.

As the leisure contract was coming to an end, the Council had the opportunity to consider how it managed its leisure assets going forward (ie could be brought back in-house) and whether to adopt the early intervention/prevention model, by utilising integration with heath partners; this model was emerging as a successful model nationally.

The Task Group was advised that the option to bring the provision back in-house and design a new model provided the greatest potential for opportunity and new ways of working. However, this option required full investigation for financial suitability. This investigation would be undertaken by the appointment of an external agency who would be asked to review the options and operating models needs to ensure all possibilities had been explored.

## WITNESSES

### Active Nation

The Task Group met with Managing Director, Stuart Martin and Operations Director, Kevin Lane from Active Nation to gain a better understanding of how the leisure facilities are presently managed and of their future leisure vision for Chorley.

Community Leisure Services (CLS) was awarded the contract to manage the Council's leisure facilities in 2005. CLS was rebranded to Active Nation in 2008/09 at which time it was awarded charitable status. Since the contract was awarded, the leisure landscape had changed significantly locally and nationally due to increased competition, and a rise of the budget club sector. Throughout this time Active Nation considered that it was not just a leisure operator but focussed on increased participation for local people, providing quality leisure provision and innovation in its equipment and ways of working.

The Task Group was informed that participation had continued to increase on average of 2.5% per year. Changes to senior management team in the last three years had enabled Active Nation to progress and develop; this had aided development within Chorley.

Health and wellbeing hubs are currently viewed as the future of the industry, and with new products and innovation, Active Nation considered that it would be able to withstand change and pressure from competition locally and nationally. The charity had already begun to move its exercise proposition towards health and wellbeing. Although not rolled out in Chorley, there were examples of initiatives across the country the purpose of which was to help those people in isolation back into society.

In discussing the financial and monitoring aspect of the contract, Active Nation highlighted a number of facts for the Task Group's consideration, which included –

- The Chorley contract returned a surplus of £2,008 in the 2016/17 financial year.
- The charity has a board of trustees rather than shareholders, all of whom were well known, and very experienced in their particular area of expertise.
- All money is reinvested back into innovation within the charity.
- Salaries to income ratio of 52%.
- Energy cost was 10% of total expenditure.
- Active Nation provided regular reports on a number of aspects including:
  - Participation increase
  - Finance performance
  - NPS scores
  - Accidents including RIDDOR reportable incidents
  - Significant staff changes
- Working with the Council, to ensure any price increases were in line with the expectation of local people.

Active Nation acknowledged that it faced a number of challenges which included –

- Staffing and culture (jobs vs career)
- New faces meaning lack of continuity
- Significant changes through capital investment
- Budget leisure operators locally
- Being able to implement things quicker

## Lancashire Care Foundation Trust

Phil Gooden, Service Manager for Lancashire Care Foundation Trust met with the Task Group to discuss how the Council could incorporate health and wellbeing services into its leisure facilities.

Members of the Task Group were informed that there was a national trend to deliver some health services/groups outside of the formal setting of doctors' surgeries and hospitals. It was considered that holding informal surgeries/classes/drop-in sessions in the local community would encourage those people in hard to reach groups to take an active responsibility in their health and wellbeing.

It was noted that the types of classes/sessions available did not need to be limited to those relating to exercise. Sessions related to mental health would be particularly beneficial in this informal environment. Although, there was a risk of being overwhelmed, it was important that service providers considered different ways in delivering their sessions.

In response to questions raised by the Task Group it was considered likely that the leisure facilities would need to be reconfigures to accommodate the new services at a cost to the Council.

## HR and Legal

Chorley Council's HR Manager, Jane McDonnell and Solicitor, Simon John, met with the Task Group and presented a report of the Director of Policy and Governance. The report detailed 5 leisure management models which were available to the Council to choose from and the human resources and legal implications which surround them.

