

COUNCIL AGENDA



**WEDNESDAY 17 JANUARY 2018 AT 7.30 PM
COUNCIL CHAMBER, THE FORUM**

Membership

Councillor Gbola Adeleke	Councillor Mike Hicks
Councillor Graham Adshead	Councillor Tina Howard
Councillor Alan Anderson	Councillor Isy Imarni
Councillor Julie Banks	Councillor Brenda Link
Councillor Hazel Bassadone	Councillor Jan Maddern
Councillor Stephen Bateman	Councillor Suqlain Mahmood
Councillor Alex Bhinder	Councillor Janice Marshall
Councillor John Birnie	Councillor Peter Matthews
Councillor Christina Brown	Councillor Robert McLean
Councillor Herbert Chapman	Councillor Stan Mills
Councillor Michael Clark	Councillor Colin Peter
Councillor David Collins	Councillor Roxanne Ransley
Councillor Elaine Collins	Councillor Stewart Riddick
Councillor Olive Conway	Councillor Tom Ritchie
Councillor Terry Douris	Councillor Goverdhan Silwal
Councillor Graeme Elliot	Councillor Graham Sutton
Councillor Adrian England	Councillor Rosie Sutton
Councillor Tony Fethney	Councillor Roger Taylor
Councillor Anne Fisher	Councillor Jane Timmis
Councillor Margaret Griffiths (Deputy Leader)	Councillor Ron Tindall
Councillor Fiona Guest	Councillor John Whitman
Councillor Neil Harden	Councillor Andrew Williams (Leader)
Councillor Penny Hearn	Councillor Colette Wyatt-Lowe
Councillor Stephen Hearn	Councillor William Wyatt-Lowe

For further information, please contact Jim Doyle Ext 2222 or

AGENDA

**12 HOUSING AND COMMUNITY OSC DRAFT MINUTES - 10TH
JANUARY (Pages 2 - 28)**

Agenda Item 12

CALL-IN MINUTES

HOUSING AND COMMUNITY OVERVIEW AND SCRUTINY COMMITTEE

WEDNESDAY 10 JANUARY 2018

Councillors:

Adeleke	P Hearn
Armytage	Howard
Banks	Imarni (Vice-Chairman)
Bassadone	Mahmood (Chairman)
Conway	Mills
England	Silwal
Williams	Griffiths (Portfolio Holder for Housing)
Harden	

Officers:

J Deane	Corporate Director (Finance & Operations)
M Brookes	Solicitor to the Council and Monitoring Officer
R Smyth	Assistant Director Performance, People & Innovation)
A Care	Community Partnerships Team Leader
B Hosier	Group Manager (Procurement, Commissioning and Compliance.
K Soley	Communications & Consultation Team Leader
J Doyle	Group Manager (Democratic Services)
K Johnson	Democratic Services

The meeting began at: 7:30pm.

OS/170/17 MINUTES

There are no minutes to be agreed.

OS/171/17 APOLOGIES FOR ABSENCE

Apologies were received from Councillor W Wyatt-Lowe, Councillor Howard attended as a substitute.

OS/172/17 DECLARATIONS OF INTEREST

Councillor England declared a personal interest in item 6, Award of Leisure Contract, as he is a named administrator on the Leisure Facilities Are Not For Profit Facebook page.

Councillor Adeleke declared an interest in item 6, Award of Leisure Contract as his son Charles has been a member and user of Sportspace since 2005.

Councillor Imarni declared a personal interest in item 6, Award of Leisure Contract, as she is a council appointed Trustee of Sportspace.

OS/173/17 PUBLIC PARTICIPATION

1. **Brian (recently retired CEO of Sporta)**

Statement provided by Brian;

1. *Commissioning Local Authority leisure*

In commissioning and procuring for leisure services Council face two choices: To follow best practice to re-engineer purpose of facilities and services for social outcomes not just recreation – health (physical and mental), inclusion, cohesion. In government and SE strategies, this is challenging and demanding to reach those most in need. It needs innovation built on partnerships, dedication to public benefit, right skills and there are many outstanding and advancing examples in LAs and trusts. Alternative regression simply to provide gyms and pools for the minority who wish to use them increasingly involves contracts with private sector, creating a kind of public sector branch of the fitness industry.

In taking choice leisure consultants something playing a big role – promoting reviews based on financial and then securing contracts for helping LAs implement the conclusions. Many are sports and leisure based – The Sports Consultancy lists 45 clients on website of which five are LAs. Lead consultant has title of Director, Venues and Events. I see no expertise in relation to social policy outcomes.

Looking at report to Cabinet, it is clear that emphasis towards second choice. There has been little or no consideration of social outcomes and it is not clear if councillors have been able to consider this option.

2. *Development of potential high-risk business models and trading structures*

Developments which councils should be aware of and consider:

A few years ago there were three choices for delivery then the private sector was enabled to develop devices which could gain charitable benefits. At least one firm – SLM – took development further with a complex structure. Three private companies and a small charity – all companies gain from BR relief and charity gains some VAT. The structure appears to enable irrecoverable VAT to be minimised. The great proportion of the profits are made by the private companies and do not go to the charity. Details are kept secret. Sporta is currently seeking information through FOIs.

The model runs more than the usual risks on VAT and BR concessions. SLM model has heightened risks of reliance on existing systems – as PWC report illuminated. Conclusion: Councillors should have been able to consider commissioning social outcomes. In letting the long term contract, the nature and risks of the proposal should have been transparent and the features of the secret model explained.

The Chairman asked, for clarity, you are here today at the request of Sporta, or as someone with an interest in leisure. Brian responded that he is here with the approval of the Sporta Board because he has only so recently left and was the one most closely connected with the case before he left.

Cllr Imarni addressed a question relating to risk; what potential risk is emerging for other Councils that may be ahead of us in this process?

Brian responded to advise that the basic risk is that the procurement of leisure contracts is now extremely competitive, firms are competing against each other to deliver and price is often a big factor. There is a reliance on VAT and Business Rate concessions, which have been subject of considerable discussion in government and may be affected by Brexit with the removal of some European legislation. This could impact the financial modelling used in this case, but it wouldn't be such a factor if the Council was running the services itself in house. Beyond that, I cannot comment on the nature, all I know is that because this issue

was around, we went to PWC to begin to produce a classification of the type of risk and that is in their document which I believe they sent to the Council.

Cllr England addressed the speaker and asked, in your opinion, would you say that SLM is a private company or a Charity?

Brian responded that his understanding, from their companies' accounts, is that there are 4 company units operating within the SLM group that delivers contracts like this. They are respectable and good deliverer of those contracts. 1 is the lead company, SLM, and that is the one as I understand it that bid for this contract. There is then a charitable body, which as I understand is a mutual organisation, it has charitable status. There is then another SLM Fitness & Health and they run quite a substantial number of the services on behalf of SLM Ltd. There is a 3rd private company, which is a trading company, and many trusts have trading companies, so there are 3 private companies and 1 charitable. The way they work is commercially confidential. We believe in transparency, all I am saying is that there is a degree of risk at the moment for anyone that relies on VAT or rate reliefs to model.

