BRIEFING PAPER

PROJECT:	**Procurement Support**	
SUBJECT:	**BCC Leisure Management Options Appraisal and Evaluation Results**	
DATE:	**27 November 2019**	
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1. Introduction

1.1 Bristol Council (BCC) has commissioned The Sport Leisure and Culture Consultancy (SLC) to assist in an independent assessment of the core leisure management options available to the Council. This includes an assessment of the financial and non-financial implications of the different management models.

1.2 The scope of this options appraisal includes the leisure centres relating to the SLM leisure management contract which expires on March 31st 2022 which includes:

- St Pauls Community Sports Academy
- Kingsdown Leisure Centre
- Easton Leisure Centre
- Bristol South Swimming Pool
- Horfield Leisure Centre
- Henbury Leisure Centre.

1.3 These facilities are all within scope for a new management arrangement and a potential forthcoming procurement exercise.

1.4 In addition, the contract for Jubilee Swimming Pool expires on March 31st 2022. This pool is operated by Parkwood Community Leisure and is subject to a competing facilities clause within the Hengrove PFI contract. Its inclusion in any future potential procurement exercise is therefore not without wider financial risk. Whilst this is a separate contract to the SLM contract, a decision will be required on its future beyond March 2022.

1.5 The SLM leisure management contract expires on March 31st 2022 and the Council must now explore how it can optimise the impact of any future arrangements and ensure full alignment with its strategic approach. This contract currently delivers services at a zero based subsidy plus profit share, but does not include some major elements of repairs and maintenance.

1.6 The Council is operating within an increasingly challenging financial environment. It needs to explore efficiencies and creative approaches to service delivery potentially linked to capital investment options which will enable it to continue to deliver targeted services at a high standard.

1.7 The Council is seeking a better understanding of the implications of the potential operational management models including:

- Pension and HR considerations
- Tax
- VAT and NNDR implications
- Governance and set up of alternative delivery vehicles
- Financial implications
- Time implications
- Relative merits and risks.

1.8 SLC has developed “shadow bids” (estimate of the minimum base value of the contract) based on income and expenditure information from the existing operators, SLM and Parkwood (Jubilee). They have integrated maintenance and lifecycle costs for each site over the next 10 years developed from recent condition surveys.

1.9 The shadow bid for the in-house option will include estimated support service costs of bringing the service back in-house or setting up a Local Authority Trading Company (LATC) as the Council would need to provide HR, payroll, facility management, health and safety, legal support etc.

1.10 SLC through consultation with the Council have concluded that due to the Council being close to its di minimis threshold on VAT exemption, it is very likely that claiming exemption for VAT on leisure centre income would have a detrimental effect on the Council’s overall VAT position. This would be further worsened if the Council decides to undertake any capital investment in the leisure portfolio (which is quite possible) and would to a degree tie its hands for the future. Therefore, it has been assumed that if the leisure centres are run in house the Council would not be able to yield VAT exemption in the same way as a leisure trust.

2. Operating Models

2.1 The Options Appraisal looks at the following core management options further details of which are provided in Appendix 1:

- **In-house provision** including bringing the operation and staffing of the leisure centres back under the direct control of the Council
- **Local Authority Trading Company** (LATC)
- **Competitive procurement** of the leisure services to a multi-site trust or hybrid trust.

2.2 The option of a local trust managing the services has been excluded as the 2015 Public Procurement Regulations only enable authorities to implement this model if it has been fully market tested through a legally compliant competitive procurement process. To a large degree, this option (which has in the past been adopted by a number of authorities in the north of England) has been replaced by the LATC approach. However, there are currently a very limited number of LATC’s operating leisure services.

2.3 SLC has also identified Community Asset Transfer as a potential option and this could realistically apply to some non-core facilities. Other leisure centres are core services for the Council which will need to be driven by a Services Specification. This is not possible under a Community Asset Transfer. However, regardless of the outcome of this management options appraisal the Council should further explore Community Asset Transfer. In the event that the Council re-lets the leisure centres contract and includes all sites as core facilities, it will effectively be committing itself and any subsidy (including related lifecycle costs) for the life of the new contract.