Model	HR	Legal
1 Invite other leisure providers to tender for the contract under the current operating provision and objectives.	Should the contract transfer from the current provider to a new one it was likely that TUPE would apply. Staffing information however may not be available at the time of tendering.  The Council would need to establish that it was the only facilitator in the TUPE process to minimise potential liability.	The TUPE Regulations 2006 (as amended) and the Public Contracts Regulations 2015 would apply to this Option.  The Council would have to take into consideration both employment and procurement cost risks in relation to this Option
2 Bring the provision back in-house and deliver under the current operating provision and objectives.	Likely that the current employees would transfer to the Council under TUPE and salary costs likely to increase due to Living Wage Foundation rates.  Possible duplication of management/support roles.	The TUPE Regulations 2006 (as amended) would to this Option.  The Council would have to take into consideration employment cost risks.
3 Invite other providers to tender for the contract	Same TUPE issues as option 1, and ensuring the Council	The TUPE Regulations 2006 (as amended) and the Public



under a new operating provision with objectives in-line with early intervention principals and outcome based performance.	was only the facilitator.  Additional issue of employees transferring to a different service where the number of employees and roles may be different. Possible ETO justification for the change.	Contracts Regulations 2015 will apply to this Option.  The Council would have to take into consideration both  employment and procurement cost risks in relation to this Option.
4 Bring the provision back in-house and design a model which targets the health needs of the residents of Chorley and was linked to our ambition for future operating models of partnership and collaborative approaches.	Same TUPE and duplication issues for the Council as option 2. Due to change in nature of the service transferring employees may not be suitably skilled or experienced for the new roles.	The TUPE Regulations 2006 (as amended) will apply to this Option.  The Council would have to take into consideration employment cost risks.
5 Remain with existing service provider	Longer term implications relating to increases in National Living Wage.	No implications

The HR Manager confirmed that a change to the current leisure provision could increase a risk in relation to staffing, as transferring to a new operating model would require skills matching.

## **PULSE REGENERATION FINDINGS**

As part of the review process an external consultant, Pulse Regeneration, was appointed in July 2017. The brief given to the consultants was to evaluate other national models of Council leisure centre provision and management and explore new, alternative models of utilising the Council's assets with partners, to maximise access to activity for those most in need and to support the delivery of the authority's ambitions as set out in the Early Intervention and Support Strategy.

Pulse Regeneration's approach was a combination of research (fieldwork and desk based), and a review of the current arrangements with Active Nation.

### **Review of management arrangements**

Overall combined income at the centres (including the management contract) has remained constant. The total income in 2016/17 was £2,591.9k compared with £2,592.1k in 2015/16.

- Income from All Seasons Leisure Centre accounted for 65.3% of total income in 2016/17 (£1,645.8k).
- In 2016/17 the operation made a small profit (£2.3k) compared with a loss of £58k in 2015/16 and breakeven in 2014/15.

Wages account for the largest item of expenditure – 53%, with the second largest cost incurred by Active Nation related to on-going maintenance.



Whilst salaries at the three facilities remained relatively stable over the period 2014 to 2017, salaries associated with contract management have increased by 25% over the same period.

As Active Nation receives charitable status they benefit from National Non Domestic Rate (NNDR) advantages - £122k per annum.

It remained unclear as to what costs are attributed to some elements of the contract in the information provided by Active Nation (support costs – circa £234k and wages/salaries – circa £1,372k). A further breakdown is required to understand if these costs would be transferred or not.

The number of staff on Active Nation's payroll totalled 146 of which, 84 staff on permanent contract of which:

- 26 worked 40 hrs per week
- 58 part time 36hrs or below
- 62 staff on 'casual' contracted hours.

No pay scale was in place and salaries are agreed depending on the role. Other issues relating to staffing include:

- Benefits
- Overtime rules
- Pension details and schemes

Although the present staffing structure could not be considered as part of the review by the consultant; the Task Group was informed that if the Executive Cabinet chose the option to bring the management of its leisure facilities back in-house, there was a potential saving when staff were skills matched with roles.