Cllr Imarni asked, referring back to my previous question and your comment about competitive tenders. Could you please shed some light on how many of these you have seen or been involved with and typically how many would be bidding for a contract of this type?

Brian responded that he is not a procurement expert, but that he has seen from his role at Sporta, examples from a distance of dozens of contracts where the Council has gone out to market to commission & procure the running of their facilities, not just leisure facilities. On the leisure side in particular, a fitness industry, where quite a lot of money can be made, there is inevitably a lot of competition.

The question was asked, did you receive a reply to your letter to Dacorum of the summer last year? Brian responded that no, he wrote to the Chief Executive and Councillors and did not receive a reply.

Cllr Harden responded to the points raised and stated that this meeting should be has the Council followed this process correctly, not an assessment of SLM. So my only question would be, is SLM doing anything illegal, and my understanding is that they are not, they have gone through the bid process in the same way that Sportspace have. It is how the Council has dealt with that process that I hope the committee will make a decision on tonight.

R Smyth added, re business & VAT rate relief, that the council will assess any such applications received based on the circumstances of the organisation. Couple of points would like to add, it is part of SLMs submission that they did provide evidence from HMRC to support their application, also noted that they received rate relief in every Local Authority in which they operate, they have been receiving that since 2005 with no challenges. Further, the contract and the fee proposed by bidders in this process is a contractual requirement, it is written into it. Bidders are required to provide what they have submitted in terms of their tender, so irrespective of what management model they propose, they are required to provide that so the Council is protected. There were also guarantees given within the process by SLM that further protect the Council. In terms of outcomes; social coherence and supporting community – that was a major part of the tender and bidders were required to clearly demonstrate how they would support the community and how they provide that outreach; that was evaluated as a very important part of the tender process.

2. David Cove – CEO of Dacorum Sports Trust

D Cove introduced himself and advised he has held his post since the conception of DST in 2004 and that prior to that he was employed by Dacorum Borough Council and other Local Authorities prior to that. Of course, I am biased in my approach to this tender, very proud of the work we do and the impact our staff have on local community. I am a sports and leisure professional, I have a management degree from Leeds University and studied for an MBA at Loughborough. I have over 30 years of experience in this industry and started as a Sports Development Officer in a track suit with a bag of balls in a van and engaged with local clubs and schools to increase participation. I moved to DBC in 1996 as their first ever Sports Development Officer and established their first Sports Development Team. We instigated the Dacorum Sports Awards amongst many other things. In the 2nd year we won a Service to Sport Award. I am extremely disappointed with the process DBC used, my view is it is not fit for purpose, it does not reflect the needs and aspirations of the community of Dacorum, it does not meet the expectation of the customers of sports clubs. There is no strategy to inform the service specification and the consultation carried out was totally inadequate. 31 people were consulted out of 153,000 residents. How many current customers were consulted? Were the clubs concerns taken on board?

The protection given to the price increases is an example of how the specification is not right, at the Cabinet meeting it was highlighted that core prices are protected during the contract, however the definition of core price may not be what you were imagining. Items covered under core prices is only 11% of users, it doesn't cover the other 89%, that includes gym, swim membership, swim lessons, school usage. There is a reason that only 1 external operator put in a bid, alarm bids should be deafening about that and I think it is on you as a scrutiny committee to try and understand why that is the case.

Another issue to raise is staffing costs, DBC didn't have the TUPE information so they produced an employee list and a staff cost template. It was inaccurate as it had a fitness manager and sales manager at Tring Sports Centre, and Tring doesn't have a gym. The tender documents directed us to, and I quote, each bidder, regardless of its proposed workforce, should base its proposals on the employee list. That is, all proposals must assume that the employee list will be correct on commencement of the contract and that accordingly, staffing costs as at start of the contract, should be no less than those implied by the employee list. We did as directed and used the staffing figures DBC gave us, if the true cost is indeed different, will DBC be liable for the difference, this will be fundamental as to whether the savings will materialise.

It was said at the Cabinet meeting that the Council was subsidising SportSpace in the operation of its leisure centres and has done for the lifetime of its contract in excess of £7.5m. It also says in the Cabinet report that the last 14 years the Council has paid grants for the management of facilities in addition to providing sports grant development. This is inaccurate, DBC pays us one grant, but for sports development for the subsidised activities that we carry out on your behalf. In 2004 the subsidy was £1.4m, it is now £225k. Our turnover was £4m, its now £8.6m. The sport centres do not require a subsidy to operate, the grant from DBC does not go toward the sport centres, it goes toward the community work we do. We have reinvested £8m back into the facilities and we have also managed to attract £5.4m in funding into the Borough, so the £7.5m you have given us over the 14 years, you have gotten back £13.4m, not a bad deal.

A councillor addressed the speaker and asked, can you tell us what actual facilities, not the value from them, have DST invested in, outside Council control, that has benefited the community?

D Cove responded that the main one being the XC centre at Hemel, in partnership with Youth Connections for £5m using MyPlace funding with DST adding £0.5m funding, enabling

XC to be built. Must add that XC is a profitable centre, surplus from that go back into community and back into reinvestment.

A further question was posed; what do you think would be the effect of the contract being awarded to SLM and you then operating XC and Little Hay without the bulk of your previous premises? D Cove responded that the centres are profitable and that DST would continue to operate them on behalf of the community. XC has an indoor skate park, we bring people in from all over Europe as it has unique facilities. We also operate a skate & swim membership for a monthly fee that we will no longer be able to offer so there would be an impact on customers in that respect.

Cllr Banks addressed the speaker and referred to information at the end of presentation relating to performance at the beginning of the contract, and latterly, and asked that the figures be repeated.

D Cove responded that it is worth saying that he was part of the organisation at DBC before it transferred in 2004 and was involved with and led the review that found that DST should be established to run leisure facilities on behalf of the Council. Prior to transfer in 2004, the subsidy, and there are questions over whether it was as subsidy or a grant, and I would say that in 2004 it was a subsidy as the service did not stand on its own 2 feet and required subsidising. Prior to that it was £1.4m, after transfer it was in the first year the subsidy from the Council was £909,670k and the NNDR and VAT advantages were given back to the Council. Since then we have reduced it year on year, to the point where it is now £225k and we have committed to the Council to get it back to £0 by £50k a year, so in 4 years it would have been zero. Our turnover at the point of transfer was £4m, it is now £8.6m, we have increased gym income from £630k to £3m. The grant was 19% of turnover, it is now 3% and our staff cost to turnover 478.5% to 53% now. We have done a good job, we have been commercial in our view, but as a local charity we are balancing that commercialisation with what we need to do for the community in keeping prices low, reinvesting back into the community, improving ICT systems, and improving customer care.