2.4 SLC has provided a detailed description of the operating models in Appendix 1 some elements of which are extracted from the soon to be published Sport England Leisure Services Delivery Guidance, developed by SLC with Sport England and the wider sector.

3. Developing Evaluation Criteria

3.1 SLC and BCC identified the key long list issues for Bristol City Council's management options appraisal and to agree the weightings for financial and non-financial criteria on 8 November 2019.

3.2 SLC provided an Options Appraisal Guidance briefing paper on 28 September 2019 to assist officers in arriving at bespoke evaluation criteria for the Council informed by the new draft Sport and Physical Activity Strategy.

3.3 The overall weightings agreed are: **60% Financial** and **40% Non-Financial.** This was based on the need for the Council to provide clarity and financial certainty for the Medium-Term Financial Plan but with a desire to retain and enhance the service through sustainable investments.

3.4 The proposed evaluation criteria with associated sub-criteria are detailed in Table 1.

Table 1: Evaluation Criteria

BCC OPTIONS APPRAISAL			
		Weighting	Max % Points
FINANCIAL		%	
1	Maintaining or not deteriorating the current level of subsidy	50%	30%
2	Asset risk transfer	30%	18%
3	Medium term financial planning or degree of financial certainty	20%	12%
TOTAL FINANCIAL		100%	60%
NON FINANCIAL			
1	The extent to which there is a contribution to delivery of strategic priorities	50%	20%
2	The extent to which there is flexibility for future changes to be made to the service by the local authority in the short, medium and long-term	25%	10%
3	The extent to which there is retention of strategic control	25%	10%
TOTAL NON FINANCIAL		100%	40%
TOTAL SCORES			100%

3.5 Section 6 and Table 4 highlight key considerations and scoring for each management option against BCC's Evaluation Criteria to support officers undertaking the scoring exercise.

3.6 SLC facilitated a Management Options Appraisal workshop on 19 November and the results of the Options Appraisal are presented in Section 7.

4. Shadow Bids - Financial Assessment

4.1 SLC has produced models for each respective management option to be explored for 10 years. It should be noted that these models are designed to illustrate the potential differences between the management options and long-term service costs but should not be used for budgeting purposes. This is because they do not include a prediction of issues such as cost inflation or income fluctuations caused by changing economic conditions or competitor activity.

4.2 For the purposes of this exercise, the models are based on continuing the existing service portfolio without any investment or rationalisation.

4.3 All the financial assessments have the following core assumptions:

- Henbury Leisure Centre is operated under a PFI Contract and is subject to an annual unitary charge. It has therefore not been individually assessed as its costs are contractually fixed. The unitary charge that applied to Henbury Leisure Centre has been applied to the total costs for each option.
- Finance and depreciation charges have been excluded.
- NNDR (Rates) relief is assumed to be the same for models, as per the existing contract. In future it is likely councils will be responsible for collection and granting relief and that NNDR exemption. In effect NNDR relief is likely to become neutral in the future for all models.
- 10-year projections have been profiled for all three core models.
- The approach does not consider the ageing condition of the centres from a commercial attractiveness point of view, other commercial factors such as the local economy and competitor activity in the area.
- Condition survey information has been included on the basis of all identified works in the condition survey reports being included and applied consistently across all models. Fabric condition survey costs have been estimated based on an annual average applied over a 10-year period, taken from the condition surveys.
- A balanced approach to pricing and programming has been applied which enables some freedom for the operator with protected core pricing and concessions and protected bookings for priority groups and organisations.

4.4 In summary, the financial exercise will reveal whether different management options are likely to produce different financial outcomes and an indication of the long-term cost of the service.

SLM and Parkwood (Jubilee) – Status Quo

4.5 SLC has provided a model based on the status quo which essentially projects forward the Centre's average performance over 2017/18 (Jubilee) and 2018/19 (facilities in SLM contract) as a baseline.

Competitive Procurement and 'Shadow Bid, Key Assumptions

4.6 A key aspect of the financial assessment is the 'Shadow Bid'. A Shadow Bid is a forecasted minimum market value for the contract, based on current market bidding benchmarks which has the following functions:

- It is used as a check to assess whether the projected management fee for the new contract aligns with the Authority's Medium-Term Financial Strategy (MTFS)
- It will reveal any potential for an improved revenue position for the services
- The Council can use the Shadow Bid model to build in identified facility investment options and explore potential changes to the scope of services in order to see the effect upon the management fee.

