



# Leisure Procurement Strategy

Harborough District Council

August 2022

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# 1. Introduction

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- 1.1.1 Harborough District Council is commencing the procurement of a new management contract for the operation of its leisure facilities. The existing contract with Sports & Leisure Management (trading as Everyone Active) ends in March 2024 and the Council has appointed The Sport, Leisure and Culture Consultancy (SLC) to provide support throughout the procurement process.
- 1.1.2 A crucial part of the process is developing a clear procurement strategy, which sets out the Council's approach to the procurement process and seeks to establish a suitable balance between meeting the Council's requirements and ensuring the opportunity is attractive to the market.
- 1.1.3 Specifically, the procurement strategy will establish:
- The Strategic Objectives for the future delivery of leisure services across Harborough
  - A clear scope of services that are complementary and appeal to the operator market
  - The most appropriate contract term including any proposed extension periods to be built into the contract
  - A clear position regarding future investment plans for the portfolio
  - The most appropriate procurement route to ensure the process meets the Council's requirements, timeframes, and is appealing to the operator market
  - A clear risk profile between the operator and the Council for key areas of responsibility, such as maintenance and utilities
  - A clear position on the use of variant submissions to test different scenarios
  - A clear position on affordability, to inform the development of the Services Specification, and to ensure it aligns with the Council's Medium Term Financial Strategy
  - An evaluation framework which establishes the right balance between quality and price and seeks to secure the best quality operator that the Council can afford.
- 1.1.4 This briefing paper presents a number of the key issues discussed by the Project Working Group (PWG) at a workshop on 28<sup>th</sup> June 2022, where the group considered and made recommendations regarding the procurement strategy.
- 1.1.5 The outcomes from this discussion form this Leisure Procurement Strategy and will be presented to the Council's Scrutiny and Cabinet.

## 2. Why is the Council Running Leisure Facilities?

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### 2.1 Introduction

- 2.1.1 The Council will need to develop a clear set of Strategic Objectives for the new leisure contract and future service, which are designed to support the Council's wider strategic priorities. These objectives essentially set out why the Council is running the service and the contribution of its leisure operator to the Council's wider strategic priorities.
- 2.1.2 Performance indicators will need to be developed to measure progress against these Strategic Objectives and included within the Services Specification which is to be developed at the next stage.

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### 2.2 Harborough District Council Priorities

#### Corporate Plan 2022 - 2031

- 2.2.1 The updated Corporate Plan has the following overarching Vision:
- Working with our communities, we will build a future for the people of Harborough district that gives them the best life changes and opportunities though:*
- 2.2.2 There are four strategic priorities identified in the Plan:
1. Community leadership to create a sense of pride and belonging
  2. Promoting health and wellbeing and encouraging healthy life choices
  3. Creating a sustainable environment to protect future generations
  4. Supporting businesses and residents to deliver a prosperous local economy
- 2.2.3 The future leisure service will contribute most strongly to strategic priorities 1 and 2.

#### Active Harborough - Physical Activity Strategy 2018-2023

- 2.2.4 There are six strategic priorities identified in the Strategy:
1. To increase participation levels in physical activity across the district, with a focus on tackling inactivity
  2. To develop sustainable and long-term approaches to incentivising specific groups who have the lowest levels of activity in the district
  3. To further develop - through our Active Together Team - our effective and sustainable network of organisations across a diverse range of physical activity and sport opportunities to meet the changing needs of our residents
  4. To ensure that physical activity and sport is integrated within the planning system by utilising Sport England's active design principles
  5. To refurbish and rebuild the two leisure centres in our district so that they meet national high standards
  6. To promote the use of formal and informal local community facilities, including schools and colleges, to help realise their full potential as high-quality community assets.

### New Health and Wellbeing Strategy 2022-2027

- 2.2.5 The Council is currently completing a new Health and Wellbeing Strategy to inform the new leisure contract. The strategy will look beyond physical activity to the wider determinants of health. Taking this wider approach will support the Council's new priority – "Promoting Health and Wellbeing and Encouraging Healthy Life Choices."
- 2.2.6 The strategy is currently in draft and has been presented to Communities Scrutiny Panel on 30<sup>th</sup> June 2022. There are two themes and six priorities.
1. Enable healthy environments
    - a. Quality homes
    - b. Community infrastructure & services
    - c. Training, jobs & income
  2. Encourage healthy lifestyles
    - a. Community
    - b. Mental health
    - c. Physical activity

