

ABERDEEN CITY COUNCIL

COMMITTEE:	Finance and Resources
DATE:	17 June 2010
DIRECTOR	Annette Bruton
TITLE OF REPORT:	Transfer of Sports Service to Sport Aberdeen
REPORT NUMBER:	ECS/10/059

1. PURPOSE OF REPORT

The report provides feedback on negotiations between the City Council and the Sport Aberdeen Board. The report also provides details of the Corporate Plan submitted by Sport Aberdeen for the remainder of 2010/11, and seeks Members approval to confirm the transfer of the City Council's sports service to Sport Aberdeen for a ten year period.

2. RECOMMENDATIONS

That the Committee:

- i. Agrees to transfer the City Council's sports service to Sport Aberdeen for a 10 year period, in line with a Transfer Agreement, a Funding and Service Provision Agreement, (both referred to in this report), and ancillary documents, on 1 July 2010, or as soon as possible thereafter.
- ii. Authorises officers to continue negotiations with Sport Aberdeen and its advisors over the specific terms of the Transfer Agreement, and Funding and Service Provision Agreement and ancillary documents between the City Council and Sport Aberdeen.
- iii. Endorses Sport Aberdeen's corporate plan for the remainder of 2010/11.
- iv. Agrees that the City Council will pay Sport Aberdeen £5 million to operate the City Council's sports service for 2010/11, (based on a total annual cost of £6.3 million).
- v. Confirms that it will act as guarantor for Sport Aberdeen in relation to the pension fund, and in the event that Sport Aberdeen should cease to exist, will guarantee up to £295,000 as required to meet these liabilities.
- vi. The City Council will meet any costs arising from outstanding contractual or employment issues lodged prior to the date of transfer.

3. FINANCIAL IMPLICATIONS

It is expected that through a combination of efficiencies and a reduction in buildings rates, resulting from Sport Aberdeen operating as a registered charity, savings of approximately £550K per annum should be achieved and this is reflected in the total net running cost to the Council of £6.3 million per annum.

Sport Aberdeen has submitted their corporate plan, setting out how they propose to meet the Council's requirements, and the cost of providing the services. A summary of this plan is included as Appendix 1 to this report.

This document, which has been the subject of considerable negotiation between the Sport Aberdeen board and council officers, sets out a figure of approximately £6.7 million, as the annual cost for the company to provide the services. An exercise has been carried out to remove the estimated spend from the first quarter year of the budget, which would leave a figure of approximately £5 million for the remainder of the year from 1 July 2010.

The reason for the slight increase in costs for the first year is primarily due to irrecoverable Value Added Tax costs and is the best estimate at this point in time. This will be subject to confirmation of the VAT status by Her Majesty's Revenues and Customs (HMRC) and it is envisaged that following confirmation of the VAT status additional VAT benefits will accrue. The other additional costs are incidental start up costs in relation to marketing, professional fees and the rental of office space all of which will be met from existing budgets and contingency where appropriate.

Pension arrangements – In the event that Sport Aberdeen should cease to exist, those employees who are members of the pension fund and are over the age of 50/ 55 years, are entitled to immediate payment of benefits. The pension fund actuary has calculated a figure of £295,000 as required to meet these liabilities, and this is the figure that the City Council would need to agree to guarantee.

4. SERVICE & COMMUNITY IMPACT

The report links to Outcome 13 of the Single Outcome Agreement: We take pride in a strong, fair and inclusive national identity.
The report relates to all the objectives in the Arts, Heritage and Sport strand of the Community Plan.

It is intended that Sport Aberdeen will play a major part in helping the City Council to deliver the new Sport and Physical Activity Strategy, 'Fit for the Future'. Sport Aberdeen will also help to deliver the following sports objectives within Vibrant, Dynamic and Forward Looking:

- Increase participation in sport, provide support for athletes and reward excellence
- Ensure high quality, well-managed sports facilities in Aberdeen
- Recognise the contribution of Sport, Culture and Arts to promoting the area as a tourist destination
- Promote the City as a tourist destination
- Recognise the role of Sport and Arts in tackling anti-social behaviour.

5. OTHER IMPLICATIONS

The legal documentation has been produced or reviewed by the Council's legal advisers, Brodies.

The relationship between the City Council and Sport Aberdeen will be governed by the following three key legal documents:

- Transfer Agreement
- Funding and Service Provision Agreement
- Facilities Licence Agreement

If the recommendations contained within the report are agreed, all City Council staff currently engaged within the services, which are transferring to Sport Aberdeen, will transfer under the Transfer of Undertakings (Protection of Employment), (TUPE) Regulations (2006). This means that their contractual terms and conditions are safeguarded as part of the transfer. Positive ongoing engagement has taken place with relevant trade unions throughout this process, and details of any proposed changes or measures relating to staff terms and conditions have been formally notified to trade unions within the prescribed consultation period.

A number of staff who are due to transfer to Sport Aberdeen have outstanding appeals in relation to the Equal Pay and Modernisation scheme, which may result in amended pay grades, and potential for 'back pay'. It is acknowledged that the City Council would be responsible for any historical costs arising from such processes, and this is therefore reflected in the recommendations above.

6. REPORT

Work has been ongoing for sometime to transfer the sports function from the City Council to Sport Aberdeen. Detailed discussions have taken place through the Sports Trust Project Board/ Working Group, which has met on a regular basis over the last 18 months, to oversee the transfer process.