4.7 Shadow Bids have been developed by SLC and used by local authority clients as;

- a pre-procurement tool to ensure that they have clear expectations of the minimum financial outcome of a procurement and;
- a balanced approach to assess the relative financial performance of different management models.

4.8 In the event the Council wishes to procure an operator, this can then be used to set an affordability threshold to ensure all compliant bids meet or exceed the Authority's requirements.

4.9 Importantly, the Shadow Bid does not try to predict the *actual* management fee but provides an indication of how bidders will view the potential contract and the minimum financial performance that could be expected.

4.10 SLC has a strong recent track record of producing conservative Shadow Bids that are exceeded in the event of a subsequent procurement.

4.11 Despite a steady upward trend in management fee payments to clients, SLC believe that operators may be more cautious in the coming years, particularly on the second and third generation contracts where many of the savings have already been realised (this is the case in Bristol).

4.12 Some operators appear to have taken a step back from competitive tendering, preferring to focus upon consolidating existing contracts by extending them through negotiation with the client. Fusion Lifestyles, Places Leisure and 1Life Management Solutions are examples of this.

4.13 This approach is substantially more informative than undertaking traditional benchmarking which looks at historical data and compares on the basis of the facility mix as opposed to market potential. In a sense, Shadow Bids use forward benchmarking information.

4.14 SLC has made the following core assumptions based on benchmarks from recent bids:

- Support costs/overheads are calculated at 6% of sales/turnover. There have been recent bids where this has been lower than 4.5%
- Retained operator surplus/profit is calculated at 6% of sales. Recent bids have been as low as 5%
- The model assumes a fixed management fee payment by the Authority and is based on the average over the life of a 10-year contract

- No growth income or expenditure reductions in line with operator expectations of similar facilities and the fact that the centres will have been worked hard by SLM at this late stage of the SLM contract.

In-house delivery - Key Assumptions

4.15 The main assumption with regard to operational performance is that under an in-house management model, income levels will be reduced compared to current levels (17/18 for Jubilee, 18/19 for SLM contract facilities) by c. 5%. This is because an in-house operation would be less effective at driving income than an experienced leisure operator. Similarly, expenditure is projected to be c. 5-10% higher due to reduced economies of scale and higher procurement costs. Pension costs under an in-house management model would also be higher.

4.16 SLC has looked at the potential for VAT exemption through in-house delivery. This is in the context of the Council's aspirations to potentially re-model some of its leisure centres

4.17 The Council is close to its de minimis VAT exemption threshold and a combination of potentially claiming exemption on income plus additional capital expenditure would have detrimental effect on the Council's overall VAT position.

4.18 As a result, VAT exemption on activity income in leisure centres has not been included in the in-house model and it is assumed that prices remain the same thus there would be leakage in retained income.

4.19 The specific assumptions are:

- Support costs are based on typical authority run in-house services and are conservative at 17.5% of expenditure. This reflects the need for the Council to source ICT, HR, Finance, Facility Management, health and safety and other central functions
- Income levels (excluding VAT) reduced by 5% from 2017/18 (Jubilee) and 2018/19 (SLM contract facilities) levels.
- Expenditure on supplies and services would be higher than the current arrangement due to the loss of economies of scale, c. 5-10% increase
- The leisure centre workforce would be eligible for the LG Pension scheme and SLC has therefore assumed that 75% of staff opt for LG pension with 14.5% employer contribution.

The Local Authority Trading Company Key Assumptions

4.20 The Local Authority Trading Company (LATC) would be run in a similar way to an in-house operation. However, there would be additional costs required for senior management of the LATC, specifically a Managing Director and Finance Manager. SLC has estimated this to be c. £250K per annum, including on costs.

4.21 A LATC typically does not yield the same VAT exemption as a Hybrid Trust (the model established by most large multi-site leisure operators). It has been assumed that the VAT recovery rate currently being achieved by SLM and Parkwood is c. 15% of income and that an LATC would be able to achieve a recovery rate of c. 10% of income.