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### 2.3 Proposed Strategic Objectives for the Leisure Contract

- 2.3.1 Drawing from the strategic documents above, the following Strategic Objectives are proposed to be embedded into the leisure contract:
1. Reduce inequalities in physical activity participation across Harborough
  2. Contribute towards the health and wellbeing of residents in the District by increasing physical activity levels in Harborough
  3. Increase access and opportunity to take part in physical activity for vulnerable people in the District
  4. Increase physical activity participation of young people in Harborough
  5. Ensure Harborough and Lutterworth Leisure Centres both contribute towards reducing carbon emissions
  6. Deliver good quality facilities and services at Harborough and Lutterworth Leisure Centres for physical activity and wellbeing.

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### PWG Recommendation

**That the Council adopt the Strategic Objectives for the leisure contract to be embedded into the Services Specification:**

- 1. Reduce inequalities in physical activity participation across Harborough**
- 2. Contribute towards the health and wellbeing of residents in the District by increasing physical activity levels in Harborough**
- 3. Increase access and opportunity to take part in physical activity for vulnerable people in the District, while supporting the Council's preventative interventions programme.**
- 4. Increase physical activity participation of target groups, including young people, old people, and people with disabilities, in Harborough**

- 5. Ensure Harborough and Lutterworth Leisure Centres both contribute towards reducing carbon emissions**
  
- 6. Deliver good quality facilities and services at Harborough and Lutterworth Leisure Centres for physical activity and wellbeing.**

## 3. Scope of Services

### 3.1 Core Leisure Facilities

3.1.1 The existing contract with SLM ends in March 2024 and includes the operations of the facilities in Table 1.

**Table 1: Facilities in Existing Contract**

Harborough Leisure Centre	Lutterworth Sports Centre
70 station gym	72 station gym
6-lane 25m swimming pool	6-lane 25m swimming pool
Teaching pool & “beach area pool”	4-court sports hall
Indoor bowls hall	2 studios (both 225m <sup>2</sup> )
3-court indoor tennis hall (concrete)	Health and Wellbeing Room
4-court sports hall	
2 studios (both 150m <sup>2</sup> )	
Health and Wellbeing Room	
Cafe	

### 3.2 Active Communities Programme

3.2.1 Increasingly, modern leisure contracts include a requirement for the operator partner to deliver an Active Communities Programme (or similar) which focuses on the delivery of activities and services beyond the core leisure facilities within local community settings, parks, and open spaces.

3.2.2 The primary focus of such a programme is to increase participation in physical activity by less active groups, who are less likely to engage within a traditional leisure centre setting. Designing and delivering a programme of accessible activities within familiar, local settings will extend the reach and impact of the services, by engaging with groups that are most likely to experience health inequalities, and for whom being more active will have the greatest benefit.

3.2.3 The programme is typically designed and delivered through strong partnership working with the Council’s Leisure Team and other key stakeholders.

### 3.3 Bowls Hall and Tennis Bubble at Harborough Leisure Centre

3.3.1 The bowls hall is currently used for less than half of a typical year and runs at a financial deficit. The bowls hall space could represent an opportunity for change of use as part of the bidders’ investment solutions. For example, following a procurement at West Lindsey District Council the successful operator converted the existing bowls hall into a health and wellbeing centre. This has both increased the usage and generated additional income at the centre, improving the overall management fee position.

3.3.2 It is therefore proposed that the Council does not “red line” the bowls hall and is open to bidder proposals for alternative uses subject to business case.

- 3.3.3 It should be noted that there are sensitivities associated with the facility and in the event that a change of use is proposed by the successful bidder, the Council will need manage communications with communities and local media.
- 3.3.4 The tennis bubble at Harborough which also accommodates indoor netball is at the end of its life and will not last into the next leisure contract. It is proposed that replacement is not made mandatory within bidder requirements in terms of using the investment fund.
- 3.3.5 In order to understand the financial impact of retaining facilities for indoor netball it is proposed that bidders provide a variant submission to include indoor netball as part of the Initial Tender.
- 3.3.6 As with bowls hall there will be sensitivities with the existing users of the facility if it is determined that the facility will not be replaced.

