

# North Yorkshire County Council

## Executive

13 December 2022

### Shaping the future of Leisure Services in the new North Yorkshire Council

#### Report of the Corporate Director Health and Adult Services / Local Government Re-organisation Sponsor for Culture, Leisure and Sport

#### 1.0 Purpose of Report

- 1.1 To set out the key issues impacting on Leisure Services following the establishment of the new North Yorkshire Council; to propose a countywide Strategic Leisure Review; and to seek approval for an interim leisure service for Selby whilst the countywide strategic review is undertaken.

#### 2.0 Background

- 2.1 As part of the work to bring 8 councils together to create the new North Yorkshire Council with effect from April 2023, lead officers for leisure and sport have been working together to plan for a safe and legal Day 1 transition and to identify potential medium and longer-term service changes and transformations. As a result of this work, it has been identified that:

Pending the creation of a single service delivery model for leisure services across North Yorkshire, there is a need to identify interim service continuity arrangements for those current district services where operator contracts expire in the early stages of the new council

Given the scale of, and variations between, leisure services (including 4 different service delivery models: in-house, Teckal, private sector provider and charitable trust), it will be necessary to undertake a countywide Strategic Leisure Review within the first year of the new council – this review will cover the range of/support given to grassroots sport and leisure offers, as well as the more formal leisure services commissioned or provided by local government in the county

- 2.2 The public leisure sector has a central role to play in the delivery of Sport England's "Uniting the Movement" strategy. Leisure is a core element of each of the five big issues Sport England has identified as having the greatest potential for preventing and tackling inequalities in sport and physical activity namely:

- Recover and reinvent
- Connecting communities
- Positive experiences for children and young people
- Connecting with health and wellbeing
- Active Environments

- 2.3 Since the onset of Covid-19, it is a challenging trading environment for the leisure sector. The pandemic created lockdown conditions that required facilities to close, coupled with significant social distancing measures when facilities were later able to open which had a significant impact on participation levels. In addition, there has also been a behavioural change that people found other ways to engage in leisure activities and to reduce cost. The 8.9 million participants who participated nationally prior to the pandemic in publicly-owned

leisure assets between April 2019 and March 2020 fell to 5.8 million between the same period in 2021 and 2022, equating to a 35% reduction. Since facilities began to re-open from 12 April 2021, the recovery in participation levels at public sector leisure facilities has generally been good. By the end of March 2022, the participation levels across North Yorkshire had recovered significantly but to a varying degree across the individual councils compared with pre-Covid-19 levels. The cost of living crisis and the impact upon people's disposable income has provided further challenges to the sector.

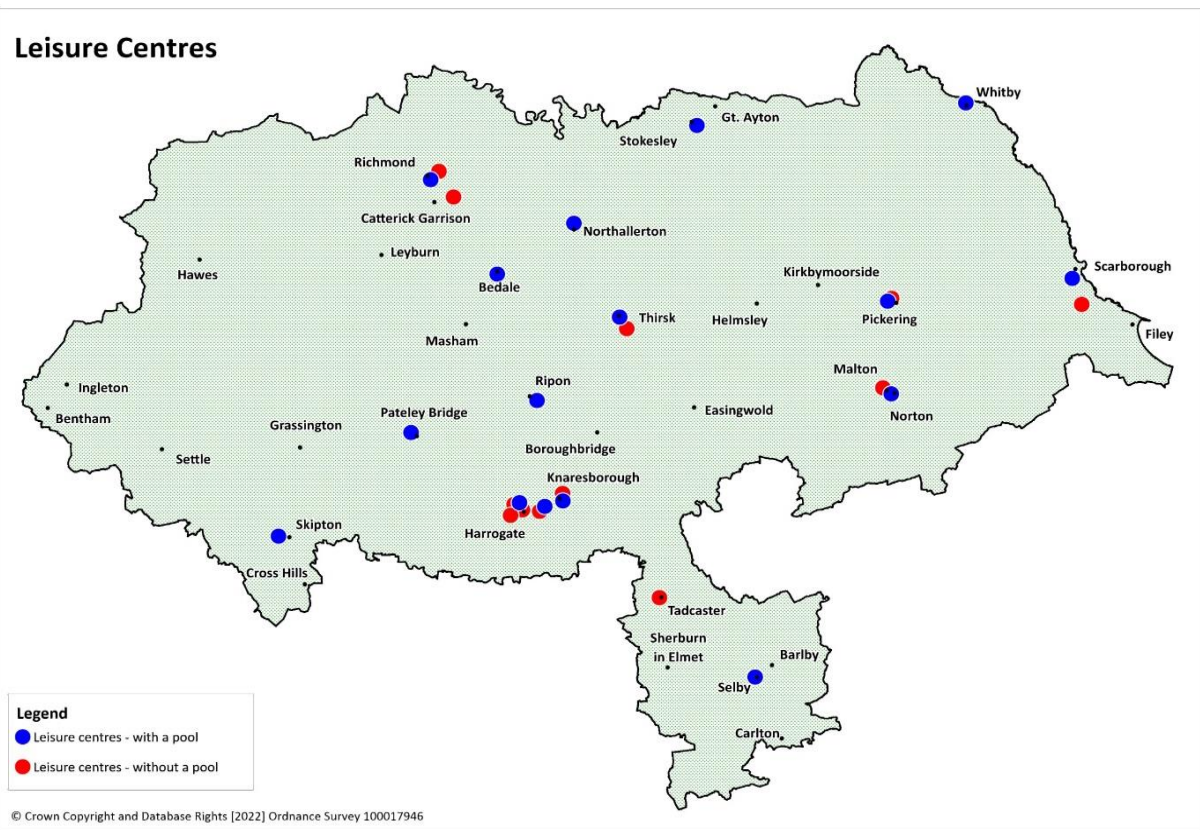
- 2.4 The financial pressures faced by the public leisure sector are now raising important questions around the scale, purpose, approach and affordability of future service delivery. Recent energy cost rises have exacerbated this situation. A combination of Local Government Re-organisation, the impact of the pandemic on leisure services and inflationary pressures provides a clear context as to why a strategic review of leisure services is required to inform the long-term shape and scale of services within the affordability envelope of the new North Yorkshire Council.
- 2.5 North Yorkshire currently has a mixed economy for the delivery of leisure services involving the three conventional leisure service management models (see table 1 below).