4.22 The model for LATC also assumes:

- The same income performance as BCC in-house operation as an LATC operation would not be as effective at driving income as an experienced leisure operator

- A higher cost profile on supplies and services compared with a multi-site operator and the same as an in-house operation as a single service LATC would not benefit from economies of scale
- Higher support costs than a multi-site operator – SLC has assumed these to be 12% of sales
- Additional Management Costs of c. £250k per annum including on costs
- An LATC operation would not require profit or surplus.

5. Financial Summary and Shadow Bid details – See Appendix J

6. Key Considerations Against Evaluation Criteria

SLC has highlighted the key considerations of each option against the proposed evaluation criteria to support the options appraisal scoring exercise. See Table 4.

Table 4 Key Considerations and Scoring for each Management Option against BCC's Proposed Evaluation Criteria

Key:(Red is disbenefit / Green is benefit/ Black is neutral)

Financial Criteria	In-House	LATC	Competitive Procurement
Maintaining or not deteriorating the current level of subsidy	No potential for savings based on current portfolio. Likely to require higher overhead/support costs than current arrangements. No economies of scale on procurement of supplies and services. Less certainty on any revenue savings compared to model that has a commercial contract (the Council takes all commercial risk). Less marketing and branding expertise to generate sales compared to outsourced options. Potentially higher management costs. Savings on operator profit compared to procurement option.	No potential for savings based on current portfolio. Likely to require higher overhead/support costs than current arrangements. No economies of scale on procurement of supplies and services. Less marketing and branding expertise to generate sales compared to outsourced options. Potentially higher management costs (need for MD and FD). Some transfer of commercial risk although the LATC will be underwritten by the Council Some VAT exemption possible.	Marginal potential for savings based on current portfolio. Operator will usually yield a profit (usually c. 6% of contract sales). Likely to deliver lower overhead/support costs than current arrangements based on recent operator bid benchmarks. Economies of scale on procurement of supplies and services likely to improve through a larger operator. Optimal VAT exemption. Certainty on any revenue savings. compared to other model – operator will provide fixed management fee for the life of the contract and take on the associated commercial risks. Market knowledge, skills and creativity with greater potential for innovation. Marketing and branding expertise to generate sales compared to other options, linked to a responsiveness to market trends. Low management costs as the contract is likely to benefit from existing regional management structures. -However, although savings likely, the service will still need a significant subsidy.

Financial Criteria	In-House	LATC	Competitive Procurement
Asset risk transfer	All asset management responsibilities and risks will be carried by the Council	The core asset risks and capital maintenance would lie with the Council as it would be underwriting the LATC. A LATC may be able to take on some asset management responsibilities such as reactive maintenance.	Leisure operators often price for risk when running older buildings through a full repair and maintenance contract. Could be costly to transfer full maintenance risk for older sites due to high forward maintenance costs. Multi-site leisure operators have the track record and capability for taking on all asset management responsibilities at a fixed cost.
Medium Term Financial Planning or Degree of Financial Certainty	The Council taking on all operational and commercial risk and its associated uncertainties. Impact of running leisure centres in-house on support services is uncertain. The Council could rationalise the service in future, this would be more difficult under a contract.	The LATC would be reliant on the Council's subsidy and as such the Council would take on the majority of operational and commercial risk. The LATC would have a contract with a specified financial outcome but would be reliant on the Council to underwrite their financial obligation.	Multi-site operator will take on all of the commercial risk and the bulk of operational risk. Through procurement the Council could set an affordability threshold in-line with its MTFP (subject to this being tested and it being realistic). Through procurement the successful operator will be contractually committed to their financial solution for the life of the contract (usually c. 10-years).

