Stroud District Council
Management Options Appraisal – In-house vs LATC Review
November 2021

In-House Overview

The services will be delivered through direct management of facilities through frontline staff.

The Council will have full responsibility for all income risk and expenditure be responsible for future lifecycle investment and replacement of equipment. With this, the Council will have full control over all aspects of service delivery including pricing, programming and marketing.

The in-house option allows for full flexibility for delivery and decision making from elected members. Staff can work across the leisure and wellbeing service and with other Council services with ease.

The Council has direct delivery of what is seen as a high-profile service for the community.

When considering investment, the Council will be responsible for generating sufficient surplus to pay the capital repayment for prudential borrowing for any newly developed centres.

The main disadvantage is the increase in costs due to the following which significantly impacts the commerciality of the contract:

- the majority if income being standard rated
- full NNDR costs being payable
- staff would transfer back to Stroud District Council from SLM and therefore be eligible for LGPS and standards terms and conditions, (this would impact any future outsourcing arrangements).

This has led many Councils to consider LATCs as a mechanism for 'insourcing', i.e., putting services into a wholly owned company or joint venture. Unlike bringing back the service into the Council itself, this provides the opportunity to trade externally as well as delivering services on behalf of the owning authority.

Local Authority Trading Organisation (LATC) Overview

The Council would establish an 'arm's length' organisation to run the facilities and services on its behalf.

LATCs are bodies that are free to operate as external companies but remain wholly owned and controlled by the parent council(s). As trading bodies, LATCs can provide their services to a wider market than a council department.

LATCs are contracted by the parent council (or councils) to provide services back to the council(s) via a service contract.

However, the council may decide to apply the Teckal[1] exemption, which allows the authority to establish a LATC without the requirement for a procurement exercise. It is based on case law but is codified in the Public Contracts Regulations 2015. In general, the terms of exemption require:

- the council to control the vehicle as if it were an internal department, with there being no direct private share or ownership participation in the company (this is known as the control test).
- more than 80% of the vehicle's activities to be with its 'parent' council (this is known as the function test).

A LATC can be set up as not-for-profit which are able to benefit from similar tax exemption benefits to an NPDO trust. However, it would not have charitable status.

They can be a preferred 'cultural fit', compared to procured and independent charity models. However, both risk and reward remain with the Council

There are many forms which a new organisation could take, including but not limited to the following, the structures are likely to benefit from efficient NNDR and VAT benefits:

- Co-operative or Community Benefit Society;
- Company Limited by Guarantee (CLG);
- Charitable Incorporated Organisation (CIO); and
- Community Interest Company (CIC).

[1] A "Teckal" company is the common name for a **company which benefits from contracts for works, services or supply** from its controlling Contracting Authority (or Authorities) without having to go through a competitive tender process.

Advantages & Disadvantages

Option	Financial	Quality	
LATC	**Advantages**	**Advantages**	**Risks**
	• The Council can support the LATC in respect of investment opportunities in relation to prudential borrowing etc. • New investment opportunities can be negotiated at any time during the contract period. • Can maximise VAT and NNDR efficiencies • Operate commercially • support services – can purchase from the industry (e.g., marketing) or Council (payroll) • Could generate a sinking fund with any profit over and above the projected business plan to re-invest back into the centres.	• Closer links with the community through local organisation • Single focus on service delivery • Staff feel more involved in the service delivery as not part of a large organisation. • Set up and deliver community led co-produced programmes to have real impact on residents • Perceived there is a better 'partnership' approach. • Providing the authority with more direct strategic control over the service than a third party would • Being politically more appealing as the authority is the shareholder • High level of control retained.	• A contract and specification that ensures roles and responsibilities are clearly defined between the parties, but ultimately risk remains with the Council. • Often set up with less well-defined contract, so that responsibilities are not clearly defined, or it is believed that contract terms are more easily varied (for example to meet council budget requirements). • In many cases, funding agreements for LATCs are only agreed for the short term: 3-4 years, so the company operates on a short-term basis, which can be detrimental to the service. • Reputational impact if organisation not successful.
	Disadvantages	**Disadvantages**	**Other Considerations**
	• Less able to withstand significant changes in leisure trends. • No other contract/sites to absorb poor financial performance. • Few economies of scale realised. • Likely higher central costs than the current model. • High central costs may reduce levels of potential surplus.	• A board of trustees / directors need to be recruited. • All operational procedures would have to be developed by the new organisation. • No expertise from a 'head office'. Expertise re. market led product development may need to be bought in or learned as products mature in the industry.	• Can be set up in a timely manner • There will be significant set-up costs • One off cost for branding for centres. • A new organisation will require a large working capital budget to start the company, the Council may need to provide a contingency/cashflow fund for the new organisation. • There will need to be suitable lease / contract / funding agreement /