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#### **PWG Recommendations**

- 3.3.7 **To include Harborough and Lutterworth Leisure Centres in the scope of the services.**
- 3.3.8 **To include an Active Communities Programme in the new leisure contract, the affordability of which is to be tested through variant submission.**
- 3.3.9 **To confirm that there is no "red line" around the Bowls Hall, with bidders encouraged to provide alternative uses for the Bowls Hall which are more financially sustainable through their investment proposals.**
- 3.3.10 **To require bidders to provide solutions for maintaining a two-court indoor netball provision (the space for which will also allow three tennis courts), the sustainability of which will be tested through a variant submission.**



## 4. Affordability and Shadow Bid

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### 4.1 Background

- 4.1.1 SLC is developing a “Shadow Bid” which estimates the base value of the contract, based on the 19/20 pre-Covid-19 income and expenditure information provided by the existing operator, Sports and Leisure Management Limited (SLM).
- 4.1.2 The Shadow Bid is designed to illustrate the potential management fee attainable through re-procurement of the contract but should not be used for budgeting purposes. This is because the model does not include a prediction of potential issues such as cost inflation and income fluctuations caused by changing economic conditions, or competitor activity.
- 4.1.3 The development of a Shadow Bid has the following key benefits:
- It provides an understand of the likely market value of the new contract which can inform an understanding of future affordability linked to the Council’s Medium Term Financial Strategy
  - It can be used to set an affordability threshold or minimum level for bid compliance which ensures all bids received are affordable to the Council and enables a stronger focus on the quality of bid submissions
  - It can be used as benchmark to review bid submissions.
- 4.1.4 The shadow bid will need to factor in the impact of investment which is dependent on interest rates.
- 4.1.5 The Council is making available an investment fund of up to £9.75 million for the operator to draw on, under the condition that the annual capital repayments are covered by the operator for the life of the contract.
- 4.1.6 The directive from Members is the contract should run at zero subsidy or better. Initial modelling indicates that this will be achievable with investment the contract has the potential to generate a surplus subject to investment proposals and prevailing interest rates.

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### PWG Recommendations

- 4.1.7 **To set the affordability threshold for the leisure contract at £zero management fee or better. Additionally, the successful bidder will be required to pay back annual capital repayments throughout the life of the contract.**
- 4.1.8 **To agree the final affordability modelling be updated in early 2023, to factor in fluctuating interest rates linked to the capital investment.**

## 5. Procurement Components – Key Decisions

### 5.1 Contract Length

- 5.1.1 Leisure management contract terms are typically 10+ years, often with the option to extend, by mutual consent, for a further 5 years. Operators are reluctant to allocate bidding resources for shorter contracts and, within the context of an increasingly busy market, may choose not to bid.
- 5.1.2 Depending on the complexity of the procurement, the cost of bidding can be c. £70k+ and bidders competing with the incumbent operator will also need to factor in mobilisation and start-up costs. The length of the contract will, therefore, be one of the key qualifying criteria for operators when deciding whether or not to bid.
- 5.1.3 A major factor when considering contract length is the condition of the facilities. For example, an older facility with a short remaining lifespan would be less likely to be let on a long term (15+ years) contract due to the increased risk of maintenance liabilities and potential for closure.
- 5.1.4 The recent market engagement exercise undertaken indicates that operators are happy with a term of 10 - 15 years.
- 5.1.5 Given the significant capital investment to be made available, the Council may wish to consider a longer term e.g., 15 + 5 or 15 + 5 + 5 years to give the operator the added appeal of the potential of a longer period during which they would be able to maximise returns from investment.
- 5.1.6 SLC recommend a 15-year contract with an option to extend by up to 5 years. A further alternative would be a 10-year contract with an option to extend by up to 5 years plus an additional option to extend up to 5 years (20 years in total).
- 5.1.7 The Council has the option to test different contract lengths through variant bids.

#### PWG Recommendation

- 5.1.8 **That the contract be for an initial term of 15 years with an option to extend by up to 5 years plus an additional option to extend up to 5 years (up to 25 years in total).**

### 5.2 Procurement Procedure

- 5.2.1 There are a number of procurement routes and procedures that can be used for leisure contracts. Table 2 below is taken from Sport England’s Leisure Services Delivery Guidance (published in 2021) and highlights which procurement approaches are suitable under different circumstances.
- 5.2.2 We have highlighted in green text where the approach is aligned to the specific circumstances of the Council and red text where the approach is considered unsuitable.