**Table 1 – Leisure Service Management Models**

	<b>Model</b>	<b>Note</b>
A.	Direct delivery – in-house by the local authority	
B.	Devolved governance – via a local authority owned Teckal company	A Teckal company would enable a direct award by the Council to its wholly owned Teckal company without undertaking a procurement. It is also eligible for National Non Domestic Rate (NNDR) and VAT efficiencies
C.	Outsourcing via procurement	Subject to the specific arrangements, can be eligible for NNDR and VAT efficiencies and requires procurement

- 2.6 The comparative benefits of the various leisure service management models are variable in relation to scale economy, commercial and social value approaches, tax efficiencies, risk transfer and service control/ agility.
- 2.7 The combination of facilities provided by the boroughs and districts includes swimming pools, gyms, sports halls, spas and some community facilities. Table 2 below lists the local authority owned or run facilities and provides a numerical breakdown per district/ borough and totals. In addition, there is a range of outdoor sports provision and school facilities that provide public access.

**Table 2 - Current District Provided Leisure Facilities**



District	Leisure Facilities	Total Number	Number of Pools
Hambleton	Bedale, Northallerton, Stokesley, Thirsk & Sowerby sports village.	5	4
Richmondshire	Richmond Swimming Pool, Liberty Health Club.	2	1
Scarborough	Scarborough Sports Village, Whitby LC, Pindar LC.	3	2
Ryedale	Ryedale Swim & Fitness, Derwent Swim & Fitness, Malton Community Sports Centre, Ryedale Sports Centre	4	2
Harrogate	The Hydro, Jack Laugher Leisure and Wellness Centre, Nidderdale Leisure Centre, Starbeck Baths, Knaresborough Swimming Pool, Turkish Baths Harrogate, Fairfax Wellbeing Hub, Jennyfields Styan Wellbeing Hub, Knaresborough Wellbeing Hub and Little Explorers Day Nursery.	10	5
Craven	Craven Leisure Centre.	1	1
Selby	Selby LC, Tadcaster LC, Summit Indoor Activity (part closed).	3	1
<b>Total</b>		<b>28</b>	<b>16</b>

2.8 Local authority owned or run leisure services across all the districts/ boroughs are managed in a variety of ways via the three conventional models listed in table 1. Table 3 below identifies the management model for each district/ borough along with contractual arrangements when applicable.

**Table 3 - Current District Leisure Service Management Models**

Authority	Management Model	Service Operator	Contract Length	Contract Start Date	Contract End Date
Scarborough Borough Council	Outsourced	SLM trading as Everyone Active	10 Years	2017	4 <sup>th</sup> June 2027
Ryedale District Council	Outsourced	SLM trading as Everyone Active	10 Years	Oct 2014	31 March 2025
Hambleton District Council	In house	Hambleton District Council	N/A	N/A	N/A
Harrogate Borough Council	Teckal Company	Brimhams Active Ltd	10 years	2021	2031
Selby District Council	Outsourced	Inspiring Healthy Lifestyles (IHL) (formerly Wigan Leisure Trust)	10 Years	2009	31 August 2024
Richmond District Council	Outsourced	Richmondshire Leisure Trust (two facilities)	10 Years	2012	31 March 2027 (incl. 5 year extension) which has now been taken
Craven District Council	In-house	Craven Leisure	N/A	N/A	N/A

2.9 Summarised in table 4 below are the current service management models within each district/borough, together with any relevant contractual notice periods, contract expiry dates and potential approvals to transition to a unified preferred management model.

**Table 4 - Contract Duration and Notice Periods**

Authority	Service Delivery	Contract end Date	Option to Extend	Notice Period
Craven District Council	IN-HOUSE	N/A	N/A	N/A
Hambleton District Council	IN HOUSE	N/A	N/A	N/A
Richmond District Council	OUTSOURCED	31 March 2027	5 Years	6 Months
Selby District Council	OUTSOURCED	31 August 2024	No further extension	12 Months
Ryedale District Council	OUTSOURCED	31 March 2025	A Period of up to 5 Years	6 Months
Scarborough District Council	OUTSOURCED	4th June 2027	A Period of up to 5 Years	6 Months
Harrogate Borough Council	Local Authority Controlled Company	1st August 2031	2 years	6 Months

2.10 It is clear from table 4 above that migrating leisure services into a new management model will take time to achieve due to the differing contract expiry dates. For example, at the time

of local government review in Northumberland, the Council had six leisure operators and over a five-year period consolidated them into one, called Active Northumberland.