Non-Financial Criteria	In-House	LATC	Competitive Procurement
Contribution to delivery of key strategic priorities	Members/Officers are able to make immediate decisions to capitalise on any opportunities and implement any new strategy. The Council's in-house service may be better placed to work with physical activity partners. There is no empirical evidence to suggest in-house management is better or worse at driving physical activity participation – this is very much driven by investment and programming specific to the needs of the local community. -In-house run services tend to be focused on the financials and commercial responsibility can distract officers and Members from focusing on non-financial outcomes. -The higher cost of the services is likely to result in less resources for physical activity interventions.	Members would be able to make immediate decisions to capitalise on any opportunities through the LATC Board. Services Specification and its contents will be crucial to driving participation. LATCs are comparatively new and not tried and tested. A weak Services Specification may result in the operator being able to focus on commercial aspects of the contract at the expense of disadvantaged groups. A small LATC is unlikely to have any additional capacity above the current in-house service.	The established multi-site operators have head office and regional resources for promoting Active Communities. A well-crafted and focused procurement can make participation a key aspect of the evaluation criteria encouraging innovative solutions from operators from which the successful bidder will contractually obliged to deliver. An established multi-site operator will be better placed to enhance Bristol's national profile. Market knowledge, skills and creativity with greater potential for innovation. Services Specification and its contents will be crucial to driving participation. A weak Services Specification may result in the operator being able to focus on commercial aspects of the contract and not disadvantaged groups.
Flexibility for	Members/officers will have ongoing	The service will be driven by a Services	The service will be driven by a Services

Non-Financial Criteria	In-House	LATC	Competitive Procurement
future Changes to be made to the service by the local authority in the short, medium and long term	strategic and operational influence on the service. However, Members'/Officers' ability to invest in and change the service will be to a degree dependant on the financial performance which is uncertain.	Specification which Members/officers will be able to have a significant input. Members/Officers would have representation on the LATC Board. Significant changes to the service may require a contract variation.	Specification which Members/Officers will be able to have a significant input. Could have a Partnership Board for the contract with Member and Officer representation. Significant changes in the service would have to be through a contract variation which may need to be negotiated with the operator. Members/Officers may be able to focus more on strategic issues without the burden of commercial and operational responsibilities.
Retention of strategic control	Members/officers will have full ongoing strategic and operational influence on the service.	Members/officers will have a strong degree of ongoing strategic and operational influence on the service and it will be driven by a Services Specification which Members/officers will be able to have an input. Members/Officers would have representation on the LATC Board.	Members/Officers may be able to focus more on strategic issues without the burden of commercial and operational responsibilities. The service will be driven by a Services Specification which Members/Officers will be able to have a significant input. Could have a Partnership Board for the contract with Member and Officer representation. Significant changes in the service would have to be through a contract variation which may need to be negotiated with the operator.

7. Management Options Workshop

Overall approach

7.1 A Management Options Workshop was held with a group of BCC Senior Officers and led by SLC on Tuesday, 19 November 2019.

7.2 The purpose of the workshop was to discuss the available management options to BCC and, through independent facilitation, move towards a preferred management option through a scoring exercise using the evaluation criteria and weightings presented in Table 1.

7.3 Following the workshop, it is recommended that Council Members are fully briefed on the outcomes of the workshop and the preferred management option through officer briefing papers and socialisation activities.

Scoring matrix

7.4 Following an introductory presentation to lead the group through the proposed approach, SLC presented the evaluation criteria again accompanied by the scoring mechanism for each management option. The scoring mechanisms is:

- 0 - Criteria not met at all
- 1 - Criteria met to a very minor degree
- 2 - Criteria met to a minor degree
- 3 - Criteria met to some degree
- 4 - Criteria met to a large degree
- 5 - Criteria met fully.

7.5 Each Criteria with its separate weighting was scored to produce a raw score (0-5) (unweighted) and a weighted score (0-5 multiplied by the weighting).

7.6 Table 4 was used during the scoring exercise to help the group arrive at a consensus for the scoring of each option against the criteria, supported by SLC as and when some clarifications were required.

7.7 Table 5 shows the agreed raw scores for each of the management options along with rationale for each agreed score.

7.8 Table 5 shows the financial criteria raw scores for each of the management options appraised, followed by the rationale for those scores.