Cllr Adeleke asked, since 2004, were you at any time pulled side by the Council to say that you are not fulfilling your obligations in any form or shape?

D Cove responded to say that no, there have been ongoing conversations with the Council over the 14 years and we have had conversations with the Council about how we would reduce the grant. The Board of Trustees have been fully aware since day 1 that part of the remit of the trust was to reduce the grant, which is why we have committed to doing that by £50k every year, without impacting on the work we do in the community. Up until the time that our contract was terminated, we were always of a view that the Council supported us in the process we go through and getting the balance right. I wasn't aware the Council were unhappy with our performance in any way.

Cllr Imarni asked the speaker; you mentioned using assumptions on staffing costs, if you were aware that they were not correct, why did you use those for your bid, and, during this process, did you give the Council any advice on areas of the tender that were incorrect and could have led to incorrect assumptions in bids that couldn't be accepted at face value on merit.

My other question is, you mentioned early on in your statement that you started sports development, for the benefit of the committee can you explain exactly what is meant by sport development?

D Cove responded to the first question re. staffing assumptions, our view was that the tender document was very clear that to have an even playing field, that we were to use the figures on the employee list. In terms of inaccuracies, there were many, almost every page had an

error on it, be it numbering, detail, pricing that was put out was wrong. We had clarification questions and sessions with officers, we put in many clarifications, some of which were picked up. We understand the council was written to by Hemel Swimming Club as they had been missed off the list of swimming clubs and times.

Cllr Imarni asked, for clarity, how many inaccuracies were there? Were there 1 or 2, or were there hundreds?

D Cove responded that if you include things like numbering, which may not matter, but does mean the Council had to reissue the documents, if you are taking small matters there were many.

Cllr Imarni clarified, we are more concerned if the document was an accurate thing for somebody to submit technical information, financial information, to enable officers and Cllrs to make decisions on the contract. It was brought to my attention that there was a list of assets on the document that wasn't correct and had to be amended.

D Cove responded that part of the tender doc was a responsibility matrix for assets and that wasn't complete. Obviously as the incumbent with 14 years' experience of the centres, we know what is and is not in good repair and condition, there was a review on that and we brought consultants in to look at it. We had to pass that list back to the Council to say that there were many items missing.

We were not involved from day 1, if the Council had engaged with us earlier before terminating our contract, they would have been able to work with us to make sure the information they were getting was right.

In response to the question regarding sports development; there isn't a single definition of what sport development is, it is about giving communities access, building links, being part of the community.

The Chair asked, are all your employees locally based and employed, are they all Dacorum people?

D Cove responded to say that the majority of them are, but importantly our suppliers are, including village halls for our programmes.

The Chair asked; how many people do you employ? D Cove looked to other members of public participation to answer, approx. 500.

Cllr Harden responded to the points raised by the speaker; Supply Hertfordshire is the tender portal that was used for all tenders prior to bidding. I note that Cllr Imarni & D Cove mention about clarification, which is the point in that process before bidders put their submissions in. There were a number of questions, I have had access to that site and have looked at the questions. It doesn't say which bidder has asked each question, but all are in there. Some might be seeking further clarification on a question about what the tender is asking and others might be around errors in the tender documentation.

Regarding the relationship with the Council, it is a positive partnership, we have had ongoing negotiations about how we reduce the grant and as Dave has noted that has come down considerably since the trust started. There are still payments going out from the Council and the Council has to look at what is value for money for the residents. The only way we can find out if we are getting true value for money is to look at the market, which is why when we come tonight we have carried out that process.

R Smyth added, as part of the procurement process, we had clarification meetings with potential bidders. We were also encouraging bidders to go round the sites themselves to make sure they were clear about what facilities were included and the maintenance state etc.

On the TUPE element, we were very clear with bidders that the information wasn't correct, we did ask for the TUPE information, that information was not provided, so in order to provide a level playing field for bidders we created that template to ensure that all bidders were working on the same basis and not information that only 1 bidder would have, which would make a bidding process very unfair and difficult.

Core prices; we protected certain prices in there, both core and prices for clubs over a period of time. The leisure industry is an incredibly price sensitive market, as part of this the operator has to deliver participation, sustain local clubs, make sure the facility is used. It is not the experience of SLM in other areas to come in and increase prices and would not work in the industry where there are cheaper gyms etc available. This would have been the basis for both the DST and SLM bid.

3. Joanna, Lawyer on behalf of Dacorum Sports Trust

Speaker introduced herself as a Lawyer and Partner at a firm of Solicitors and lead partner in the Local Government team there, with expertise in advising Local Authorities on alternative delivery models for a range of services including leisure. One of the UKs lead advisors in the creation of new not for profit organisations to work in partnership with Local Authorities.

I also advise Local Authorities on Procurement exercises, I have been involved in some of the UKs largest leisure outsourcing projects.

I was appointed to advise the Council on the creation of Dacorum Sports Trust, which followed a rigorous and objective analysis of the Council's options at the time, the 3 options being in-house, voluntary competitive tender at the time and creation of a local NPDO or Trust. At the time the Council determined that the best option was to create a local NPDO.

There are huge advantages of working with an NPDO and in terms of Dacorum Sports Trust, they have gone from strength to strength since they started in 2004 and are widely regarded as best in class in some key areas and are held as an exemplar in terms of achieving their charitable purposes at no, or significantly reduced cost, to the Local Authority and elected members should be hugely proud of DST and the impact it has had on the well-being of the local community.

Without a doubt the trust option is not a form of outsourcing, it is fundamentally different, and yet it would appear that Dacorum has treated DST as though it is an outsourced service that should be subject to market testing every 5 years, indeed this is evidenced by DBCs open letter to Dacorum Sports Network last August which referred to the decision to re-tender the services. You didn't tender the services in 2004, what you have done is opted for its new form of service delivery without potentially exploring if this is the right option for the Local Authority.

I query why you didn't negotiate a revised commercial offer with DST, you could have used your external consultants to benchmark the Sports Trust offer, that is exactly what happens in long term partnership arrangements to ensure best value over the life of the contract. It would have saved the Council the time and cost of procurement and could have achieved a win win outcome, that's the continued provision of leisure services by an organisation that

delivers first class leisure services and reinvests every pound it earns in the facilities for the benefit of your local community.

I have 2 specific concerns;

1. The approach you took to your procurement exercise, you adopted what is called a restricted procedure approach within an extremely tight timeframe. I am not aware of any other leisure project in the UK that has been procured using this approach, the vast majority have used the competitive dialogue approach which is 18-24 months in terms on the timeline, including the pre-market engagement. Restricted procedure allows no dialogue with bidders and is used typically where goods or services to be purchased are entirely standard, eg paperclips

SLM have been selected solely on the basis of a written submission, I am not aware of any dialogue or as far as I am aware any visits from you to the SLM sites.