- 2.11 It is anticipated that all current contractual arrangements will run to natural expiry as any early termination would be dependent on either a failure in performance or a potentially costly, mutually agreed, early termination. Clearly, there are no contractual arrangements with the services at Craven and Hambleton and from April 2023, Brimhams Active will be a Teckal company wholly owned by North Yorkshire Council. Given the need to deliver financial efficiencies, the migration to a preferred management model will require a phased transition each requiring a mobilisation period linked to contract expiry and therefore no increase in costs to the authority.
- 2.12 It is possible to complete a full migration of services from the current management models to a preferred management model up to the 4<sup>th</sup> June 2027 when the Scarborough contract expires, on the basis that the contract with Brimhams could be terminated early as it will be a wholly owned company of NYC. In terms of phasing, listed below are the indicative phases of transition:
- April 2023 Brimhams Active transfer to North Yorkshire Council
  - April 2023 Craven and Hambleton leisure transfer to North Yorkshire Council
  - September 2024 interim service commences for the Selby area
  - April 2025 contract for provision in Ryedale is extended or an interim service is agreed
  - March 2027 Richmondshire Leisure Trust will require a short extension or interim service
  - 2027 leisure contract for Scarborough will end and the service will transfer to a new single service model (whether that is externally commissioned, in-house, an arms-length company or some other arrangement).
- 2.13 Should outsourcing be the preferred model it is envisaged that up to an agreed period (likely to be between 12 and 24 months) would be required from completion of the strategic review and Member approval to undertake the procurement process and subsequent contract mobilisation and, depending on a new contract commencement date, interim arrangements may be required to ensure all current contracts are co-terminus. Should in-house or a Teckal arrangement be the preferred model, no procurement process is required and therefore service mobilisation will be much quicker, assuming the appropriate management structures and support services are put in place. For a Teckal arrangement, from vesting day, NYC will own and control Brimhams Active. Legal support and advice is required to ensure the transfer of Brimhams Active remains Teckal compliant after transfer and therefore a vehicle that can be used as a leisure service provider in any North Yorkshire without the need for a procurement exercise i.e. for either interim or long term solutions.

### **3.0 Background Information to Decision**

- 3.1 As detailed in the tables above, Selby Leisure services are out-sourced under contract with IHL and this contract is the first out-sourced contract which is due to terminate on 31<sup>st</sup> August 2024. The contract has already been subject to a 5 year extension permissible under the existing contract terms – therefore, any further extension is not feasible. Nevertheless, re-tendering the Selby contract would have required a lead-in period of between 18 months and 2 years from September 2022, allowing for a procurement process and contract mobilisation period. A procurement process for the Selby service would incur a significant cost and without undertaking a strategic options review to inform the long term management model across North Yorkshire, the cost would arguably be superfluous. More details are set out in Appendix 1.
- 3.2 At its meeting on 1 September 2022, Selby District Council's Executive made the following decisions:

- Not to re-procure its leisure service when the current contract expires in August 2024
- To support the proposal to be presented to the North Yorkshire Executive to transfer responsibility for Selby leisure services to an interim service option of a Teckal company. For clarity, the intention would be to transfer to Brimhams Active (providing leisure services in the Harrogate, Knaresborough, Ripon and Nidderdale areas), pending the implementation of a countywide service delivery model for leisure and sport. From April 2023, Brimhams Active will be wholly owned by the new North Yorkshire Council.

#### **4.0 Strategic Leisure Review**

- 4.1 In preparing for the new North Yorkshire Council, officers across the 8 current councils have been working towards the Day 1 transition, as well as identifying issues which need to be addressed within the first few years of the new organisation. As outlined in sections 2 and 3 above, there are significant issues facing leisure services, both in terms of the changing economic and customer context and in developing a comprehensive, single service delivery model for the new council.
- 4.2 It is proposed that a Strategic Leisure Review is commenced in 2023, with the aim of completion by late Summer/early Autumn 2023 so as to inform the 2023/24 budget-setting round. The Review will be overseen by a Member Working Group, chaired by the Executive Member for Planning for Growth and will be undertaken by an officer project team working alongside Members.
- 4.3 The draft scope for the Review is set out in Appendix 2 and includes key issues such as:
- Creating a single service delivery model across the County by 2027
  - Integration with the voluntary, community and other sectors
  - Social, health and economic outcomes
  - Role, purpose and vision for council-led leisure and sport services (including universal and targeted services)
  - Customer and community engagement and expectations
  - Value for money, performance, efficiencies/savings opportunities, costs and investment
  - Developing and implementing a single service delivery model (for example, in-house or externally commissioned or through a Teckal or other arms-length company)
  - Specific requirements in rural and urban areas
  - The balance between fixed assets (e.g. leisure centres) and community/natural environment and grassroots sport and leisure services
  - The condition, quality, location and suitability of the estate and plans for de-carbonisation
  - Income generation through charging and fees for services
  - Workforce requirements and opportunities

#### **5.0 Financial Implications**

- 5.1 The financial implications arising from this report relate to additional resources required to undertake or support delivery of the strategic review. Whilst a level of in-house service management and other disciplines (legal, finance, HR, property, performance, IT, and project management) will be required, the constrained timescales and on-going challenges over the coming months mean that additional capacity is likely to be required and it would therefore be prudent to plan for some level of support to supplement the in-house team. A built asset review, strategy and action plan will be a key piece of work that is expected to need external specialist support. In addition, some external leisure and taxation expertise

will be required – the former to provide critical market intelligence and insights and independent challenge, and the latter to explore the complex VAT issues of the various delivery models to be explored.

- 5.2 Given the breadth and depth of the review, an initial estimate of up to £120k is proposed – to be held as an earmarked reserve held by the section 151 officer for the new Council. At this stage the estimate can only be high level and as the review progresses, should further resource be required, then a formal request will be brought forward through the usual LGR resource governance.
- 5.3 It should also be noted that the initial financial assessment of the interim Selby option is notional and only for broad option comparison purposes. Further investigation of the business rates relief suggests a Teckal company could not apply for mandatory relief as originally expected. Eligibility for discretionary relief will be considered against the new North Yorkshire Council's policy in due course. This will have an impact on the differential costs but not sufficient to change the preferred option. The detailed financial implications for the new North Yorkshire Council will need to be worked through as part of the preparations for the planned transition and also as part of the whole strategic review.

## **6.0 Legal Implications**

- 6.1 There are no legal implications arising from commissioning the strategic review for leisure services across North Yorkshire. Any required procurement will comply with the Council's Procurement and Contract Procedure Rules, and where applicable, the Public Contracts Regulations 2015.
- 6.2 Selby District Council's leisure contract is first to expire in 2024, and an interim proposal is required whilst the strategic review is undertaken. The recommendation is to directly award the leisure contract for Selby to Brimhams Active (currently Harrogate Borough Council's Teckal Company). From 1 April 2023, Brimhams Active will transfer to North Yorkshire Council. If Brimhams Active is a Teckal Company wholly owned by North Yorkshire Council (NYC), NYC can directly award the leisure contract to Brimhams Active without undertaking a procurement process in accordance with Regulation 12 of the Public Contracts Regulations 2015.
- 6.3 If Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) apply, there will be protection for current employees, and these will need to be factored into the options as they will transfer into the in-house option or the Teckal Company. These staff will transfer on their existing terms and conditions.