Option	Financial	Quality	
		• Leisure Centre marketing and branding expertise will need to be developed. • Can have a more relaxed approach to monitoring (for example with no deduction mechanism) in place, which can lead to service delivery issues.	services specification set up between the new organisation and the council. • Timescales – 12-15 months (see below) • Longer term benefits once company has matured – it is a long term solution.
In-house	**Advantages**	**Advantages**	**Risks**
	• Council does not pay for any risk premiums, can easily change service inputs to meet budgetary requirements. • Share support costs with other departments. • Economies of scale normally achieved in utilities purchasing. • Effective purchase ledger and accompanying budget monitoring systems in place. • Low costs in providing capital if the Council has access to it. • A staffing structure can be put in place to serve both leisure centres. • Due to the success of the current in-house provision knowledge and experience would be shared across the service.	• Increases Council control over leisure services • More effective cross department working; public health, education, open spaces and community development. • Officers have autonomy to make local decisions • Members / officers feel that they ‘own / have control’ of the services • Changes in priorities can be implemented quickly. • Joined up service provision for residents	• All risk sits with the Council
	Disadvantages	**Disadvantages**	**Other Considerations**
	• There will be initial costs to bring Stratford Park Leisure Centre back in-house. • Higher staffing costs due to Council terms and conditions, although it is noted that SLM is currently required to pay Real Living Wage. • Increased costs due to staff being able to access the LGPS.	• Limited access to the benefits of developing new opportunities and from economies of scale and also to the wider knowledge gained by experienced operators for innovation and development.	

Option	Financial	Quality	
	• The Council will not have the benefit of NNDR and VAT relief (unless Ealing Ruling is applied) • Additional resource may be required within the Council to support the contract e.g., HR and finance. • Budget set year on year and may be subject to reductions with changing priorities of council or central government. • Central/support costs of the Council can be arbitrarily included in leisure budgets and disproportionate to overall service. • Any savings made within the service will go to the general fund and may lead to a reduced budget in the following year, not re-invested into the service / facilities. • No 'sinking' fund in place for future lifecycle building works and equipment replacement	• Can be slower to react to introduce income generating schemes. • Without a defined specification, service delivery is often based upon short term priorities. • Often behind in industry innovation and new market led products, (for example, ICT initiatives). • Officers must use council procedures / contracts in areas that are not as effective / suitable for the services, for example ICT / marketing and branding. • The Council can be slow to react to implement change and is less able to react quickly to a highly competitive fitness market. • Reporting is predominantly about financial and usage performance as opposed to outputs and impacts of the service.	

Priority Evaluation

The table below outlines the latest priorities with both options re-evaluated based on their ability to deliver against these priorities.