**Table 2: Procurement Procedures**

Procurement Approach/Route	Suitable Circumstances	Unsuitable Circumstances
Open Procedure	<ul style="list-style-type: none"> <li>Potentially low number of bidders</li> </ul>	<ul style="list-style-type: none"> <li>DBOM requirement</li> </ul>

Procurement Approach/Route	Suitable Circumstances	Unsuitable Circumstances
<p>Typical procurement timeline c. 4-6 months</p>	<ul style="list-style-type: none"> <li>• Clearly defined service scope</li> <li>• Clearly defined services specification</li> <li>• When procurement required quickly.</li> </ul>	<ul style="list-style-type: none"> <li>• Potentially large number of bidders</li> <li>• Facility investment part of the procurement</li> <li>• Local authority wishes to negotiate on aspects of the contract and services specification.</li> </ul>
<p>Restricted Procedure Typical procurement timeline c. 6-9 months</p>	<ul style="list-style-type: none"> <li>• Potentially large number of bidders</li> <li>• Clearly defined service scope</li> <li>• Clearly defined services specification</li> <li>• Clearly defined low/medium investment specified and delivered by the local authority part of the procurement.</li> </ul>	<ul style="list-style-type: none"> <li>• DBOM requirement</li> <li>• Significant facility development requiring operator solutions</li> <li>• Local authority wishes to negotiate on aspects of the contract and services specification.</li> </ul>
<p>Competitive Procedure with Negotiation Typical procurement timeline c. 9-12 months</p>	<ul style="list-style-type: none"> <li>• Potentially large number of bidders</li> <li>• Clearly defined service scope</li> <li>• Clearly defined services specification with some aspects for negotiation</li> <li>• Clearly defined low/medium investment specified and delivered by the local authority part of the procurement</li> <li>• Medium level investment proposals part of the procurement (e.g., building extension or refurbishment) requiring operator solution</li> <li>• Local authority requires some flexibility to test different scenarios through variant bids but may still want to award at tender stage.</li> </ul>	<ul style="list-style-type: none"> <li>• DBOM requirement</li> <li>• Local authority wishes to negotiate on aspects of the contract and services specification through dialogue.</li> </ul>

Procurement Approach/Route	Suitable Circumstances	Unsuitable Circumstances
Competitive Dialogue Procedure Typical procurement timeline c. 12-18 months	<ul style="list-style-type: none"> <li>• DBOM requirement</li> <li>• Service scope open to negotiation through dialogue</li> <li>• Services specification open to change through negotiation</li> <li>• High level investment proposal requiring bidder solution e.g., new build leisure facility.</li> </ul>	<ul style="list-style-type: none"> <li>• This approach can be over engineered where there is low/medium level investment solution required from the operator or no room for negotiation of the services specification.</li> </ul>
Concessions Contract Typical timeline c. 12- 14 months	<ul style="list-style-type: none"> <li>• Where there is a positive fee to the local authority</li> <li>• Light to medium weight Services Specification.</li> </ul>	<ul style="list-style-type: none"> <li>• Where the services require a subsidy or payment to the Leisure Operator</li> <li>• Where the local authority is carrying a degree of risk</li> <li>• This would include when using local authority capital as part of the solution.</li> </ul>

5.2.3 SLC recommend that three staged process which includes negotiation between Initial and Final tender submissions, potentially under a Concessions Contract regime because the Council will have:

- A clearly defined scope of services
- A clearly defined services specification, with some aspects for negotiation
- Clearly defined investment proposals as part of the procurement bid, which will require operator input
- Flexibility to test different scenarios through variant bids, before specifying its final requirements
- Sufficient time within the programme.

5.2.4 Over the last few years CPN has been the most commonly used procedure for procuring leisure contracts but new procurement legislation is expected later in 2022. Consequently, it is proposed to review any new approaches that may come through this before committing to a specific procurement procedure.

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#### PWG Recommendations

5.2.5 **That the Council deliver the procurement using a three-stage procurement procedure potentially under a concession's regime. This will involve:**

- **Pre-qualification**
- **Invitation to Submit an Initial Tender (ISIT)**
- **Negotiation on key issues such as investment**
- **Final Tender.**

- 5.2.6 The exact procedure used will be reviewed when new procurement guidance, expected later in 2022 is available.
- 5.2.7 That the Council provide delegated authority to the Director of Communities and Wellbeing (and any other relevant senior officers) to confirm the final procurement mechanism, following any legislation changes. The three-stage structure of the procurement is unlikely to change.