## **7.0 Climate Change Implications**

- 7.1 The strategic review will provide a timely opportunity to consider options for carbon reduction across the leisure estate. For the purposes of this report a screening climate change impact assessment has been completed in conjunction with the climate change officer. It is agreed that for the decisions to be taken in this report, a CCIA is not needed at this stage. The screening CCIA is included in Appendix 3.

## **8.0 Equalities Implications**

- 8.1 A screening Equalities Impact Assessment has been completed with reference to undertaking a Strategic Leisure Review. This has been finalised in conjunction with the named equalities officer and it has been decided that a full EIA will be required to be undertaken as part of the strategic leisure review. The screening EIA documentation is included in Appendix 4.

## **9.0 Recommendations**

9.1 The Executive is asked to:

- i) Note the decisions taken by Selby District Council on 1 September 2022:
  - To support the proposed Selby interim service option, which was the transfer to a Teckal company;
  - Not to re-procure its leisure contract; and
  - Engage with any future proposals that were considered by North Yorkshire's Executive later in the autumn, in relation to a countywide Strategic Leisure Review.
- ii) Approve the interim proposal for Selby Leisure services, with the services being provided by Brimhams Active from August 2024, pending the implementation of a countywide service delivery model for leisure and sport.
- iii) Approve the commencement in 2023 of a countywide Strategic Leisure Review, overseen by a Member Working Group, chaired by the Executive Member for Planning for Growth, with final recommendations to be presented to Executive during 2023/24.
- iv) Approve the allocation of up to £120k for the strategic review, with this to be funded from the earmarked LGR funds.

**Richard Webb**

**Corporate Director – Health and Adult Services / LGR Sponsor for Culture, Leisure and Sport**

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**APPENDIX 1**

**SELBY LEISURE SERVICES**



Leisure services in Selby District were outsourced to Wigan Leisure and Culture Trust (WLCT) trading as Inspiring Healthy Lifestyles (IHL) and the contract commenced on 1<sup>st</sup> September 2009 for an initial 10 year period. The services consisted of the management and operation of Selby leisure centre, Tadcaster leisure centre, Selby park and community leisure. After the fire at Selby leisure centre the contract was varied for the operation of the new leisure centre including a 5 year extension.

The Selby leisure contract expires on 31<sup>st</sup> August 2024 and a minimum of 18 months is required to prepare and mobilise a service transfer from a current outsourced contract to a replacement arrangement requiring a decision for Selby’s contract replacement by February 2023 at the very latest but preferably sooner. The anticipated timescales for the conclusion of a North Yorkshire Strategic Review is autumn of 2023 and therefore a decision for an interim service for Selby is required to ensure service continuity until at least 4<sup>th</sup> June 2027.

To assess the best option for an interim service for Selby, the options appraisal has been limited to the three main service options are set out in Table 1. They have been assessed on a *without prejudice* basis in terms of a future North Yorkshire Strategic Leisure Review.

A summary of the three service models is set out below followed by an options appraisal of each to inform the recommendation for an interim service for Selby.

Direct delivery – in house by the local authority.	This would see the transfer of all current services provided by IHL transfer to North Yorkshire Council on contract expiry. As with all options evaluated, it will require a detailed contract exit plan and mobilisation plan for council service provision. It will require the provision of senior service management, central and corporate support such as payroll, HR, finance, IT and legal plus others to be provided by the new council.
Delivery by a TECKAL company – wholly owned by the new council	Harrogate Borough Council recently set up a TECKAL company in 2019 to deliver its leisure services called Brimhams Active. This company will become owned by the new council at vesting day and as such could provide Selby leisure services for an interim period. Transferring services to a Local Authority (TECKAL) company does not require a formal procurement but will require a contract between both parties. An alternative would be for Selby District Council to establish its own TECKAL, or for the new North Yorkshire Council to do so, but that does not seem the best use of resources when there is already a Leisure TECKAL company in existence that will transfer from Harrogate Borough Council to the new North Yorkshire Council.
Re-procure the service – maintain services with a private sector provider.	This option will require a formal above threshold procurement exercise with support from technical and legal consultants to support the tender and contract award process. However, for a contract of less than 3 years duration and a market place that has experienced significant impacts from Covid-19 restrictions it is likely that market interest will be limited. In such circumstances, costs could be abortive if the tendering process fails or limited competition results in excessive bid prices reflecting risk. Insight gathered from sector experts suggests that the procurement market for leisure services is less active (i.e. more selective and cautious) at present due to the impact of Covid-19 on trading conditions - many of the major leisure service operators are consolidating their businesses rather than bidding for new opportunities, and even when bidding takes place, the financial offers and risk profiles are

	far less favourable than pre-Covid-19. In such circumstances, costs could be abortive if the tendering process fails.
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Set out in the tables below are the appraisals of the three interim solutions for Selby.