Priorities	In-House	LATC
1.Delivery of council objectives/strategic outcomes. 2. Able to understand the community within which the organisation is working. 3. Ability to increase targeted participation and social value. Joined up council provisions for residents (fit for future)	Operating the centre(s) in-house means that joined up work to achieve the Council's wider strategic objectives would be more achievable than an external contractor arrangement. The management team will be able to work more easily with the other Council departments to ensure all wider strategic working is delivered. Delivering services in-house means that changing priorities can be quickly implemented. The in-house management team are already involved with wider Council strategies giving them extensive knowledge and experience of working towards Council outcomes. Given the success of the existing in-house management of The Pulse and the support team within the Council we are confident that an in-house operation would be successful in meeting outcomes and strategic priorities. There is sufficient resource, expertise, knowledge and experience to deliver outcomes, which is not always the case. It would be recommended however, that there is a management plan implemented with KPI's for performance and meeting outcomes to ensure the in-house delivery remains in line with strategic priorities and direction. Joined up working to achieve Council's outcomes and 'fit for future' aspirations are more easily deliverable under the in-house option.	As with the external contractor option, a specification and performance management system would be in place. Therefore, whilst the LATC is independent of the Council, if there is a clearly defined specification, and longer-term financial stability (known management fee / funding agreement) it can be easier for the Council's strategic outcomes to be met. Staff from the existing facility would transfer under TUPE therefore retaining the local experience and knowledge to deliver against outcomes. Has the ability to attract additional funding streams compared to in-house option, which can be used to deliver facility and services interventions. More likely to have a locally focussed approach compared to an external contractor. Company profits can be repatriated to council, invested in the company or a mix of both. A LATC would have outcomes and KPI's set within their management contract but there would be less control/influence over <u>how</u> they are delivered/met. Requirements for delivering under the fit for future agenda can be built into service specifications, however it will require partnership working with various Council departments
Score	**5**	**4**
Customer experience and satisfaction. How well will services be planned,	There is likely to be less monitoring of performance as there will be no management contract in place. However, the management team could incorporate customer satisfaction	Skill set of existing staff would transfer. Branding will need to be established.

Priorities	In-House	LATC
developed and delivered to improve/maintain quality of service. Ability to create high levels of customer satisfaction throughout all areas of service delivery Exemplar quality of council and community facilities across the district	and quality KPI's into their management plans and monitor them regularly. The last customer survey at The Pulse in 2020, showed that the cleanliness across the three core activity areas is particularly good with no area scoring less than 4/5. The Council would need to re-brand SPLC and the Lido if it moved in-house and may need to consider District-wide branding to ensure consistency across the Councils facilities. The Council's in-house team achieved a Quest score of 'very good' at their latest assessment in May 2021. Currently the Council scores well with customer satisfaction and quality at The Pulse, whilst it is expected that this could be transferred to SPLC, as an older more complex building it will have more challenges.	Customer satisfaction KPI's can be incorporated into the specification documents. More likely to have a local bespoke approach to customer service. Will need to ensure robust operational procedures are set up and implemented to ensure the quality of service delivery is high. This may require external specialist support depending on experience within the team. With an LATC quality of service and meeting performance standards can be set within the contract documents and a performance management system.
Score	**5**	**4**
Revenue cost - running the service with a low or zero subsidy - what is acceptable	The in-house operation is unable to gain NNDR relief. The Council currently receives VAT relief on swimming lessons, fitness classes and courses income, which is comparable to external operators, such as SLM. Although some operators may be able to gain additional VAT relief on some income streams that the Council currently doesn't. The Council is able to apply for external funding available only to statutory bodies. Due to the performance of The Pulse, it is anticipated that under in-house management SPLC and the Lido would fare better financially than the current provider. The Pulse currently performs very well from an income perspective under in-house management against SPLC. However, due to the lack of control over maintenance costs,	The new company will need to have a suitable reserves policy and therefore the Council may have to provide a level of subsidy over and above any management fee in the early years of operation (or accept the cash flow risk). Likely to have higher central costs as it will require its own senior management team (Chief Executive, Finance Director etc.) The LATC would be required to implement the real Living Wage therefore staff costs comparable to in-house model. An LATC can be set up under an appropriate structure to receive VAT and NNDR relief. Likely to be able to apply for more funding than the local authority. There will be one-off set up costs for the LATC