Further, under restricted procedure, you can make no amendments to the contract or the specification post award.

I am going to also mention the SLM structure and am happy to come back to that and answer some questions on it as I share concerns Sporta has raised and I do think this presents a significant financial but reputational risk to the Council. Specifically on the SLM structure, they will be claiming both mandatory rate relieve and discretionary rate relief, you, as a Council, we be contributing 50% to that relief, so you will be using tax payers money to increase the profit of SLM.

Cllr Adeleke asked the speaker; I know you were pressed for time, but you made a very important point at the end, could you please repeat that point?

The speaker responded to advice, under the new business rate retention scheme, local authorities now retain 50% of business rates, but also, and perhaps an unexpected consequence, local authorities now contribute 50% in terms of business rate relief that you grant and any top up relief that you grant. SLM is a private sector operator that has created a complex group structure that includes a charitable community benefits society, wholly owned by the group structure and solely there to harness the business rates and VAT release that SLM as a private contractor would not benefit from. It is going to apply for and you are going to grant mandatory rate relief and you are going to contribute 50% to that relief, which increases the profits for SLM private shareholders, which out of interest is owned by a Scottish PLC, just in case you wanted to know where your money was going.

Cllr Imarni referred to the benefits of a NPDO and that Sportspace are held of an exemplar for something, can you tell me who holds them as an exemplar and what it is that they deliver to get that accolade.

Joanna responded to advice that an NPDO is a Non Profit Distributing Organisation, where all profits are invested back into the organisation for the furtherance of its objectives, in this case the health and wellbeing of Dacorum. DST is a registered charity and 100% of its surpluses go back into the local community. DST is a single focused organisation and its primary focus is to improve the health & wellbeing of the community, you are not going to get that with any other operator of your services.

Cllr Imarni added, we need to understand what the benefits are.

Joanna responded that it is the equivalent of a social enterprise; everything it is doing it is doing for public benefit that is why it is a partnership with the objectives of the local authority.

What Dacorum is going to enter into is going to be a business relationship. 100% of what DST does is dedicated to the community and 100% profits are reinvested. All of the financial benefits come to you, they don't get washed out in management fees as would happen with the SLM structure. You have representation on the board of this structure; you won't get that opportunity.

Cllr Hearn referred to the beginning of the speakers presentation where she stated that it wasn't appropriate for letters to be sent notifying the retendering because there was not an original tender and requested clarification.

Joanna responded to state that when DST was created by the Council, developing the constitution, representation on board – the Council didn't go out to tender but chose not to, could have gone out to voluntary tender but chose to create your own local NPDO. The Council is now referring to this as a retender and I think this is now indicative of how the Council perceives DST, you have moved from strategic partners delivering social outcomes to simply an outsourced service that should be subject to tender every 5 years and if that is what you want to do, then that is exactly what will happen.

Cllr England asked, if I understand correctly you stated that you advice on procurement procedures, can I ask you about the way the bids were judged with the 40% for price and then 15% for strategy and on. If I understand correctly, each of those weighted categories was scored out of 5 and I assume that the majority of bids would probably score a 4 or 3 or 2; is that a normal way to do this?

Joanna responded that every Council will determine its weighting and quality and what are the priorities. The issue you have got here is that you only have written submissions, I don't know who wrote the submission but you have effectively appointed SLM based on a written submission, but yes, it is for the Council to determine its own weighting and scores of 4 to 6 are not unusual. My concern is more for the procedure that was followed and the lack of dialogue with the bidders and really test that they can deliver the method statements that have been written.

Cllr England commented that it could be assumed that a company like SLM would be well practiced at submitting bids, but DST would not? Joanna responded to agree that SLM would be well rehearsed, whereas DST have never done this previously.

Cllr Harden responded with a clarification point, the tendering legislation has changed significantly since 2004, so yes, whilst that is the model that was used in 2004, I don't believe we can do that now without tendering, or that is my understanding of it. In reference to moving from strategic partners to contract is exactly what we did with the voluntary sector in 2016, so we are just applying that process to our leisure provision.

B Hosier also advised the committee that the procurement procedure that was undertaken was the open procedure and not the restricted procedure and there are other authorities, one relatively close to us, that is out to tender at the moment using the open procedure for similar services.

The Chair asked for clarification between the 2; B Hosier responded to advise that the open procedure is open to anyone in the market who wishes to express an interest in the provision, whereas a restricted procedure is you have a 2 stage tender process, including what was called a pre-qualification questionnaire or PQQ statement, which is now supplier questionnaire where you shortlist a number of bidders looking backwards at their record and then you shortlist or move forward to invite tenders to see what they can deliver you as a client.

4. John from Herts Sports Partnership

The speaker introduced himself as the Partnership Director at the Herts Sports & Physical Activity Partnership, funded primarily by Sports England. Prior to this I spend 35 years in paid employment in the sports & leisure sector, including within Local Government either as Head of Service or Director. Herts Sports Partnership was set up in 2003 and the contribution we have received from your local authority partners has traditionally come through Sportspace rather than from the local authority.

I am before you this evening as a passionate advocate for the power of sport for positive social change. Not just around health but also around reduction in anti-social behaviour and social inclusion and employment and skills agendas. I am here to talk about sports development and our experiences with Sportspace over many years.

Can I first commend you as a Council for the weighting that you gave to sports development within the contract, for someone in my position it is very pleasing to see that you have given it a weighting that is probably unprecedented in the Hertfordshire area. In terms of our relationship with Sportspace, I have to say it has been over many years very positive and they have provide to be very dependable and loyal and an innovative party. We believe that the people in Dacorum will know much more about what is needed in Dacorum that we will ever know in our office in the University.

Our principal partners are local government, in terms of the County also Public Health and the District & Borough Councils and the Parish and Town Councils and school networks. Our reach is wide with various clubs and associations across the County. We also deal with 18 leisure operators and in terms of operators there are really 2 models for the delivery of sports development; 1 which is driven by increasing footfall into the leisure centres and 2, which is much more relevant and much more difficult in this day and age – the outreach work that is undertaken. Sportspace have a proud track record in the way that they deliver that, I refer you to the learning disability games which are held annually, funded by Sportspace and run and resourced by Sportspace and brining in partners from across the County, so in terms of our working with Sportspace I can only commend their work. Over the years we have probably invested £150k in various programmes and without exception there has been a very credible performance in the way they have gone about and built partnerships and built community links and delivered projects to high quality and monitor evaluation and feedback on the investment we have made.

Cllr England asked; I note what you say about the higher than typical weighting given to outreach, in this situation it does appear that the 2 remaining bidders that we ended up with scored quite differently on this criteria, one of them scored an outstanding mark and the other scored a fairly average, but on the good side of average, mark. Do you have any experience of SLM or Everyone Active elsewhere in Hertfordshire and do you think you would be able to shed any light based on that as to who of the 2 you think got the higher scores?