A. Direct delivery – in house by the local authority

Pros	Cons
<ul style="list-style-type: none"> <li>• Leisure management expertise is present in Hambleton and Craven</li> <li>• Corporate support structures in place</li> <li>• Transfer of staff under TUPE from IHL to NY Council similar to LGR TUPE transfer</li> <li>• Will bring three local authority services together with in-house provision across the localities of Craven, Hambleton and Selby</li> <li>• Possible alignment with any interim transformation plans for in house leisure</li> <li>• Possible alignment with outcomes of strategic review</li> <li>• Service transformation is simpler to achieve with an in house service.</li> <li>• Removes risk of contractor failure</li> </ul>	<ul style="list-style-type: none"> <li>• Capacity of leisure management to manage transferred service.</li> <li>• Staff transfer and any associated Terms &amp; Conditions cost increases</li> <li>• IHL currently obtain NNDR exemption a transfer in house would incur this cost</li> <li>• May not align with outcomes of strategic review</li> <li>• No experience of service take on and associated mobilisation</li> </ul>

B. Delivery by a TECKAL company – wholly owned by new council

Pros	Cons
<ul style="list-style-type: none"> <li>• Leisure management expertise is present within Brimhams Active</li> <li>• Corporate support structures in place</li> <li>• Transfer of staff under TUPE from IHL similar to Harrogate TUPE transfer</li> <li>• Possible alignment with outcomes of strategic review</li> <li>• Maintains NNDR exemption</li> <li>• Maintain current staff Terms &amp; Conditions</li> <li>• Maintains VAT efficiencies</li> <li>• Experience of service take on and mobilisation</li> </ul>	<ul style="list-style-type: none"> <li>• Brimhams Active organisational capacity to mobilise additional services from Selby</li> <li>• Will need an underlying contract with extension option developing but is a much less sophisticated contract than an outsourced contract</li> <li>• Retention of current terms &amp; conditions may create staff tension</li> <li>• Experience of service mobilisation is limited</li> </ul>

C. Re-procure the service – maintain services with a private sector provider.

Pros	Cons
<ul style="list-style-type: none"> <li>• Could provide commercial expertise</li> </ul>	<ul style="list-style-type: none"> <li>• Cost of re-procurement (technical and legal support)</li> <li>• Timescales to undertake a procurement exercise</li> <li>• Short contract period may not generate any bids</li> <li>• Bids could be cost prohibitive for a short contract</li> </ul>

	<ul style="list-style-type: none"> <li>• New contract will need contract extension provision to align with implementation plans of strategic review.</li> <li>• Extension may not be agreed so alignment may not happen.</li> <li>• Possible aborted procurement leaving little time for a plan B.</li> <li>• Post covid 19 market capacity</li> <li>• Will need specific client management</li> </ul>
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From the operational, financial and legal appraisals within this report it is recommended that the preferred option for the Selby interim service is the transfer of services from the current provider IHL to the leisure services Teckal company upon contract expiry. This will require a specific project team to prepare a service mobilisation plan to manage the transfer of services for a seamless transition.

**Alternative Options Considered**

The interim service options for Selby area are set out within this report.

**Equalities**

There are no equalities implications directly arising from this report

**Finance**

6.1 It should be noted that as a result of Covid-19 and IHL’s loss of the Wigan Council contract, the Selby DC contract price has moved from expected income paid to the Council of £18k in 22/23 to a subsidy of £991k. Officers are working closely with IHL to build income back to pre-Covid levels and back to the agreed contract sum as quickly as possible.

*Core Assumptions:*

6.2 On the basis that the re-procurement option is not recommended for the interim solution for Selby (for the reasons highlighted above), an outline appraisal of the in-house and Teckal options has been undertaken. Both options use pre-covid cost and income data from Selby’s current contract, uplifted for inflationary increases, to arrive at a proxy for 22/23 prices. The same inflationary increases are assumed for all options/scenarios.

6.3 It is assumed that support services would be delivered in-house by NYC with a consistent charging methodology for both options and management costs would be absorbed into existing structures. As such these are not expected to create additional/differential costs and accordingly these costs have been excluded from the options appraisal.

*VAT:*

6.4 Selby DC has previously exercised its option to tax on Selby Leisure Centre. Whilst under the current HMRC rules NYC would need to reapply for any option to tax, for the purpose of this assessment the current option to tax is assumed to continue and no significant impacts to the financial assessment are anticipated.

6.5 There are some complex VAT issues to consider for the strategic review but for the purposes of this options appraisal, two scenarios have been modelled for the in-house option – standard rate for sport and leisure activities (block bookings and education related

income is exempt); and application of the 'Ealing Decision'<sup>1</sup> which allows local authorities to treat sporting income as exempt from VAT.

- 6.6 The treatment of VAT has a significant impact on the potential income for the in-house option – with application of the 'Ealing Decision' generating a further 20% on applicable activities over the alternative standard rated scenario – assuming that existing fees are maintained.
- 6.7 However increasing NYC's exempt income will impact on its 'partial exemption' calculation. It is unlikely that the Selby arrangements alone will breach the 5% partial exemption threshold (NYCC is currently well below the threshold) but further work would be needed to understand the picture for the new council and whole leisure service as part of the assessment of a potential future uniform operating model.
- 6.8 HMRC have stated that applying the 'Ealing Decision' will be a permanent choice they would challenge any attempt to switch in and out of the exemption at will, which could have significant future implications for the strategic review.
- 6.9 Given the issues and risks associated with the application of the 'Ealing Decision' it is not advised to apply this at this interim stage.
- 6.10 The Teckal already has the advantage of VAT exempt income as an eligible body for sporting services<sup>2</sup> but its company status means it is unable to recover its VAT in the same way a local authority can. An estimated £124k cost has been assumed for irrecoverable VAT in line with current contract costs.
- 6.11 In the longer term there will be other contractual considerations with VAT implications – for example how building maintenance/improvement costs are dealt with, but for the purposes of this appraisal it is anticipated that the existing Selby DC arrangements will be carried forward as appropriate. Any subsequent changes will be a matter for the strategic review.

#### *Business Rates:*

- 6.12 Selby's existing provider (a leisure Trust) takes advantage of both mandatory and discretionary rate relief. Mandatory relief is 80% and in addition, occupiers may qualify for up to 20% discretionary top-up. Mandatory relief is funded by Central Government but discretionary relief is funded by Local Authorities. It should be noted that councils are not permitted to award rate relief to themselves but depending on the nature of the operator and occupier of premises (for example a charity or not-for-profit local authority owned company) relief may be available.
- 6.13 Eligibility for discretionary relief is subject to individual council policy. Discretionary rate relief policies (and their associated costs) have been established but awards are yet to be assessed and therefore there is some risk. For the purposes of the options appraisal 80% relief has been included for the Teckal option.