### **Condition of the facilities**

Conditions surveys have been provided for each facility to cover the period 2015 to 2019 with a five year maintenance plan.

The three buildings included in this review are ageing although each has received significant investment in the past 10 years:

- All Seasons Leisure Centre was constructed in 1993, with an extension for the gym being built in 2007. The maintenance costs incurred by the Council for 2015/18 amounted to £252.9k.
- Clayton Green Leisure Centre was built in 1995. Its extension was completed in 2007. The maintenance costs incurred by the Council for 2015/18 amounted to £413.2k.
- Brinscall Swimming Pool was built in 1900. The building was renovated in 2008. Maintenance costs incurred by the Council for 2015/18 amounted to £87.9k

### **Key issues for consideration**

The findings also included important issues for consideration if the leisure contract was delivered in-house. It would need to:

- Acquire the expertise,
- TUPE transfer requirements and the impact of circa 150 new staff into Council employment, and the resource implications of managing the process,
- Support required from other departments in the Council and their ongoing support costs,

- Some services could still be contracted out,
- Pension and on costs – based on the figures provided, the on-costs for salaries were in the region of 5.9%, which compares with the Council's 22%,
- The current layout of All Seasons and Clayton Green reflect traditional leisure centre requirements at the time they were built and are not ideal to deliver of services linked to an early intervention/prevention agenda,
- A long term replacement plan is required for the buildings,
- Dependent on the in-house model adopted, the Council could be entitled to charitable relief on its business rates (estimated to equate to circa £122k per annum). However, further work would need to be undertaken to understand the implication of recent changes,
- Reputational risk; although Active Nation is responsible for delivering the management of these facilities, the venues and overall operation is already viewed as a Council service by a large proportion of the community.

### **National factors influencing leisure provision**

The Local Government Association (LGA) believes that many, Council owned leisure facilities, are at risk if funding is not found to refurbish existing infrastructure. While ukactive considers that redeveloping the UK's public leisure centres would lead to a saving of up to £500 million a year in operating costs.

Future funding of leisure facilities can no longer be done solely through lottery grants, therefore Councils need to consider other sources to fund major new/redevelopment. Local authorities should consider developing partnerships in both public and the private sector to remain sustainable and successful.

### **Model leisure facilities considered**

Pulse Regeneration appraised each of the 5 options available which can be found on the following pages.

## Option 1 appraisal

Invite other Leisure providers to tender for the contract under the current operating provision and objectives	
Advantages	Disadvantages
<ul style="list-style-type: none"><li>• Demonstrates value for money</li><li>• Commercial approach to management and revenue generation</li><li>• Greater management experience of running leisure facilities</li><li>• Potential to renegotiate existing contract</li><li>• Competitive tender market</li><li>• Leisure operators should provide economies of scale</li><li>• Financial risk split between CBC and contractor</li></ul>	<ul style="list-style-type: none"><li>• CBC less control over day-to-day operations</li><li>• New management relationships required (should an alternative provider to Active Nation be awarded the contract)</li><li>• Risk of balancing commercial gain against strategic objectives</li><li>• Doesn't address early intervention/prevention objectives of CBC</li><li>• Doesn't address issues of ageing leisure buildings</li><li>• Cost of procurement process and contract Management</li></ul>

**Members of the Task Group** considered that this option was unlikely to be adopted as it did not address the Council's early intervention/prevention objectives, nor did it address the ageing leisure facilities.