John responded to say that if it was SLM that got the higher score I would be surprised because we were consulted by Sportspace about the outreach sports development element of the contract and we brought our expertise into that part of the contract, we had no contact what so ever from the other bidder who currently run 3 contracts within the County. We network and bring various likeminded groups together and SLM, although they run 3 contracts, are invisible in this county, in our experience.

Cllr England added, the guidance on the top score of 5 is an excellent response that meets the expectations for delivery of contract with high level of justification and a strong emphasis to an innovative approach that adds value. Presumably somebody scoring that score within

this tender would have been in touch with yourselves at some point. John responded that he cannot comment on that.

Cllr Imarni asked, if they haven't been in touch with you, are there any other agencies in Hertfordshire that they could have been in touch with to get advice. John responded that not to his knowledge, but he cannot comment as he does not know, but they certainly did not come to us.

Cllr Harden commented that as John knows, the Council has a very proactive view of sports and leisure and has worked via SportSpace and direct with them particularly on the Get Set Go project and the success that was. Don't have anything but praise for the Sports Partnership and their work across the County.

R Smyth added that the Council spoke to John during the process and ensured Herts Sports Partnership, Dacorum Sports Network and sports clubs feature very heavily in the service specification and what we expect operators to do and continuing positive relationships with outreach work. In terms of the scoring, we looked (as with all areas of the bid) what bidders provided in terms of evidence of what they currently do and what their plans are and how they are going to fulfil the objectives that we set, that is what the scoring is based on.

5. Brian Malyon – Chair of Dacorum Sports Trust

Statement provided by Brian Malyon;

My name is Brian Malyon, Chair of Dacorum Sports Trust. Prior to joining the Trust I was UK Managing Director of a multi-national Footsie 100 company.

Before I start, I would like to thank the councillors who called in this decision and thank this committee for the opportunity to explain why Dacorum Sports Trust believe the Cabinet decision is wrong.

The Trust is a local charity run by local people using local supplies purely for the benefit of the local community and was originally formed by the council and consists of a Board of 16 Trustees all of whom are Dacorum residents and council tax payers. Three members of the Board are councillors. We are a Board of professionals, many of us are users of the facilities and we all share the same ideal, to serve the local community.

The Trust has run the sports and leisure facilities for 14 years and has year on year reduced the grant from the council from a high of £1.4million to £225,000 this year and had already agreed with the council to reduce the grant to zero prior to our contract being terminated. We realise that councils are under financial pressures and we have offered to renegotiate the existing contract with Dacorum to find a sensible way forward.

In contrast, the Council seem to be unconcerned by the substantial breakage costs legally due to the Trust of between £1.5 to 3 million for termination of the existing contract. We have been accused of not being commercial enough by the Leader of the Council but we believe a balance should be struck. For example, swimming classes are full but we have resisted big price increases or cramming more children into lessons because we firmly believe that learning to swim should not only be affordable but enjoyable. We are not sure a "commercial operator" would take the same approach.

However, on the other hand, we have opened the XC funded by a government grant of £5 million and £500,000 of Trust funds, completely rebuilt Little Hay and then adding a large extension costing £300,00 to enable the Trust to tap into the lucrative wedding business. Last year we entered the low cost gym sector with the opening of OurGym on the Maylands Industrial Estate at a cost of £800,000.

These projects were done at no cost to the Council and during our 14 years, we have invested £8 million back into sports and leisure in Dacorum for the benefit of our community and not to pay dividends to shareholders.

My times is limited but others here tonight will explain how the tender process has been poorly researched, ill-conceived and fatally flawed. As a lifetime conservative voter, I am appalled at the way the Trust has been treated after a successful 14 years.

In conclusion, we urge this committee to reject the recent decision of the Cabinet and request that you send it to Full Council for consideration with a recommendation that the tender process is abandoned and the existing contract is renegotiated with us to find a more balanced solution which not only meets the needs of the community but takes heed of the Council pressures and needs.

Cllr England asked; are you in a position to comment on, you talked about the development of XC and OurGym which came on stream last year, I presume that since the relationship broke down, there hasn't been any planning for renewal of facilities?

Brian responded, yes and no. As a responsible trust we need to look to the future and we do have a committee who are looking at what would happen if we didn't retain the contract.

Cllr England added, in terms of talking to the Council for renewal of swimming pools, which presumably don't last forever, if you have been running them for 14 years already? Brian responded that there have been discussions, but they have stopped, we have had discussions about Tring and redevelopment there, moving the running track and also with Berkhamsted. Those discussions had started but of course nothing has happened in the last 12 months.

Cllr Imarni referred to the £300k investment into Little Hay to tap into the lucrative wedding business, can you confirm that all of that money came from the trust and was reinvested. Brian confirmed that is the case.

Cllr Harden added that these are Council owned facilities and that the relationship the Council has with Sportspace as a partners is to run those facilities for us. The tender that is going through the process is to go to the open market to see who would like to run those facilities for us, we have had 2 operators who have submitted bids to run those services and we have awarded to one of those bidders; they are still ours and they are ours to improve or maintain and obviously once we notified Sportspace of the termination of contract, we as a Council are still looking forward as to how we, as a Council, can improve those facilities.

6. Lindsay Simpson (member of public)

Statement provided by Lindsay Simpson;

Before I start, I'd just like to explain why I am here today. I've been asked to speak on behalf of the community. In the last month, 1,800 people from Dacorum have come together to say that we need to keep leisure services not for profit. You can probably see a few of them over there in our lovely t-shirts.

And in just one week over 3,700 people have signed a petition asking you, as our representatives, to renegotiate with Sportspace – and this number is growing every day. I love Sportspace – my children learnt to swim there, the gym helped me walk again after knee surgery and now I climb with my family at the XC. I've also worked in the fitness industry over 20 years as an operator and supplier, and for the UK trade body.

Today's decision must be about public health and value for money – we all want taxpayers' money to be well spent. And yet the current process means you don't have all the data and options on the table.

So far Sportspace has been refused the opportunity to even try and renegotiate a deal that meets Dacorum's specific needs – instead its had to give a limited response to a generic tender framework.

If the community had been meaningfully consulted in the tender process – which it was not – the message would have come through loud and clear. Sportspace knows its stuff; it has the expertise and the relationships and has been delivering quality and value for 14 years. Its users lead healthier, happier lives, and that means less strain on our doctors, hospitals, schools and mental health services. And profits go back into community services, not to shareholders. That certainly gets our vote.

Why throw all this away so abruptly on the advice of one consultant?

Does it really mean service cuts and price rises?

And what about the credibility and partnerships Sportspace has built up? When that's gone

What will it cost Dacorum in missed grants and lost opportunities?

The swimming club, for example, has repeatedly asked but had no reassurances that it will still have a home. That's just staggering and completely unacceptable.