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### 5.3 Utilities Risk

- 5.3.1 The Council has a range of options in the way utilities are managed within the contract and who takes the risk on consumption and increases in tariffs. Pre-Covid-19, full responsibility and risk was typically passed to the operator, but the recent increase in energy costs, and uncertainty regarding the future market makes this option much less palatable to operators and some may choose not to bid.
- 5.3.2 New leisure contracts increasingly include a shared approach to utilities risk, where the operator takes the risk on consumption and the Council bears the risk of tariff increases in accordance with an agreed mechanism within the contract. Such arrangement inevitably creates some uncertainty for Councils in terms of medium-term financial planning and require allocated resource to negotiate and agree annual settlements in accordance with the agreed benchmarking mechanism.
- 5.3.3 The market engagement exercise undertaken shows a clear preference from leisure operators for a shared risk profile where the Council takes the risk on tariff increases (above inflation) and the operator takes the risk on consumption.
- 5.3.4 A full risk transfer on utilities would require operators to price the risk and uncertainty on tariffs into their bids and could result in an unattractive bid for the Council. It may also mean that the Council pays more than it should in the event energy prices reduce to previous levels during the term of the contract.
- 5.3.5 Full risk versus shared risk on utilities could be explored through a variant bid at the initial tender stage if required. This would enable the Council to understand the additional cost of transferring this risk before deciding on the final risk profile for the revised tender stage.
- 5.3.6 Transferring some or full responsibility for utilities to the operator will encourage investment in energy saving technology and contribute towards addressing the climate change emergency. A new contract is the ideal time to include such investment to enable the operator to obtain maximum benefit and return on the investment, and the operator would be financially incentivised to do so. This has been the case in a number of recent procurements. This approach would also play strongly to the Council's corporate commitment to achieving net zero carbon.

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### PWG Recommendation

- 5.3.7 That the Council adopt a shared risk approach to the cost of utilities, where the operator takes the risk on consumption, and the Council takes the risk on future tariff increase above an identified threshold. This is in line with the current market position.

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## 5.4 Maintenance Risk

- 5.4.1 Full repair, maintain and lifecycle replacement contracts have become more common in recent years, as local authorities seek to transfer full maintenance risk to operators. Under such an arrangement the operator is responsible for maintenance, repair and replacement of all assets (including building fabric) for the term of the contract. This is often the preferred approach for authorities that wish to transfer this risk for the term of the contract and/or do not have access to capital maintenance budgets or staffing resource to manage shared maintenance obligations.
- 5.4.2 Such arrangements are typically supported by a comprehensive building fabric, mechanical and electrical condition surveys, providing an assessment of the condition of all assets and a fully forward-costed lifecycle replacement schedule (usually for a 10-year period). This condition survey, assuming it is of the required quality, should enable bidders to allocate sufficient maintenance resources within their financial submissions to cover the cost of full maintenance, repair and replacement.
- 5.4.3 Operators will generally accept full maintenance responsibility (assuming there is an up to date and comprehensive condition survey included within the tender documents), but many prefer a shared approach, particularly where the age and condition of facilities creates additional risk.
- 5.4.4 A shared approach is normally like a typical landlord and tenant agreement where the operator is responsible for day-to-day maintenance and repair of buildings and equipment, and the replacement of certain, clearly identified assets (as per the existing arrangement). The Council takes on the responsibility for maintenance of building fabric and structure, and the replacement of certain, clearly identified larger assets e.g., boilers, pool filters or other major mechanical and electrical installations (either on an item-by-item basis or over a certain cost threshold). This shared responsibility, including specific areas of risk allocation is clearly set out within the contract documents to avoid any ambiguity.
- 5.4.5 The market engagement exercise undertaken shows a general preference from operators for a shared maintenance risk profile. Transferring full maintenance and replacement responsibility to the operator increases the risk of potential bidders “qualifying out” the Harborough opportunity, or bidders including high levels of additional risk provision within their financial submissions.
- 5.4.6 SLC, therefore, recommend a shared approach to maintenance responsibility with the Council being responsible for the fabric and structure of the building and major lifecycle replacement (either through replacement of items over a specified cost threshold, e.g., £20,000 or based on a specific itemised list of assets with split responsibility for the operator and the Council). The operator would be responsible for all day-to-day maintenance of buildings, including Planned Preventative Maintenance, equipment, and the lifecycle replacement of items below the cost threshold, or as specified on the asset list. As this is the current contractual arrangement, this is what is being reflected in the shadow bid currently. A transfer to full risk transfer would necessitate additional cost being factored in the shadow bid.
- 5.4.7 As with utilities, the Council may also decide to include a variant bid on full maintenance risk to the operator to understand the additional cost of this scenario.