Table 5 – Raw scores – financial criteria

	FINANCIAL	Max % Points	In-House	LATC	Procurement
			Raw Score	Raw Score	Raw Score
1	Maintaining or not deteriorating the current level of subsidy	30%	0	0	5
2	Asset risk transfer	18%	0	1	3
3	Medium term financial planning or degree of financial certainty	12%	0	2	4
	TOTAL FINANCIAL	60%	0	3	12

7.9 The rationale for the scores is as follows:

Maintaining or not deteriorating the level of subsidy

7.10 Based on the figures presented in the shadow bid, selecting an in-house operation or a LATC will not minimise revenue subsidy and nor will these options deliver necessary savings. Both these options therefore score 0. The procurement option scores a 5 because it will minimise the Council's revenue subsidy as shown by the shadow bid forecasts.

Asset Risk Transfer

7.11 An in-house management option does not transfer any proportion of risk so it is scored with a 0. A LATC will result in BCC retaining a majority of risk with some minor risks transferred so this option scores a 1. In a procurement option, bidders assess the risks and price them in financial terms in their proposal. Bidders will be required to adopt an open-book approach so the Council can scrutinise this through the contract. This option is scored a 3 based on this approach as there is a large degree of risk that an operator can take on that is appropriate to sit with the operator.

Medium term financial planning or degree of financial certainty

7.12 An in-house option gives no certainty to the Council as it takes full third-party income risk, so is scored a 0. A LATC, if it set up properly with an effective partnership and governance arrangements can offer a little more certainty so is given a score of 2. A procurement option provides significantly more certainty through the norm of charging or paying an agreed management fee payment, so is scored a 4. This score is not a 5 because there is still a risk of uncertain external market conditions affecting the operator's overall viability.

7.13 Table 6 shows the non-financial criteria raw scores for each of the management options appraised, followed by the rationale for those scores.

Table 6 – Raw scores – non-financial criteria

NON FINANCIAL		Max % Points	In-House	LATC	Procurement
1	The extent to which there is a contribution to delivery of strategic priorities	20%	4	3	4
2	The extent to which there is flexibility for future changes to be made to the service by the local authority in the short, medium and long-term	10%	4	3	3
3	The extent to which there is retention of strategic control	10%	4	3	3
TOTAL NON FINANCIAL		40%	12	9	10

7.14 The rationale for the scores is as follows:

The extent to which there is a contribution to delivery of strategic priorities

7.15 With an in-house operation there is a strong opportunity to ensure the management approach maximises the Council's strategic outcomes and so is scored a 4.

7.16 It has not scored a 5 because in reality, a significant proportion of the operating budget will have to be prioritised on facilities management rather than on concessions, outreach and interventions.

7.17 Most Councils with in-house operations do not have an Active Communities outreach service anymore because they cannot afford it.

7.18 A LATC will still offer the opportunity to maximise the Council's achievement of its strategic outcomes but the Council has less control of this and so is scored a 3.

7.19 In a procurement option, the operator will be contractually obliged, and monitored through KPIs, to deliver the Council's strategic outcomes or there will be financial penalties.

7.20 This will normally include concessions, outreach and interventions. Procurement option is therefore scored with a 4.

The extent to which there is flexibility for future changes to be made to the service by the local authority in the short, medium and long-term

7.21 With an in-house operation, there is a high degree of flexibility and so is scored a 4.

7.22 A LATC allows the Council some flexibility but to a lesser degree and so is scored a 3.

7.23 A procurement option also offers more constrained flexibility and is also scored a 3.

The extent to which there is retention of strategic control

7.24 With an in-house operation there is significant control over the service and so is scored a 4.

7.25 A LATC allows the Council some control but not compared to in-house so is scored a 3. A procurement option allows the Council some control through the specification, but this is less than an in-house option so scores a 3.

7.26 The weighted scores for both financial and non-financial criteria can be seen in Table 7.

Table 7 – Weighted scores

	FINANCIAL	Max % Points	In House	New LATC	Procurement
1	Maintaining or not deteriorating the current level of subsidy	30%	0	0	30
2	Asset risk transfer	18%	0	3.6	10.8
3	Medium term financial planning or degree of financial certainty	12%	0	4.8	9.6
TOTAL FINANCIAL		60%	0	8.4	50.4
NON FINANCIAL					
1	The extent to which there is a contribution to delivery of strategic priorities	20%	16	12	16
2	The extent to which there is flexibility for future changes to be made to the service by the local authority in the short, medium and long-term	10%	8	6	6
3	The extent to which there is retention of strategic control	10%	8	6	6
TOTAL NON FINANCIAL		40%	32	24	28
TOTAL SCORES		100%	32	32.4	78.4