As our councillors, you get to see things we don't. we have to trust that if you have any doubts about this process and the decision – and thousands in the community do – you will refer it to Full Council. Otherwise, we fear that in the words of Joni Mitchell, you don't know what you've lost til its gone.

Cllr Howard thanked Lindsay for her contribution and asked, how many of the public at Sportspace who attend Sportspace, I have heard different figures, I have heard 6,000 and I have heard 12,000, if it is 6,000 then okay, 2,000 signing on the website is a reasonable amount, but if it is 12,000 then that is to me, not saying, that there are so many people concerned about it, so can the figure be clarified

Lindsay responded that it has only been 1 week, and in 1 week we have got 2,700; people genuinely couldn't understand the decision that was made on 12 December, that mobilisation has occurred in one month and over Christmas when people are busy. I have been given 2 minutes today, I could do 2 hours both from a professional and community point of view. People who care about Sportspace don't care just because they go, they care because their kids go, because their parents can lead independent lives, because they get support so they can walk and not fall, and we get it, because we use it.

Cllr Imarni asked, how many Sportspace users are aware of this petition and what methods have you used to inform them, have they all been invited and would have responded, or has it been left to the public to contact you? Lindsay responded that they have done the best they can to contact everyone with limited resources, different people have done different things but we have tried to systematic and Social Media has been fantastic to allow people to debate and discuss. We realise that what we have here is quite special, it is one of the best trusts in the Country so people value that.

Cllr Harden added a clarification point; it keeps coming up, Hemel Swim Club is secure as a club, as it is now, it will be in the future. There was some issue when we requested from Sportspace, or the list we had, it was omitted from the list of users, once we were notified of that, they have it in writing that they are on that list and they are secure. So just to put that

to bed, as it comes up at every single meeting, Hemel Swim Club is on that list just as much as everyone else.

R Smyth added, the name was included but it didn't have the swim times included. We added that assurance in writing, as we have with other clubs, and met with them on several occasions and provided the same reassurance to Members who raised that question throughout the whole process as well.

Lindsay queried; are you saying that categorically, the swim club has time allocated on the timetable. R Smyth responded that in the service specification, the existing programme time and pricing that they have for all clubs will be protected for 12 months and then it will be a case of the operator working with the clubs, as is the case at the moment. At this time the Council has no conditions in terms of existing arrangements so it is up to Sportspace entirely to decide how they manage the facilities and which clubs they allow to use the facilities and at what times. In the new service specification we have detailed conditions that the operator has to meet in terms of supporting the sustainability of local clubs, maximising usage etc. The operator will also need to provide the 12 month guarantee of the existing programming, as SLM and other operators do, they will work very closely with the clubs.

Lindsay asked; I am still not sure that they are on the timetable? R Smyth repeated their existing timetable is protected for 12 months.

Cllr Harden added further clarification, we are not removing sports activities. This Council is proactive when it comes to health & wellbeing and physical exercise, we work with Public Health, County and Sportspace on this already. What this tender is giving us is an opportunity to enhance our sports and leisure responsibility. That is not saying anything against Sportspace, the bidders, through the tender, have had the opportunity to enhance the sports and leisure, this is a new opportunity. Also, it will provide contract monitoring that we do not have in place now. The concerns that the residents have in being priced out of it, I do not believe that is something that SLM can do, they would have to come to the Council to justify any such decision and that would be something Members would very much be involved in.

7. Michael Dennis (member of public)

Michael introduced himself and thanked the Chair for his opening remarks. I have been introduced as a member of the public but I am, as you know, a Trustee of DST and have been since day 1. Others have talked about the benefits of a local not for profit enterprise and I wanted to flesh that out a bit as it is the whole ethos of what we do. I want to talk about the massive benefits that Dacorum has enjoyed while the sports and leisure facilities have been delivered by local people.

When the trust was set up, our Chair was a Conservative Councillor and Barrister, Alex McGregor. He saw an opportunity for a trust to play a big entrepreneurial role in the community and that is how we started, with a Conservative Councillor. He wanted to expand sports and leisure, help schools, clubs and other organisations improve their provision. He became ill and in 2007 I was elected Chair, I did the job for 4 years and there were 2 major events on my watch; we built the XC and Little Hay burnt down, I can't claim the credit for either of those. I am proud that we developed into a dynamic and committed board. Trustees now include a pensions expert, executive of a blue chip company, top accountant, 2 retired business people and others who have very impressive CVs. Local does not mean amateur, it means passionate and committed. I am involved in a number of National sports charities and I am Vice Chair that will implement a new National strategy for grass roots football facilities, it is going to be announced before Easter. It is funded by the Premier League, the Football Association and Government and our budgets for the first 3 years will

be £181m. To get some of that money, local authorities will need a football facilities plan, you don't have the expertise to produce one. People will do it for you, for a fat fee, everyone will charge a fat fee except us.

Helping local clubs get new changing rooms and artificial pitches is just the sort of thing that our board always be tasked and trusted with, simply because we are local people committed to helping local sport. That is why the trust has had those years of discussion with Tring Sport Centre with all the stakeholders, it is why we developed the athletics track, it is why we had schemes to rebuild and revitalise Berkhamsted Sport Centre, it is why we built the XC, it is why we opened the gym on the industrial estate and it is why you don't need, in our contract, to guarantee the swimming club will stay, because it is in our DNA.

Our magnificent staff do all the work but I am proud that a board of committed people have facilitated all of this. We urge the scrutiny committee to look at the scoring matrix, it has been talked about what is expected of Everyone Active; how is it that the promises can be scored more highly than the detailed knowledge based on the actual challenges and actual opportunities that exist and which we are delivering against. It is crazy that the scoring doesn't allow for the added benefit that you get from our commitment and involvement in all these projects. If you do not acknowledge the extraordinary added value of having passionate local people involved, you will lose it and sport and leisure in Dacorum will be so much poorer and these people will hold you to account.

The Chair thanked the speaker for his contribution.

8. Councillor Ron Tindall

Apart from 1 or 2 conversations, I understand that there was no attempt from the Borough to enter into negotiations with Sportspace prior to May 2017 when they were given notice of termination. Given the review of services had started in May 2016 by the Council I consider it a dereliction of duty that no consideration was given to actually ask the existing provider, Sportspace, to enter into a dialogue with the Council into what the Borough's changing aims were and therefore enter negotiations to reach an agreed settlement on existing terms and conditions that they hold the present contract. It also would have been possible within those negotiations to consider the future of leisure management services and the leisure estate, to consider the existing partnerships and to develop a policy that would meet the aims and aspirations of local people going forward for 20, 30, 40 years. Looking at Page 15 of the agenda, facilities that have been included within the contract have been listed, but nowhere have I seen any serious attempt or been told of one, to address the challenges that arise at these facilities, for instance there has been, I understand, none of the schools mentioned have had serious dialogue or serious involvement with the Council as to what is going to happen with regard the Tring Estate, the Hemel Hempstead Athletics Track, I think the track is the one most at risk now. By the very nature of its facilities and functions, a sports and leisure provision carries greater H&S risks than ordinary services. Therefore I think it is amazing that in the scoring matrix there is not a very high individual attention to H&S and it is just muddled up with other aspects of that provision and contract. I believe you will find that Sportspace have got a National and virtually International reputation on that side of the point.