## Option 2 appraisal

Bring the provision back in-house and deliver under the current operating provision and objectives	
Advantages	Disadvantages
<ul style="list-style-type: none"> <li>• Reduction in charges currently in place to cover central costs (Active Nation core support costs)</li> <li>• Full control of day-to-day operations</li> <li>• Potential for CBC to set up a trust model to benefit from NNDR advantages</li> <li>• Savings generated from the existing management fee</li> <li>• Potential to increase secondary spend by maximising the opportunities available through food and beverage</li> <li>• Profits able to be invested directly into the assets</li> <li>• External funding opportunities as site owners</li> </ul>	<ul style="list-style-type: none"> <li>• Entire financial risk sits with the Council</li> <li>• Increased costs of TUPE</li> <li>• Financial impact of Council commitments to: living wage; pensions; use of in house contracting services (e.g. cleaning, IT)</li> <li>• Loss of NNDR advantages (unless CBC sets up a Trust)</li> <li>• Loss of expertise of current expertise of facility management</li> <li>• Need to create a new management structure with experience of running leisure facilities in order to maintain income and expenditure budgets</li> <li>• Doesn't address early intervention/prevention objectives of CBC</li> <li>• Doesn't address issues of ageing leisure buildings</li> <li>• Possible reputation risk should transfer not run smoothly</li> </ul>

**Members of the Task Group** did not consider this option the best model. Although it would allow the Council to regain control of its leisure facilities, and benefit from external funding opportunities, it did not address the Council's early intervention/prevention objectives.

### Option 3 appraisal

Invite other providers to tender for the contract under a new operating provision with objectives in-line with early intervention principles and outcome based performance.	
Advantages	Disadvantages
<ul style="list-style-type: none"> <li>• Demonstrates value for money</li> <li>• Competitive tender market</li> <li>• Time to develop new specification</li> <li>• Can build in agreed early intervention/prevention objectives</li> <li>• Partner support for early intervention</li> <li>• Commercial approach to management and revenue generation</li> <li>• Contractor has greater management experience of running leisure facilities</li> <li>• Potential to renegotiate existing contract</li> <li>• Financial risk split between CBC and the contractor (although CBC might incur increased costs for early intervention/prevention objectives)</li> </ul>	<ul style="list-style-type: none"> <li>• More expensive procurement process (than Option1)</li> <li>• New management relationships required (should an alternative provider to Active Nation be awarded the contract)</li> <li>• In house team can focus on early intervention and prevention agenda and not facility management</li> <li>• Some cost to introducing early intervention and prevention agenda (e.g. modifying equipment, developing new programmes)</li> <li>• Potential loss of income should a less commercial approach be adopted</li> <li>• Early intervention/prevention objectives constrained by the age/layout of existing buildings</li> <li>• More difficult for partnership working when delivery is the responsibility of a third party</li> <li>• Doesn't address issues of ageing leisure buildings</li> </ul>

**Members of the Task Group** considered that this option was the safest option of all. The new operational model would allow the Council to invite tenders based on early intervention/preventions objectives. However, it did not address issues of ageing buildings.

## Option 4 appraisal

Bring the provision back in-house and design a model which targets the health and well-being needs of the residents of Chorley and is linked to our ambition for future operating models of partnership and collaborative approaches and requires little/no capital investment	
Advantages	Disadvantages
<ul style="list-style-type: none"> <li>• Reduction in charges currently in place to cover central costs (Active Nation core support costs)</li> <li>• Full control of day-to-day operations</li> <li>• Allows for integrated working</li> <li>• Allows for delivery of some early intervention and well-being agenda</li> <li>• Partner support for early intervention</li> <li>• Potential for CBC to set up a trust model to benefit from NNDR advantages</li> <li>• Savings generated from the existing management fee</li> <li>• Potential to increase secondary spend by maximising the opportunities available through food and beverage</li> <li>• External funding opportunities as site owners</li> </ul>	<ul style="list-style-type: none"> <li>• Entire financial risk sits with the Council</li> <li>• Increased costs of TUPE (compared with Option 2 –more redundancies and further recruitment) Loss of NNDR advantages (unless CBC sets up a Trust)</li> <li>• Loss of expertise leisure management expertise</li> <li>• Need to create a new management structure with experience of running leisure facilities</li> <li>• Additional support costs required for back of house function</li> <li>• Some cost to introducing early intervention and prevention agenda (e.g. modifying equipment, developing new programmes)</li> <li>• Early intervention/prevention objectives constrained by the age/layout of existing buildings</li> <li>• Possible higher reputation risk should transfer not run smoothly</li> </ul>

**Members of the Task Group** did not consider this option to be the best model for Chorley as the disadvantages were too great.