Priorities	In-House	LATC
	as they are managed centrally, expenditure is higher than other management options. Utility costs are also higher. Central support costs are typically higher than external contractors and at The Pulse central support costs are higher than average. The in-house team has successfully implemented voluntary programmes at other facilities that could be transferred to the Lido, working with Friends of Stratford Park Lido to minimise expenditure on this site. Revenue risk of underachieving against budget sits with Council. Business Plans for the two leisure centres were completed as part of the Management Options report for each management model. Following investment, in a mature year the in-house option achieves the lowest overall **surplus of c.£260k** across both centres. However, due to the success of the in-house operation at the Pulse a surplus is still a realistic target. To achieve this the centres will require investment and better control over maintenance and utility costs will be required. Differences in expenditure are anticipated in: • NNDR – In-house the Council will pay 100% of costs • Salaries – whilst all management models will be expected to pay Real Living Wage rates, external contractors, LATC's can implement different terms and conditions and pension rates, therefore in-house staff costs are anticipated to be slightly higher than the other options. • Utilities – At the Pulse in-house utility costs are high against benchmarks therefore utility costs at both	Any profit could be re-invested back into the facilities. Revenue risk will ultimately be underwritten by the Council The Business Plans completed for the two leisure centres show that in a mature year and post investment the LATC option achieves a **surplus of c.£352k** across both centres, which is between the in-house and external contractor position. The main variances against the in-house model are: • NNDR – It is assumed that a LATC will achieve 80% NNDR relief • Salaries – whilst all management models will be expected to pay Real Living Wage rates, a LATC could implement different terms and conditions and pension rates, therefore there could be some savings in staff costs. • Utilities and Maintenance costs would be expected to be comparable to in-house management. • Central costs – LATC's have higher central costs due the need for a senior management team for the contract such as Chief Executive and finance manager. These costs cannot be spread over multiple contracts. The median benchmark for these costs is 14% of expenditure. • Profit – it is likely that an LATC will need to build up a level of reserves and therefore may include this within their business plan. Ultimately with a LATC income and expenditure risk would sit with the Council as per the in-house option, however with an external contract a substantial amount of risk could be passed over to the operator.

Priorities	In-House	LATC
	centres are expected to be higher under the in-house option • Repairs and Maintenance – In-house these are managed by a different department and therefore limited control by the management team results in higher than average costs. This would not be the case under alternative management models. Although the Council could discuss ways in which this could be managed more efficiently in-house. • Central costs – in-house management typically has higher levels of central costs, the central costs for The Pulse are higher than average.	
See the financial review below for an evaluation of the cost of the existing leisure centres under both management options (pre-investment)		
Score	**3**	**5**
Council influence and control. How important to you is having control and managing the risk over the service on a day-to-day basis	The Council will be able to exert the most direct control over services through the in-house management option. In-house all risk will sit with the Council so whilst the Council will have control and manage the risk directly, this will have cost implications.	The specification will set out the Council's priorities in respect to pricing / programming and other elements of service delivery. An annual service planning element of the specification can ensure that the Council's changing requirements can be incorporated into future service delivery. There is Council representation on the board, the governance structure will need to be carefully considered to get the right balance between council influence and interference.
Score	**5**	**4**
Staffing - using local employment, impact on terms and conditions, future opportunities for staff development, payment of the living wage for the lowest paid staff.	All the existing staff skills and operational practice transfer back to the Council at SPLC and the Lido. It is likely that there could be increases in staff costs at SPLC and the Lido, where new employees would be employed on Council terms and conditions, however wages across all sites are required to meet the real Living Wage, therefore salary/wage costs are comparable across all options. Scope for progression for employees is limited to within the Centre/Council.	Staff would transfer to the new Trust under TUPE, with their terms and conditions protected. A new LATC would require central posts that are not currently in place such as a Chief Executive, Finance Director etc.; this results in higher central costs. As a single contract entity scope for progression is limited. The local authority is likely to have to underwrite the pension liability. It is not reasonable to expect the LATC to take on any pension deficits

Priorities	In-House	LATC
		A LATC could offer new joiners their own company terms and conditions, which could result in some staff savings although noted that the Council will require living wage to be implemented. As the Council currently funds Real Living Wage and the expectation is that this will continue then the opportunity for a LATC to make significant staff savings is minimal. As a local entity employing local people is likely. There is an opportunity for staff to grow with the LATC a generate alternative progression options to those available in-house.
Score	**5**	**5**
Giving up control of the facilities and services related to Leisure, health and wellbeing in return for investment within the current centres and potential new build	The likelihood is that the Council will need to fund any major work and therefore it will be down to the ability to project manage and deliver investment schemes. Council has experience of delivering capital investment projects, however all risk remains with the Council.	LATC will not have direct access to capital resources, the responsibility will remain with the Council. However, where the Council funds capital investment, the LATC will use the revenue improvements to repay the capital costs. Ultimately though with LATC having a limited trading history, any risk of these payments being made falls back to the Council. The likelihood is that the Council will need to fund any major work and therefore it will be down to the ability to project manage and deliver investment schemes. Whilst existing contractors have experience of comparable investment projects there is support through development partners (e.g., Alliance Leisure) that the Council could utilise to ensure projects remain on budget and are delivered within timescales. This would remove a level of risk for the Council.
Score	**4**	**4**