The use of facilities have been mentioned and the use of facilities and access by a diverse number of local groups is also at risk, the protection of those groups is limited to 1 years as has been noted. We already have the Watford Swimming Group training at Hemel as they feel they can no longer use the Watford facilities; why is that I wonder? It is the same company. Where will the clubs go after the prices go up. There is also a large question mark over future concessions.

Finally, I particularly highlight the secrecy under which this has been carried out, being that there were parts of the process that have to be kept in confidence, but not the whole tender from start to finish and I feel that various parts of this could have been discussed at various Council meetings so that all Councillors could have had an involvement. Also it has been mentioned that Sportspace could continue afterwards with the two projects that they have produced themselves, but can I point out that as the contributors have already said, that officers could go back to SLM and say, look, we are not happy about this, we want you to do this, negotiate different prices. Once you lose Sportspace and its expertise and staff team, then in 2 or 3 years if you are unhappy with your commercial provider, you only option you are going to have is to go to another commercial provider because you won't have the option of going back to Sportspace.

I ask that this goes back to Council and the recommendation to stop the process, to open up the negotiations with Sportspace, and let's get a proper deal that will work for this community for the next 20, 30, 40 years.

9. Councillor Mike Hicks

Statement provided by Cllr Hicks;

I am a Dacorum appointed trustee of Sportspace. I volunteered because I am interested in public health and believe sport and exercise are essential for a healthy population. As a Sportspace board member, I was disenfranchised. I could not get involved with the tender documents provided by Dacorum nor the judgement criteria. I did ask in advance and was told that the contract break costs would be part of the judging criteria, this is not so.

I do not believe that enough safeguarding is in place for the clubs to get access to the facilities. I am proud of the facilities Dacorum provides. I am proud to follow in Derek Townsend's footsteps. I am proud of the efficiencies obtained by having dual use agreements with local schools run by a charities. These dual use agreements will not survive a private company takeover. If they do not survive then it risks the future of these public facilities in Dacorum.

I know from my involvement with Sportspace that there is very little excess that can be trimmed.

A private company will mean higher costs and lower services for the public. I know what this process was started to save money but I urge you to rethink the process and stay with Sportspace.

10. Councillor Anne Fisher

Councillor Fisher spoke to state that Sportspace is a local trust run by local people and looking at the love and support it has attracted tonight there can be no doubt that it has done a good job for its local community. Particularly concerned by the fact that conditions are only guaranteed for 12 months, it may be but that it will be okay after this but it does leave a level of uncertainty for many people, particularly around concessions for those people who cannot afford to continually use the facilities. If some groups are unable to continue due to change of conditions that is something that will probably affect people the most. If you have money and transport you can usually find an alternative for anything you are doing, but that does not apply to anyone that does not have transport or perhaps cannot afford to pay any more than they already are. I think this introduces too much uncertainty. I am also concerned that as Councillors we have not had as much information as we ought to have had, this all went

through very quietly through Cabinet. There has been a lot of public interest tonight and also shown by various emails recently, if this had been involved with Councillors earlier then we may have been lobbied earlier and people would have made their views known even more firmly. Thank you.

Cllr Andrews picked up on the points raised by Cllr Tindall and with regard to the athletics track; his implication was that the track would be at risk but that is not the case, negotiations are underway about the relocation of the track and they continue. With regard Tring School, I am sure colleagues will be aware that Tring School is undergoing a major refurb of the site, including the sports and leisure facilities on site, which are operated by SportSpace under contract of Dacorum Borough Council, but are not owned by the Borough Council. We have had, and continue to have, comprehensive discussions with Tring School about that facility as part of their improved leisure offer through their redevelopment, so those sites are secure and any suggestion that they are not, I think, is incorrect.

Cllr Harden responded to the point regarding Member engagement; there was a Member panel set up, which I chaired, it was around the sports specification, what was asked of Members was what is something they feel they would like to see in their community, are there any gaps, are there any issues they would like developing; this related to sport within their ward areas. Because there were only 6 Members who expressed an interest in being on the panel, I did feel that was not necessarily a wider view of the Council, so I asked officers to draft a survey which I believe had around 10 questions, that went out to all Members for them to respond about their particular ward and any issues they would like to see captured in the specification. That went out to all 51 Members. I also understand that Cllr Tindall has had a private briefing with officers throughout the process; that is the engagement with Councillors that I am aware of. All Councillors are entitled to talk to anyone about any issue, so there is a possibility that there have been other conversations that officers have not necessarily informed me of, but those are the areas I am aware of.

R Smyth added, to pick up on a couple of other points, in terms of pricing, again this has been spoken about, there is pricing protection and concessions identified in the contract for core users and clubs. To make the same point, within the specification and the contract and the general requirements of the Council will be about increasing membership, getting people through the doors to use the facilities, it will be about supporting local clubs, about community outreach, supporting innovation, customer experience, those requirements will absolutely be expected, regardless of what operator was selected. That feeds into the question about quality, we have been very clear here too, all bidders were invited to come back and demonstrate how they would do that in their method statements. In terms of H&S, this has been a very important part of all aspects and has been set out in great detail in various parts of the tender.

OS/174/17 **CONSIDERATION OF ANY MATTER REFERRED TO THE**
COMMITTEE IN RELATION TO CALL IN

None.

OS/175/17 **CALL-IN**

The Chair advised would now move to the part of the meeting where the committee can ask the Portfolio Holder and Officer any questions before the meeting breaks to move to Part 2.

The Chair stated, for the benefit of the public, this is based on a report (that was available on the website); if any committee members have any questions this is their opportunity to ask them.

Councillor Imarni referred to Pg 1 of the document, the bottom paragraph where it says 'recommendations' and stated that there doesn't appear to be anywhere in the document any parameters, where on numerous occasions it is written that there will be variance in the figures that are quoted, at no point are there any parameters. My experience of any kind of negotiation is normally a parameter of 5% above or below the quoted numbers. At what point would this come back for scrutiny if things deviate quite far from what we have been presented. Additionally, value for money; it talks about new investment, operationally it says that it will deliver the strategy, yet my understanding is that the strategy on sports and leisure is yet to be written, I do not understand how that can be measured.

Cllr Harden responded, with regard the variation, recommendation 3 within the report states that the variation of the cost of TUPE, is that what you are referring to?