For Summary of Options Appraisal Workshop - See Appendix J

8. Appendix 1 Description of Management Models Considered by Bristol City Council

1) Competitive Procurement

8.1 If the local authority was to outsource the management of the service(s) through a procurement process, they are likely to contract with either:

- **A 'Hybrid' Non-Profit Distributing Organisation (NPDO)** management model which is a legal vehicle that has a private arm and 'not for profit' arm with charitable objectives. It can access discretionary National Non-Domestic Rates (NNDR) benefits and may access Value Added Tax (VAT) benefits from the sporting exemption. However, it is not a charitable company or Industrial Provident Society and not recognised by the Charity Commission; or
- **A charitable NPDO model** which can attract both mandatory rate relief and VAT benefits with regard to the sporting exemption on large proportions of their income.

8.2 Most of the established leisure management operators offer a 'Hybrid' NPDO management model. This model is a legal vehicle with charitable objectives, which can access discretionary NNDR benefits, but is not a charitable company or provident society and not recognised by the Charity Commission.

8.3 NPDO models can attract both mandatory rate relief and VAT benefits with regard to the sporting exemption on a large proportion of their income.

8.4 There are many existing charitable leisure trusts that have been set up by local authorities and once established, have started bidding for new contracts in other local authority areas. Many of these organisations also operate cultural facilities such as community halls and theatres. Some were specifically established to offer a full range of leisure, cultural and green space services. There have been a number of recent examples of charitable leisure trusts securing leisure contracts that have been tendered in the open market.

8.5 This option to use an existing charitable NPDO provides the benefit of sharing risks across other leisure contracts that the NPDO holds and their associated economies of scale (similar to the private management option, but often on a smaller scale). There are now several examples of successful NPDO's operating across a number of contracts.

8.6 The existing charitable NPDO is able to achieve VAT and NNDR savings. The ability for existing charitable NPDOs to generate significant capital funding, without a track record, is sometimes more limited and therefore capital funding from local authorities (for example prudential borrowing) is likely (and normally cheaper to finance) if major capital investment is required. It should be noted that the use of prudential borrowing for funding major works is a preferred option for many local authorities and their operator partners.

8.7 **In summary, under this option the local authority will retain control over the service through the contract and specification and is able to transfer some or all risk to the operator depending on where it best sits. Service improvements under this option can be delivered through the contract and an agreed, costed investment plan. Potential rationalisation of facilities or improvements in relation to income generation and control of expenditure can be identified through the contract. However, the one-off costs of making significant changes would typically need to be borne by the local authority. This solution will benefit from significant economies of scale.**

8.8 Importantly, this model can provide complete protection from likely cuts that will continue to face local government over the coming years. This is often enabled through upfront investment from the local authority to enable the contract to be zero cost or revenue positive. Key to a successful partnership will be having a well written contract supported by a sound approach to contract monitoring and performance management.

2) Setting up a New Organisation – Local Authority Trading Company

8.9 Bristol City Council could establish a new organisation to run the facilities and services on its behalf. There is now only one main form available – the Local Authority Trading Company (LATC).

8.10 The key characteristics of a LATC are as follows:

- LATCs can deliver a wider range of service offerings including sports development / outreach, health interventions, library services, cultural services and special events. The LATC will typically be based around the previous in-house operational team who would be transferred under TUPE.

- They tend to have less buying power than multi-site operators, and fewer economies of scale and bespoke systems of work. They are not able to take on external contracts with the freedom of NPDO Trusts. They are however, able to secure external commissions from partners such as Public Health.
- They can be commercially and socially focused but typically cannot generate the same levels of income from leisure facilities, gyms, swimming lessons and classes compared to multi-site operators. Cost management may be more in line with an in-house management approach and thus not as efficient.
- They can manage facilities and services that are not commercially attractive effectively as part of a broader portfolio of facilities and services.
- LATC's are an option for those local authorities averse to outsourcing their services but wanting to provide some limited arm's length freedoms to the operational team whilst still retaining control over the operation.