Draft legal documents were issued to the Sport Aberdeen Board in early October 2009. Following a considerable due diligence process by Sport Aberdeen and their legal advisers over the last 6 months, Sport Aberdeen have now returned revised drafts of both the Transfer Agreement and the Funding and Service Provision Agreement.

As part of the discussions with the Sport Aberdeen Board, a number of changes have been proposed to the specification for the services to be provided by the company. These are as follows:

- Linksfield Swimming Pool – given that Linksfield Swimming Pool is due to close in October 2010, to enable the demolition of Linksfield campus, and the development of the new 50 metre pool and aquatics centre, it is now proposed that the pool stays within the City Council until the closure.
- Leaping Leopards crèche service – given concerns about lack of compatibility with the core business of Sport Aberdeen, it is proposed that Leaping Leopards city-wide crèche service be retained by the City Council. However, it is proposed that there would be a service level agreement being established between the City Council and Sport Aberdeen, to enable Leaping Leopards to continue to operate the crèches located within sports facilities.
- Northfield Swimming Pool – is an expensive facility to operate, given the relatively low public usage. It is proposed that the pool is re-designated as

a performance and training facility, catering predominantly for swimming lessons and swimming clubs. It is however proposed that a limited amount of public sessions on two or three occasions per week would be offered at the most popular times, to cater for local users. This change in emphasis is estimated to save in the region of £200,000 per annum. Some concern was raised about the potential impact of this change in conjunction with the closure of Summerhill Swimming Pool. However, Summerhill Pool currently caters predominantly for group/ club lets, and swimming lessons, which provide their own lifeguarding, and could potentially be relocated to Northfield Pool under these proposed arrangements.

- Beach Leisure Centre – a separate paper to committee addresses concerns about the condition of the heating and ventilation plant at the Beach Leisure Centre.

The above changes mean that the list of facilities and services, which would transfer, are as set on Appendix 2 to this report.

Whilst there are a number of details and issues still to be resolved through further discussion and negotiation with Sport Aberdeen prior to the proposed transfer date of 1 July 2010. However, the re-drafts of the Transfer Agreement and the Funding and Service Provision Agreement do not raise issues of sufficient significance that officers consider that they need to be referred to this Committee, given the scope of the key principles agreed by this Committee at its meeting on 17 September 2009.

Officers believe that Sports Aberdeen's corporate plan demonstrates that the company understands the key elements of operating the Council's sports service, and have established workable financial arrangements, which indicate that they should be able to operate and develop the services in an efficient manner, which helps to achieve the City Council strategic and financial objectives.

Pension arrangements – Provisional agreement has already been given by the Pensions Panel, which acts on behalf of the administering authority, for Sport Aberdeen to join the Pension Fund. However, the Pensions Panel needs confirmation from the City Council, as an employer within the Scheme that it will act as guarantor for scheme benefits. Resources Committee on 25 November 2008 agreed to the principle of the City Council acting as guarantor for employees, within the Council's pension scheme, who transfer to Sport Aberdeen.

In the event that Sport Aberdeen should cease to exist, those employees who are members of the pension fund and are over the age of 50/ 55 years, are entitled to immediate payment of benefits. The pension fund actuary has calculated a figure of £295,000 as required to meet these liabilities, and this is the figure that the City Council would need to agree to guarantee. If the City Council agrees to any additional employees of Sport Aberdeen becoming members of the pension scheme, the guarantee would extend to cover their membership.

7. REPORT AUTHOR DETAILS

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8. BACKGROUND PAPERS

- Sport Aberdeen Corporate Plan 2010-2011
- Updated versions of Transfer Agreement; Funding and Service Provision Agreement; and the Facilities Licence Agreement

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APPENDIX 2

FACILITIES & SERVICES FOR TRANSFER TO SPORT ABERDEEN

NAME OF FACILITY
Beach Leisure Centre
Bridge of Don Swimming Pool
Bucksburn Swimming Pool
Hazlehead Swimming Pool
Kincorth Swimming Pool
Northfield Swimming Pool
Tullos Swimming Pool
Alex Collie Sports & Community Centre
Kincorth Sports Centre
Peterculter Sports Centre
Sheddocksley Sports Centre
The Jesmond Centre
Torry Youth & Leisure Centre
Beacon Centre (service provision - building not transferring, due to being a 3Rs facility)
Balnagask Golf Course
Kings Links 18 and 6 hole Golf Courses
Albury Outdoor Sports Centre
Aulton Outdoor Sports Centre
Hilton Outdoor Sports Centre
Inverdee Outdoor Sports Centre
Nelson Street Playing Field
Northfield Outdoor Sports Centre
Torry Outdoor Sports Centre (including MUGA)
Hazlehead Golf Courses (No.1 course, No.2 course, 9 hole course & 9 hole pitch & putt & practice area)
Links Outdoor Pitches
Ruthrieston Outdoor Centre
Westburn Tennis Centre
Westburn Outdoor Sports Centre
Westfield Pitches
Duthie Park Cricket Pitch
Hazlehead Outdoor Sports Centre (including sports pitches & sports pavilion)
Linx Ice Arena
NAME OF SERVICE
Active Schools
Active Communities / Sports Development
Aberdeen Aquatics / Learn to Swim Scheme
City of Aberdeen Swim Team (COAST)
Bookings, Lettings & Membership services
Special Events (inc. City of Aberdeen 10K & Fun Run; City of Aberdeen Bowling Tournament; City of Aberdeen Tennis Tournament; City of Aberdeen Sports Person of the Year Awards)
Other ancillary functions referred to in the Services Specification