#### *Operator Margin*

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<sup>1</sup> 'Ealing Decision' – VAT sporting services exemption as a result of the London Borough of Ealing. Non application means that sporting income generated by a council is subject to the standard rate of VAT unless it falls within a different exemption i.e. block bookings or coached activities/education. Since the Ealing Decision councils have the choice to either rely on EU legislation (basis of Ealing decision) or continue to follow UK legislation which precludes LAs from exempting and requires income to be standard rated.

<sup>2</sup> Eligible body for sporting services in accordance with VAT Notice 701/45 Section 4

- 6.14 Selby's existing contract includes an operator margin which has been excluded from both in-house scenarios. The Teckal option assumes a notional 5% on turnover although in reality as sole shareholder this will ultimately be for the benefit of NYC for reinvestment in services.
- 6.15 A detailed breakdown of income and expenditure for each option/scenario is summarised in the following table:

	In-house £000	In-house (Ealing) £000	Teckal £000	Comments
Income	(1,993)	(2,303)	(2,303)	'Ealing decision' generates a further £310k the on in-house option
Expenditure	2,399	2,399	2,214	The Teckal benefits from discretionary business rates relief but incurs irrecoverable VAT
Operator Margin	0	0	115	T.b.c.
Net (Surplus)/Deficit	406	96	26	

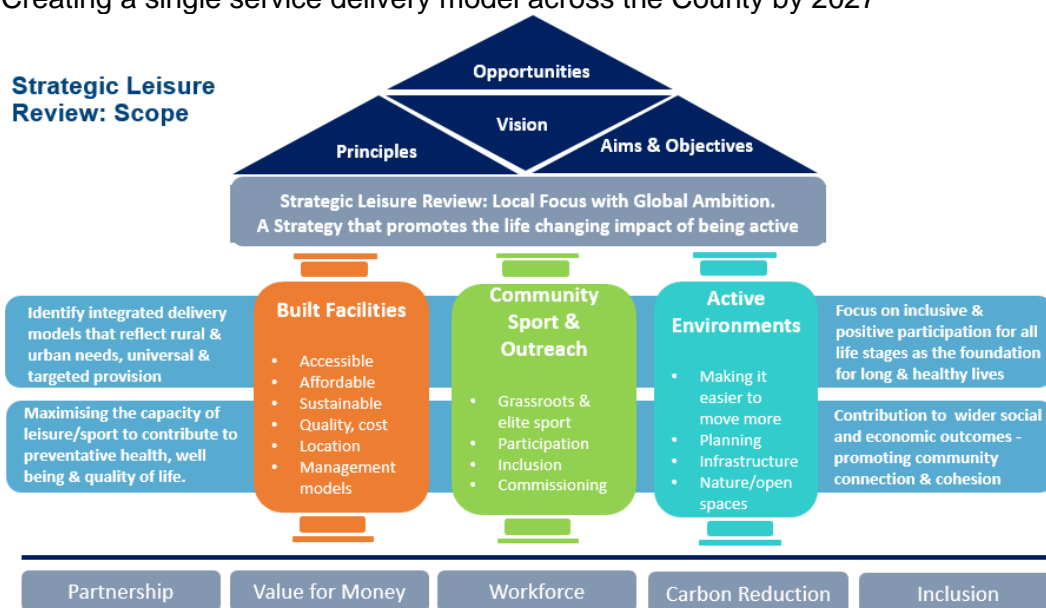
- 6.16 The options appraisal shows that the Teckal option is the most advantageous from a cost perspective, with a net operator cost of £26k. In addition the cost of the discretionary business rates relief under the Teckal option (based on 80% award) would be circa £140k. The In-house (Ealing scenario) shows a net cost of £96k compared to £406k for the in-house (standard rated) scenario. However as set out in paragraph 6.8 above. it is not recommended that the Ealing Decision is applied at this time.

## 7.0 Legal

- 7.1 There are no legal implications arising from an in-house option, noting the recommendation not to apply the Ealing decision at this time.
- 7.2 If Brimhams Active is a 'Teckal' Company wholly owned by North Yorkshire Council (NYC), NYC can directly award a leisure contract to Brimhams Active without undertaking a procurement process in accordance with Regulation 12 of the Public Contracts Regulations 2015.
- 7.3 If Transfer of Undertakings (Protection of Employment) Regulations 2006 'TUPE' apply, there will be protection for current employees, and these will need to be factored into the options as they will transfer into the in house option or the Teckal company. These staff will transfer on their existing terms and conditions.

**DRAFT SCOPE – NORTH YORKSHIRE COUNTYWIDE STRATEGIC LEISURE REVIEW**

- Role, purpose and vision for council-led leisure and sport services (including universal and targeted services)
- Customer and community expectations
- Value for money, performance, efficiencies/savings opportunities, costs and investment
- Developing and implementing a single service delivery model (for example, in-house or externally commissioned or through a Teckal or other arms-length company)
- Specific requirements in rural and urban areas
- The balance between fixed assets (eg leisure centres) and community/grassroots sport and leisure services
- The state of the estate and plans for de-carbonisation
- Charging and fees for services
- Workforce requirements
- Creating a single service delivery model across the County by 2027



**Local Focus with Global Ambition. A 5 year Strategy that promotes the life changing impact of being active**

**Aims and Objectives**

In the context of the financial challenges facing local government and the affordability envelope for NYC, the review will consider how we:

- Encourage participation in physical activity for all in NY, particularly those who are less active, and provide support to maintain life-long participation;
- Redefine the NY leisure offer to ensure our range of universal and targeted activities are an integral and inclusive part of the health and wellbeing provision;
- Provide an integrated service that improves accessibility to indoor and outdoor facilities and settings (including events) whether council, community or publicly owned;
- Ensure that leisure provision seeks to meet the needs of the urban and rural populations, providing a comprehensive county-wide offer prioritising areas of health inequalities and greatest need;