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### PWG Recommendation

- 5.4.8 That the Council adopt a shared risk approach, where the operator is responsible for all day-to-day maintenance, repair and lifecycle replacement, and the Council is responsible for the building fabric and major lifecycle replacement. A risk allocation matrix will be utilised to identify where maintenance responsibilities lie within the Services Specification.**

## 5.5 Evaluation Criteria

### Price / Quality Weighting

5.5.1 The Council is looking to commission the best management operator it can afford. The intention, if considered appropriate, is to set an affordability threshold in the procurement which aligns with the Council's Medium Term Financial Strategy. Under this approach all compliant bids received will meet the Council's financial needs.

5.5.2 SLC, therefore, recommend that the overall evaluation is based on 30% Price, 70% Social Value and Quality to ensure that the focus of the evaluation is on quality as all compliant bids will meet the Council's financial requirements.

### PWG Recommendations

5.5.3 **The Council needs to decide on the Price / Quality weighting for the evaluation criteria.**

5.5.4 **That the Council adopt a 30:70 Price / Quality & Social Value weighting for the evaluation criteria.**

### Price Evaluation

5.5.5 The scoring of Price can be set up in different ways to incorporate risk and sustainability, or simply be based on the lower payment to the operator / highest payment from the operator, as show in Table 3.

5.5.6 The examples are based on Price being weighted at 40%, which can be amended as required once the Council has agreed the weighting. The example figures used are indicative only.

**Table 3: Price Evaluation Options**

	Approach	Benefits	Risks
1.	<p><b>Basic Pro-Rata Approach:</b> Highest surplus or lowest management fee scores a full 40%. Subsequent bids score on pro-rata basis.</p> <p><i>Example:</i> <i>Highest surplus bid (annual payment to Council) £100,000, the second-place bid is £50,000 and third place bid £10,000. Therefore, the highest bid scores 40 percentage points, second place bid scores 20 and third place bid scores 10 percentage points.</i></p>	<p>Incentivises bidders to offer the best possible price</p> <p>Objective</p> <p>Transparent.</p>	<p>It is often difficult for bidders to 'catch up' on quality if there is a substantial difference in price. In the example shown it would be difficult for the second placed bidder to make up 20 percentage points on the quality scoring</p> <p>This could mean the Council is forced to accept the bidder offering lowest quality</p> <p>Also, the difference in scoring (20 percentage points) is arguably not proportionate to the difference in cost (£50K</p>

	Approach	Benefits	Risks										
	<p><b>Basic Average Price Approach:</b></p> <p>Price scores are allocated based on the extent to which the bidder's price falls above or below the average price.</p> <p>For example, a bidder that submitted a price that was equal to the average price would be awarded a score of 20% out of 40%. For every pound that a bidder's price is above or below the average price, the score will be increased or reduced accordingly.</p>		<p>p.a. in the example shown) when considering the scale and scope of the services</p> <p>This ignores other financial criteria such as viability and investment.</p>										
2.	<p><b>Overall Commercial Approach:</b></p> <p>Price score weighted:</p> <table border="0"> <tr> <td>Management fee</td> <td>15%</td> </tr> <tr> <td>Operator capital</td> <td>5%</td> </tr> <tr> <td>Viability</td> <td>10%</td> </tr> <tr> <td>Risk transfer/legal</td> <td>10%</td> </tr> <tr> <td>Total</td> <td>40%</td> </tr> </table> <p>Bidders are ranked based on overall score as per 1. above.</p>	Management fee	15%	Operator capital	5%	Viability	10%	Risk transfer/legal	10%	Total	40%	<p>Gives a more holistic view of commercial proposals including capital investment</p> <p>Enables the Council to assess the viability of the financial proposals where income looks high or expenditure low</p> <p>Prevents a bidder offering a comparatively high management fee payment to Council / low management fee from Council; winning on price alone.</p>	<p>Council will have to make a subjective judgement on the viability of each bidder's financial model. This could discourage a bold bid if bidders are wary of how the viability will be judged</p> <p>Council will need to assess different capital solutions, which could be subjective</p>
Management fee	15%												
Operator capital	5%												
Viability	10%												
Risk transfer/legal	10%												
Total	40%												
3.	<p><b>Sliding Scale Approach:</b></p> <p>Produce a sliding scale over the affordability threshold with a ceiling that provides maximum score if reached e.g.:</p> <p>Annual Management Fee payment/receipt (indicative only)</p>	<p>Enables a positive or negative management fee in the event that affordability is borderline between a deficit or surplus</p> <p>Prevents "over bidding" and bidders putting in a high payment to the</p>	<p>Council may be able to get a higher financial offer without a ceiling.</p>										



	Approach		Benefits	Risks
	-£100,000	20%	Council, and winning on price  Most procurements using this approach result in the bidder offering the highest quality solution winning the tender.	
	Zero or break-even	30%		
	+£100,000	40%		
	(Maximum score 40%)			

5.5.7 Based on the above analysis SLC recommend a sliding scale approach to evaluating price with the affordability threshold.