## Option 5 appraisal

Bring the provision back in-house and design a model which targets the health and well-being needs of the residents of Chorley and is linked to the ambition for future operating models of partnership and collaborative approaches and requires significant capital investment	
Advantages	Disadvantages
<ul style="list-style-type: none"> <li>• Reduction in charges currently in place to cover central costs (Active Nation core support costs)</li> <li>• Provides a “fit-for-purpose” facility for integrated working</li> <li>• Fits Council’s strategic priorities regarding “ambition”</li> <li>• Potential to develop a facility that considers the needs of a wide range of potential partners</li> <li>• Current occupy significant areas of land which might be used for development</li> <li>• Potential to develop a financially sustainable model</li> <li>• Maximises early intervention/prevention agenda</li> <li>• External redevelopment funding opportunities as site owners</li> <li>• Savings generated from the existing management fee</li> </ul>	<ul style="list-style-type: none"> <li>• Investment in detail options appraisal</li> <li>• Significant capital requirement</li> <li>• Entire financial risk sits with the Council</li> <li>• Increased costs of TUPE</li> <li>• Loss of NNDR advantages (unless CBC sets up a Trust)</li> <li>• Need to create a new management structure with experience of running leisure facilities</li> <li>• Additional support costs required for back of house function</li> <li>• Loss of current expertise of leisure facility management</li> <li>• Possible reputation risk should transfer not run smoothly</li> </ul>

**Members of the Task Group** consider this option as to be the most preferred as it would deliver the Council’s vision for its leisure facilities. However more detailed analysis was required to determine the financial feasibility of contracting out or bringing the contract back in-house.



The recommendations made by Pulse Regeneration have been based on the consideration of the five broad options from an operational perspective and whilst this provides a good overview it has highlighted the need to further consider the financial impacts and opportunities regardless of the option selected.

Not highlighted but also for consideration is the potential to explore thoroughly the existing resourcing structures, roles and potentials for operational cost efficiencies across all three sites, alongside further understanding of the central core costs currently being incurred.

This will enable the preliminary decision of whether it is financially feasible to bring the contract back in house to be made before any further decisions are made. Once identified, further decisions can be made using the evaluations and appraisal options provided by Pulse Regeneration.

## **CONCLUSION**

Members of the Task Group agreed that the existing management contract was no longer fit for purpose. To allow for the Council to realise its ambition to maximise its early intervention/prevention agenda, changes to managerial arrangements needed to be made.

Although the safest model for the Council to use would be option 3 (Invite other providers to tender for the contract under a new operating provision with objectives in-line with early intervention principles and outcome based performance) it was not necessarily considered the best option for Chorley for the future. The authority would have less control over the types of services and classes provided at these facilities. There would also be an added complication if Active Nation was not awarded the new contract, in that the Council would need to develop good working relations with a new provider. This would inevitably impact on the timescale for delivering the early intervention/prevention agenda.

Option 5 (bring the provision back in-house and design a model which targets the health and well-being needs of the residents of Chorley and is linked to the ambition for future operating models of partnership and collaborative approaches and requires significant capital investment) was considered by the Task Group to be the best option for Chorley in the long term. However, it was not without its risks and financially the option may not be feasible.

Further analysis to determine the financial feasibility of contracting out or bringing the contract back in house, by specifically focussing on:

- Analysis and understanding of Active Nation central costs
- Conducting a detailed active market financial appraisal
- Determine actual anticipated impacts of on-costs
- Analysis of control and efficiencies to be gained by bringing in-house in comparison with a contracted out model

This information could be used to inform the decision required in readiness for the formal contract review period commencing in 2018.