- Review the existing leisure centre provision with the ambition of providing access to a network of high quality, economically sustainable and carbon efficient leisure facilities;
- Plan and implement an effective and efficient integrated model for the future delivery of leisure services;
- Value, develop and support partnerships and volunteers to maintain and increase participation across NY;
- Identify the potential for savings to improve value for money and social and economic returns for Council investment;
- Ensure that sport and leisure are woven into the cultural DNA of NY, welcoming young and old, new and experienced to the rich opportunities provided;
- Provide fulfilling and rewarding career opportunities, that enable people to develop their skills, qualifications and experiences in order to support and sustain a diverse leisure offer;
- Seize opportunities to maximise external funding into North Yorkshire

Ensure that the wider leisure agenda is effectively communicated to NY internal stakeholders and integrated with other appropriate Council/partnership strategies

### **Opportunities**

- To consider and reflect the challenges of national Government strategies and good policy and practice that seek to encourage and increase participation, for wider health, wellbeing, economic and social benefits.
- To consider the role which leisure plays in preventative health, in terms of physical and mental wellbeing, and the positive impact in reducing the demands on Council's statutory services, shifting investment from reactive support to proactive.
- The coming together of diverse services such as social care, public health, education, planning and leisure provides a great opportunity to work collaboratively across the organisation to improve the lives of NY residents.
- To consider how leisure can further develop its role as an agent for positive change in connecting communities and creating places where people want to live.
- To explore the development of multi-use hubs within new or existing leisure centres and to consider the co-location of health, learning or community services
- To maximise the potential of the natural assets and environment within NY, capitalising on the opportunity to improve physical and mental health. The rural nature of the county provides great opportunities to integrate the use of village and community settings with the programmes and interventions available from the built assets in main towns.
- The impacts of the Covid pandemic fundamentally affected the leisure industry and the financial effects remain today. However, Covid also reinforced positive messages about good physical and mental health and changed the way many people exercised, with running and cycling seeing a positive resurgence. The opportunity exists to learn the lessons from the pandemic and use these to inform the new, resilient, financially sustainable models of delivery.
- Further development of the Council's enabling and facilitating role, alongside the direct provision of services – supporting/influencing other partner organisations, including community and commercial organisations to help people to become more active.

To further weave sport and physical activity into the cultural fabric of NY to help people of all ages and abilities, from grassroots to elite performance, achieve their potential, improve their health and enjoy their county.

### **Scope**

Based on **three key pillars**, the review will take a whole systems approach to develop a detailed framework and operational models through which a new community focused service will be delivered that improves health, well being and quality of life.

### **Built Facilities**

- Development of management model for leisure centres and other council owned facilities

- Consideration of costs, quality and location of facilities – some offer excellent, contemporary provision but others are ageing and poorly located, limited in the services they can provide and in need of significant investment.
- Funding and Investment – current and future opportunities for savings and investment in facilities and provision

### **Community Sport and Outreach**

- Supporting and promoting grassroots sport
- Ensuring pathways into elite sports
- Development of outreach models
- Delivery models that links anchor facilities such as leisure centres with outreach and community provision (hub and spoke)
- Commissioning and delivery of programmes to support health (e.g. weight management, pain management, falls prevention)
- Development & protection of community facilities

### **Active Environments**

#### **“using infrastructure and the natural environment to make it easier to move more”**

- Outdoor assets – potential of outdoor spaces/natural environment (green infrastructure) to promote activity
- Active travel / active recreation (especially walking & cycling).
- Place Shaping – opportunities to embed physical activity in the planning system. Use of s.106
- Connectivity between people and places (natural landscape and facilities).

#### **The three pillars are interlinked and are underpinned by five cross cutting principles:**

- ❖ Inclusion
- ❖ Partnership
- ❖ Value for Money
- ❖ Workforce
- ❖ Carbon reduction (reflecting the Council’s declaration of a climate emergency and aspiration to achieve net carbon neutrality by 2030)



## CLIMATE CHANGE IMPACT ASSESSMENT

<b>Title of proposal</b>	Shaping the future of Leisure Services in the new North Yorkshire Council
<b>Brief description of proposal</b>	<p>To set out the key issues impacting on Leisure Services following the establishment of the new North Yorkshire Council.</p> <p>As part of the work to bring 8 councils together to create the new North Yorkshire Council with effect from April 2023, lead officers for leisure and sport have been working together to plan for a safe and legal Day 1 transition and to identify potential medium and longer-term service changes and transformations. As a result of this work, it has been identified that:</p> <ul style="list-style-type: none"> <li>• Pending the anticipated creation of a single countywide service delivery model for leisure services, there is a need to identify interim service continuity arrangements for those current district services where operator contracts expire in the early stages of the new council</li> <li>• Given the scale of, and variations between, leisure services (including 4 different service delivery models: in-house, Teckal, private sector provider and charitable trust), it will be necessary to undertake a countywide Strategic Leisure Review within the first year of the new council</li> </ul>
<b>Directorate</b>	<b>LGR</b>
<b>Service area</b>	<b>Culture Leisure &amp; Sport Workstream</b>
<b>Lead officer</b>	<b>Richard Webb</b>
<b>Names and roles of other people involved in carrying out the impact assessment</b>	<b>Alan Watson – Project Manager NYCC</b> <b>Ollie Braithwaite – Climate Change Officer, Richmondshire Council</b>