8.11 The 2015 Public Contract Regulations preclude an authority handing over its leisure services to a new purpose-built organisation without competitive procurement except for a Local Authority Trading Company (LATC). Previously local authorities were able to create a new trust or not-for-profit organisation without any form of tendering.

8.12 The local authority must control all of the shares in the LATC and must also exercise effective day-to-day control over its affairs; in other words, the same as the relationship between the local authority and one of its internal directorates. This can be achieved through the governance structure. The company must be "inwardly and not outwardly focused". The directive requires that **at least 80%** of the activity of the LATC – that is, over 80% of its turnover – must be for its public-sector owners.

8.13 A LATC is available to local authorities looking to establish an arm's length model. Local authorities may, subject to certain statutory limitations, establish a company and undertake social and/or commercial activities.

8.14 The setting up of a LATC is outside the 2015 Regulations as it has an exemption subject to a number of tests that must be met. These tests relate firstly to 'control' similar to that which a local authority exercises over its own department in strategic policy terms. Secondly the 'function test' ensures that the LATC carries out the essential part of its activities under the control of the local authority – e.g. 80% of the activities should be ordered by the host local authority. Further details are available from the Crown Commercial Service Guidance.

8.15 Recent examples of Leisure LATCs include Newark and Sherwood District Council, Hull City Council and Broxtowe Borough Council.

8.16 **In summary, under this option the local authority will retain control over the service and ultimately, carry all the risk. Improvements under this option can still be delivered via self-financing investment options and / or external grants. Potential rationalisation of facilities or improvements in relation to income generation and control of expenditure can be identified through an operational review albeit the one-off costs of making those changes would typically need to be borne by the local authority. However, this solution will not benefit from significant economies of scale or address risk transfer issues. This model cannot significantly scale and replicate its service beyond the borders of the local authority in the way that a NPDO Trust is able to do. Importantly, whilst this model will provide an additional layer of protection from likely cuts that will continue to face local government over the coming years, it will not be able to ringfence and protect a service to the degree an outsourced multi-site operator is able to through a contract. Key to a successful**

partnership will be having a well written contract supported by a sound approach to contract monitoring and performance management.

3) In-house Management

8.17 This option is familiar to many local authorities and is often the default starting position for local authorities considering the future management options for their leisure facilities. It involves the retention (or in some cases the transfer back to in-house management after a previous outsourcing arrangement) of the local authority's leisure facilities, potentially with a focus on operational efficiencies and improvements in order to generate financial savings and enhance performance.

8.18 The key characteristics of in-house management by the local authority are as follows:

8.19 In-house teams can deliver a wider range of service offerings including sports development / outreach, health interventions, library services, cultural services and special events.

8.20 In-house teams tend to have less buying power than multi-site operators, fewer economies of scale and bespoke systems of work. They are able to secure external commissions from partners such as Public Health.

8.21 They are sometimes less commercially focused and typically cannot generate the same levels of income from leisure facilities, gyms, swimming lessons and classes compared to multi-site operators. Cost management can be inhibited by having to use local authority systems and reporting and thus is often not as efficient as the multi-site operators.

8.22 In-house teams can manage facilities and services that are not commercially attractive effectively as part of a broader portfolio of facilities and services and often can invest greater levels of management time into these services.

8.23 In-house teams are the standard option for those local authorities averse to outsourcing their services, but whilst still wishing to retain full control over the operation and carrying all the risks.

8.24 The key features of an in-house operation are as follows:

- The local authority has direct responsibility for the management and operation of the facilities and services
- Any staff employed in the operation of the facilities are employed by the local authority
- The local authority takes all income generated by the facilities
- The local authority is responsible for all expenditure incurred in the delivery of the services
- The services use the central support services of the local authority
- The operating risks of the services remain with the local authority – e.g. responsible for under performance
- The service can be highly integrated linking Health, Adult Social Care, Children's Services etc.
- The responsibility for maintenance of the assets remains with the local authority
- In the event that the service is being taken back in-house after a previous outsourcing arrangement, there would be set up costs and timescale implications that would need to be established.