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#### PWG Recommendation

5.5.8 **That the Council adopt a sliding scale approach to evaluating price, informed by the affordability threshold. For example, zero management fee could score 20 percentage points leading up to a £1.5 million 15-year payment to the Council scoring 30 percentage points.**

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## 5.6 Social Value and Quality Evaluation

5.6.1 Method statement questions used to assess the social value and quality of bid submissions should be aligned to the Council's Strategic Objectives for the new contract. The following themes have been identified by SLC and will need to be discussed with the Project Group. Once the themes are agreed they will need to be developed into method statements questions for inclusion in the tender documents:

- Approach to increasing overall physical activity participation levels
- Bidders' investment solution based on a capital fund of up to £9.75 million
- Approach to increasing physical activity participation levels amongst target groups and localities
- Development of health-related programmes aimed at those needing rehabilitation or "at risk" groups
- Approach to designing and delivering innovative and inclusive programmes
- Approach to delivering wider social value
- Approach to staffing, training, and development
- Approach to managing of assets – maintenance, environmental
- Approach to quality management and customer care
- Approach to monitoring KPIs and measuring impact of services.

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#### PWG Recommendation

5.6.2 **That the Council work with SLC to develop Social Value and Quality method statement for inclusion in procurement documentation based on Sport England guidance.**

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## 5.7 Profit or Income Share

5.7.1 Previous market engagement undertaken by SLC indicates clearly that operators favour a profit share over an income share approach, on the basis that it takes account of additional expenditure incurred to generate the additional income.

- 5.7.2 SLC, through its work with Sport England, has researched existing profit share contracts and found that many do not yield additional payments, as the operator, if performing well, is able to “bump up” the expenditure for the contract.
- 5.7.3 The latest Sport England guidance proposes that income share is used where there are new facilities involved or capital investment, and, to a degree, it is uncertain how they will perform. This is primarily to ensure the Council gains from the operator making “super profits.” This could, for example, involve 10% of income over and above a set threshold to the Council, in the event the operator exceeds its business plan income by, say, 10%.
- 5.7.4 Most leisure operators are averse to income share as it does not allow for cost of sales and in some contracts does not incentivise them to develop programmes where there is a cost of sales such as coaching and exercise to music.
- 5.7.5 In the case of Harborough’s two leisure centres, the facilities are mature, and there may be little value in having an income or profit share mechanism, which could also be off putting to bidders, or lead to them adjusting their own profit margins resulting in a less attractive management fee position.

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#### PWG Recommendations

- 5.7.6 That the Council adopt a profit share mechanism, which comes into effect where the Operator overperforms by 10% or more on net profit against its financial bid submission.**

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### 5.8 Investment Plans and Variant Bids

- 5.8.1 The Council has ambitious plans for investment into its facilities during the term of the new contract and has agreed a £9.75 million investment fund available for both Harborough Leisure Centre and Lutterworth Leisure Centre.
- 5.8.2 Bidders will be able to select the level of capital they wish to draw on the proviso that capital repayments will be covered by the successful bidder through the term of the contract.
- 5.8.3 The tender process therefore provides an ideal opportunity to understand the expected return on this investment.
- 5.8.4 As referenced in Section 5.2, the recommended procurement route is a three staged process with negotiation. This provides for a staged approach to bid submissions enabling initial tenders to be developed by bidders, reviewed by the Council, and discussed further through negotiation with bidders before setting the requirements for revised or final tenders.
- 5.8.5 This process will enable the Council to seek variant submissions from operators which can be used to test different scenarios to understand the financial implications of each.
- 5.8.6 The Council could explore a number of scenarios including:
1. Bidders’ investment proposals using the capital fund of up to £9.75 million. This bid will be evaluated at ISIT stage.
  2. A baseline position which assumes continuation of the service “as is” without investment. This will enable the Council to assess return on investment. This will also ensure that the Council receives bids for operation of the existing portfolio for the full contract term in the event that the investment is delayed or unable to be delivered for whatever reason.
  3. Active Communities– bidders can be requested to provide a financial submission identifying the cost of delivering an outreach community-based programme in addition to investment. The Council will be able to assess whether this additional service is affordable.