<b>Environmental factor to consider</b>	<b>For the county council</b>	<b>For the county</b>	<b>Overall</b>
Greenhouse gas emissions	No effect on emissions	No Effect on emissions	No effect on emissions
Waste	No effect on waste	No effect on waste	No effect on waste
Water use	No effect on water usage	No effect on water usage	No effect on water usage
Pollution (air, land, water, noise, light)	No effect on pollution	No effect on pollution	No effect on pollution
Resilience to adverse weather/climate events (flooding, drought etc)	No effect on resilience	No effect on resilience	No effect on resilience
Ecological effects (biodiversity, loss of habitat etc)	No effect on ecology	No effect on ecology	No effect on ecology
Heritage and landscape	No effect on heritage and landscape	No effect on heritage and landscape	No effect on heritage and landscape

<b>Decision (Please tick one option)</b>	Full CCIA not relevant or proportionate:	X	Continue to full CCIA:	
<b>Reason for decision</b>	<p>The proposal to review the leisure provision across North Yorkshire and the interim service option for Selby do not warrant a full CCIA to be undertaken at this stage. The review itself will have a negligible impact on climate change, with increases only through data storage in carrying out the work. It should be noted that climate change should be considered throughout the investigation and in deciding which proposals should be taken forward.</p> <p>However, climate impact and de-carbonisation will be an important aspect of the review, as set out in Appendix 2 of this report.</p>			
<b>Signed</b>	Richard Webb			
<b>Date</b>	1 December 2022			

## EQUALITY IMPACT ASSESSMENT

<b>Initial equality impact assessment screening form</b>	
<b>This form records an equality screening process to determine the relevance of equality to a proposal, and a decision whether or not a full EIA would be appropriate or proportionate.</b>	
<b>Directorate</b>	LGR
<b>Service area</b>	Culture Leisure & Sport Workstream
<b>Proposal being screened</b>	Shaping the future of Leisure Services in the new North Yorkshire Council
<b>Officer(s) carrying out screening</b>	Alan Watson – NYCC Project Manager
<b>What are you proposing to do?</b>	<p>As part of the work to bring 8 councils together to create the new North Yorkshire Council with effect from April 2023, lead officers for leisure and sport have been working together to plan for a safe and legal Day 1 transition and to identify potential medium and longer-term service changes and transformations. As a result of this work, it has been identified that:</p> <ul style="list-style-type: none"> <li>• Pending the anticipated creation of a single countywide service delivery model for leisure services, there is a need to identify interim service continuity arrangements for those current district services where operator contracts expire in the early stages of the new council</li> <li>• Given the scale of, and variations between, leisure services (including 4 different service delivery models: in-house, Teckal, private sector provider and charitable trust), it will be necessary to undertake a countywide Strategic Leisure Review within the first year of the new council</li> </ul>
<b>Why are you proposing this? What are the desired outcomes?</b>	<p>The reason for proposing the strategic leisure review is to gain a full understanding of the range of leisure services available to the residents of North Yorkshire.</p> <p>The reason for proposing an interim service continuity arrangement for districts which currently have external service operators is to ensure that the leisure facilities of such areas remain unaffected by transition from an outsourced provider, to an anticipated single model of leisure delivery for North Yorkshire.</p> <p>The desired outcome of the proposal is the completion of a formal strategic review which will identify a range of information in relation to leisure facilities in North Yorkshire.</p>

<p><b>Does the proposal involve a significant commitment or removal of resources?</b> Please give details.</p>	<p>The proposal will involve some commitment of the council's financial resources.</p> <p>Resources in terms of assets such as leisure centres will not be affected by conducting a strategic review, or the transfer of leisure facilities into a potential single delivery model.</p>
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**Impact on people with any of the following protected characteristics as defined by the Equality Act 2010, or NYCC's additional agreed characteristics**  
As part of this assessment, please consider the following questions:

- To what extent is this service used by particular groups of people with protected characteristics?
- Does the proposal relate to functions that previous consultation has identified as important?
- Do different groups have different needs or experiences in the area the proposal relates to?

**If for any characteristic it is considered that there is likely to be an adverse impact or you have ticked 'Don't know/no info available', then a full EIA should be carried out where this is proportionate. You are advised to speak to your [Equality rep](#) for advice if you are in any doubt.**

Protected characteristic	Potential for adverse impact		Don't know/No info available
	Yes	No	
Age		x	
Disability		x	
Sex		x	
Race		x	
Sexual orientation		x	
Gender reassignment		x	
Religion or belief		x	
Pregnancy or maternity		x	
Marriage or civil partnership		x	

<b>NYCC additional characteristics</b>			
People in rural areas		x	
People on a low income		x	
Carer (unpaid family or friend)		x	

<p><b>Does the proposal relate to an area where there are known inequalities/probable impacts (e.g. disabled people's access to public transport)?</b> Please give details.</p>	<p>The proposal to conduct a strategic review relates to the leisure service provision in North Yorkshire, where there are known inequalities with relation to rurality and access. However, the proposal is to conduct a review, <i>not</i> to alter facility provision.</p>
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<p><b>Will the proposal have a significant effect on how other organisations operate? (e.g. partners, funding criteria, etc.). Do any of these organisations support people with protected characteristics?</b> Please explain why you have reached this conclusion.</p>	<p>The first part of the proposal concerned with the running of currently externally operated leisure facilities in Selby will have an effect on the operation of the organisation's management. However, that effect will be limited to the management of the facilities, rather than the operational running of the facilities.</p> <p>The second part of the proposal is to hold a strategic review of leisure, which in itself will not have any effect on any groups of people (including those identified above with protected characteristics). However, issues around equality, diversity and inclusion will be key aspects for consideration as part of the review.</p>
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<b>Decision (Please tick one option)</b>	EIA not relevant or proportionate:	X	Continue to full EIA:	
<b>Reason for decision</b>	<p>The proposal is to conduct a Leisure Strategic Review, in itself does not have any impact on equality / access to resources. The review process will include a robust equality impact assessment.</p> <p>It is anticipated that the proposal to identify interim service continuity arrangements will not affect the day-to-day running of externally operated leisure facilities, therefore will not have a negative impact on equality.</p>			
<b>Signed</b>	Richard Webb			
<b>Date</b>	1 December 2022			