Financial Evaluation – Existing Facilities

A high-level review of the potential impact on the existing leisure centres (pre-investment) has been completed. This takes into account key income/expenditure differences only. The assumptions made in this assessment are:

- The calculations are based on 2019/20 actuals as the last full year pre-Covid and are based on a mature year, for example staff savings are unlikely to be realised in year 1 and could take c.3 years to reduce to the projected levels.
- The same VAT relief on income currently achieved at The Pulse (Swimming lessons, group exercise and courses) will be applied at SPLC under the in-house option.
- An LATC would have comparable VAT relief to an external contractor therefore some additional VAT relief may be possible at The Pulse, for example on casual swimming.
- Whilst Real Living Wage is assumed on all options, it is expected that an LATC may be able to achieve some small savings at The Pulse based on different terms and conditions. It is assumed that the staff at SPLC who are currently on external contractor terms and conditions would remain the same.
- It is assumed that the LATC would get 80% NNDR relief, as per the current arrangement at SPLC.
- It is assumed that the LATC would have some additional Irrecoverable VAT costs due to the additional VAT relief on income.
- It is assumed that an LATC would operate with central costs of 14%, which is in line with the Sport England National Median Benchmark.
- Central costs have been included for SPLC under the in-house option, this is based on the same percentage of income being achieved across both sites as is currently achieved at The Pulse. However, as central costs are currently relatively high, such significant additional central costs may not be required if SPLC is added to the Council portfolio.
- An element of surplus (2% of income) is included in the LATC model on the assumption that they would need to build a level of reserves to assist in their financial sustainability.

Based on the analysis if both leisure centres were managed in-house the subsidy is expected to be in the region of £421k per annum. With a LATC it expected that a management fee payable by the Council would be required in the region of £117k. This is based on the current facility mix, prior to investment. With both centres in-house the cost to the Council is expected to increase by c.£107k, with a LATC it is anticipated to reduce by nearly £200k.

Evaluation scores

Outlined below are the evaluation scores against the weightings for each priority. It can be seen that the LATC scores marginally higher than the In-House option, which is due to the significant financial benefit that can be achieved in its revenue position.

	Priority	Weighting	In-House Score	LATC Score	In-House Weighted Score	LATC Weighted Score
1	1.Delivery of council objectives/strategic outcomes. 2. Able to understand the community within which the organisation is working. 3. Ability to increase targeted participation and social value. Joined up council provisions for residents (fit for future)	20%	5	4	20%	16%
2	Customer experience and satisfaction. How well will services be planned, developed and delivered to improve/maintain quality of service. Ability to create high levels of customer satisfaction throughout all areas of service delivery Exemplar quality of council and community facilities across the district	15%	5	4	15%	12%
3	Revenue cost - running the service with a low or zero subsidy - what is acceptable	25%	3	5	15%	25%
4	Council influence and control. How important to you is having control and managing the risk over the service on a day-to-day basis	15%	5	4	15%	12%
5	Staffing - using local employment, impact on terms and conditions, future opportunities for staff development, payment of the living wage for the lowest paid staff.	10%	5	5	10%	10%
6	Giving up control of the facilities and services related to Leisure, health and wellbeing in return for investment within the current centres and potential new build	15%	4	4	12%	12%
	TOTAL	**100%**	**27**	**27**	**87%**	**87%**

Disclaimer

Although the information in this report has been prepared in good faith, with the best intentions, on the basis of professional research and information made available to us at the time of the study, it is not possible to guarantee the financial estimates or forecasts contained within this report.

Max Associates cannot be held liable to any party for any direct or indirect losses, financial or otherwise, associated with any information provided within this report. We have relied in a number of areas on information provided by the client and have not undertaken additional independent verification of this data.