4. A variant submission based on the base submission, to include investment and the inclusion of provision for a two-court indoor netball facility - The Council will be able to see the potential financial impact of such a facility.

5.8.7 The information provided within the Initial Tenders, including any variant submissions, can be reviewed by the Council, and discussed further with bidders during the negotiation stage in order that the Council can establish a clear position on how the Final Tender is to be structured.

5.8.8 It should be noted that whilst variant bids can be an effective way of testing different scenarios through a procurement, the Council should recognise the additional work required of bidders in developing multiple bid submissions within the context of a busy market. Overcomplicating the submission requirements increases resource requirements both for bidders and the Council, so the inclusion of variant bids should be balanced by these considerations.

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**PWG Recommendations:**

5.8.9 **That the Council request the following variant pricing submissions at Initial Tender stage:**

1. **An Invitation to Submit Initial Tender bid submission to be evaluated based on investment without Active Communities or specified Netball Provision.**
2. **Variant submission based on the existing service as is (without investment or Active Communities service).**
3. **Variant submission based on 1) to include investment and specifying indoor netball provision.**
4. **Variant submission based on 1) to include investment plus Active Communities.**

5.8.10 The results of the variants will inform negotiation with the bidders and the Council's Final Tender position.

## 6. Procurement Strategy Checklist

6.1.1 A checklist is provided in Table 4 which monitors the progress of the development of the procurement strategy or the extent to which the Council is procurement ready. Each workstream categorised green (complete), amber (in progress), and red (not started).

**Table 4: Procurement Strategy Checklist**

Procurement Strategy Checklist		HDC Progress as at July 2022	
1	Has the Council and its partners developed a strategic approach for its Sport and Physical Activity Services with a clear vision on what outcomes and behaviour change it is looking to promote going forward?	100%	Health and Wellbeing Strategy being finalised
2	Has the Council clearly defined the scope of services to be included in the procurement?	100%	
3	Has the Council clearly defined any capital facility developments and investment requirements?	100%	
	Are these to be initiated by the successful bidder or Council?	100%	Bidder
	Has local authority capital been secured for the project?	100%	Capital has been secured
4	Is the Council clear on the level of risk it wishes to transfer to the operator including asset management, pensions, utilities etc.?	100%	Shared asset management responsibility. Shared utilities risk. Operator responsible for pension contributions, HDC any pension deficit or exit fees.
5	Has the Council undertaken affordability modelling, considering forward maintenance and equipment costs (based on asset condition) for the life of the contract, agreed investment and the likely market perception of its portfolio?	100%	To be updated later in procurement process to account for changing interest rates
	Is this aligned to the Medium-Term Financial Strategy and a realistic minimum affordability threshold set for the procurement?	100%	Affordability threshold to be set at £0 management fee or better
6	Has the Council agreed a contract length including any break clauses or potential extension periods?	100%	15 years + 5 + 5

Procurement Strategy Checklist		HDC Progress as at July 2022	
7	Has the Council developed clear priorities and performance indicators linked to its strategic priorities to be delivered by the leisure operator and embedded into the contract?	75%	KPIs to be developed during drafting of Services Specification
8	Does the Council have contractual access to data from its incumbent operator? If not has it negotiated a reasonable position for them to release financial and operational data to be made available to other bidders?	100%	
9	Has the Council selected the optimal procurement route?	75%	Final procurement procedure to be confirmed, three-stage procurement route agreed
10	Has the Council undertaken market engagement to test key elements of its Procurement Strategy with potential bidders?	100%	Market engagement questionnaire, PIN Notice issued
11	Has the Council engaged Members with the Procurement Strategy, and have they signed off the final version?	50%	Procurement Strategy to be presented to Scrutiny and Cabinet.



## Head office

The Sport, Leisure and Culture Consultancy  
Freshmill, Delta House, 16 Bridge Road  
Haywards Heath, West Sussex, RH16 1BY,  
United Kingdom

01444 459927

[info@slc.uk.com](mailto:info@slc.uk.com)

[www.slc.uk.com](http://www.slc.uk.com)

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SLC was established in 2009.  
Working alongside core cities, metropolitan councils, borough and district councils, we support active communities.