Cllr Imarni responded to state that throughout the report it refers to variations and that there will be lots of variations, it is difficult to pinpoint exactly what numbers are factual that we can base our decision on, and like I said, there is nothing that says it is within 5% of this etc, it is all vague. A lot of the criteria they were asked to bid on it would appear are assumptions and perhaps as we have heard tonight, not correct assumptions and the figures that have been given might not be robust. At what point, if we were to end up at a loss for instance, its written throughout the document that there will be no loss to the operator should there be variations, but nothing is pinned down to how much loss the Council will end up underwriting.

Cllr Harden confirmed that there are assumptions because the information that we required for some of those from SportSpace was not forthcoming. They are assumptions and you are right the operator will not bare the cost of that so that will fall to the Council, but with legal advise we have those numbers that are assumptions that are in the Cabinet report.

M Brookes added, there are unknown parameters, we have asked for information on a few occasions relating to TUPE and termination costs, but they have not been forthcoming with any level of detail so we have made best estimates which are based on factual information in terms of existing staffing costs etc, so we are confident that the parameters we have set are accurate, but there may be some variations that will be accepted.

Cllr Imarni asked; what sort of variations will be accepted?

M Brookes responded that would be the actual costs that come through once they have been robustly challenged but until we get those costs through we are not able to provide that figure.

Cllr Imarni stated; you are therefore going ahead with figures not knowing what % of that offered will remain at the end of this. For instance, it was raised earlier that the breakage costs could be as much as £3m, which is quite a lot to take out of any contract. You are going ahead making an assumption that there could be a £3m variance that to me is too big an assumption and too big a gap.

The Chair reminded the committee that financial aspects should be kept to Part 2.

M Brookes advised that the detailed breakage costs are unknown, until we get those figures in we are not going to be able to fully assess them. There is a duty to mitigate those costs and work with us to try to minimise them as much as possible and we will go through a

process once we have the fuller detail; we were requesting this information 6 months ago and the response received was that the costs would not be provided.

Cllr Imarni added, if you were using a professional consultant they would have been able to give you quite a close estimate, is there not any come back to the consultant as to why they did not advise you of that before advising you to go to tender.

J Deane responded to follow on from M Brookes comments to advise that there is more detail that can be provided around our assumptions, but they relate to the Councils commercial position so are not suitable for Part 1, however I am happy to go into detail in Part 2.

Cllr Harden responded to Cllr Imarni's second point about the Sports Strategy; this is currently in draft form, we have a sports policy that was implemented in around 2012/13 and officers wanted to make that more robust for the new contract so it has been turned from a policy into a strategy and that will be coming to Members hopefully within the next few months.

Cllr England addressed a question to R Smyth; with the new operator SLM, does he think that given the choice between putting prices up, or cutting costs or staff or choice or re-negotiating or walking away, which one of those is most likely?

R Smyth responded that it is neither of those things, as has been stated on a number of occasions; it has been set out the standards expected; all this has been spoken about already. We had to be satisfied that the responses meet our expectations and bidders had to set out clearly how they would meet that so it is not about putting prices up or cutting staffing. We have talked about, and it was raised by a number of the professional speakers earlier in the meeting about the sensitivity of pricing in the leisure industry, you cannot increase prices significantly and still expect to get the increased membership and increased usage and sustainability of local clubs. If the operator is going to meet our requirements around quality, access and membership usage then they are not going to do that if they increase their prices.

Cllr England referred to comments by the first speaker (Brian) who pointed out there is a likelihood with Brexit and other circumstances, which could put a commercial organisation under stress. That is the situation I am asking about; you have said the industry is price sensitive, but that still leaves the other options I set out, of those remaining, which do you think is most likely?

R Smyth; it is neither of those things. We have set out our standards. Management payments are fixed into the contract. They are delivering in 48 other LAs and meeting their standards; it is in their interests to make this contract work. The factors you have set out would affect any operator, including DST. We can only base on what is set out in the bid, which we are comfortable with.

Cllr Adeleke asked, given the presentations that were made tonight there are clearly a lot of concerns, but I will stick to the documents that have been presented to us. Sportspace was given a remit and that is to reduce subsidy, which they have done successfully. I do not see, on top of this, they have actually invested nearly £8m in new facilities; what other facilities or improvements are the new contract planning to put into the Borough other than the £1m they intend to pay to the Council as profit, I cannot see any reinvestment in the document.

My second point is that the contract is limited to 12 months, what happens after 12 months to the various things that Sportspace is providing to the community now, do they have free range after that 12 months?

Cllr Harden clarified that the purpose of this call-in is to call-in the list that Cllr Tindall proposed. I find myself in a difficult position that I am having to defend a company that we have just awarded a contract to. I am happy to look at the tender process and why we have gone through it and why we have reached the outcome we have got. What I am struggling with as a Member is trying to answer questions on behalf of a company of what their future plans are in the Borough.

The Chair stated that the question is, item 21.10 of the list for the call-in, is there potential to develop facilities like the XC, would the new contract still deliver something like that?

M Brookes responded with legal advice, that officers can respond with what is included in the bids, but beyond that the question is not a fair one, no party here would be able to answer that.

Cllr Andrews added, in terms of specific investments in the scheme, I would be surprised if there was any commitment in any of the tenders to make commitments towards work to our buildings. The XC is a stand-alone facility in that it was funded by government grant and therefore, unless there was a reoccurrence of such grant opportunities then neither Sportspace nor any other provider would be in a position to deliver something like that.

R Smyth clarified that the 12 months is an initial protection for clubs. Community outreach and development, which is part of the tender evaluation as highlighted, that is something that has to be done through the life of the contract, annual plans will be produced which the Council will sign off.

Cllr Imarni referred back to Cllr Harden's point that the Borough's strategy is in draft form stating that we should have known our strategy so we know exactly what we want people to tender on, not the other way round.

Councillor England asked what happened first: the sports consultancy approaching DBC or DBC deciding it needed to do something? And what did DBC do to verify the legitimacy of the sports consultancy.

B Hosier said the council made the decision to seek some consultancy advice to help make the decision on which way to go on leisure operations. He confirmed that we went to a full tender process and undertook some references from other local authorities that use the consultancy.

The Chairman clarified that it was therefore that the Council approached Sports Consultancy, not the other way round.

Councillor Imarni said it had come to light that someone that works for Sports Consultancy that was involved in this was an ex-director of SLM and did they at any point declare that when the names of the bidders came to light?

R Smyth advised that the individual was not directly employed by Sports Consultancy and is a recent associate. Further added, the process enabled anybody to bid.

Councillor Imarni clarified that he was an associate of SLM but did he declare his interest like I had to at the start of this meeting?

R Smyth said there was no requirement for him to declare his interest because he was not directly involved in the contract.

Councillor Adeleke said there were two bidders for this contract. What is the lowest level of bidders you expect to go through a contract.

B Hosier said the market will dictate who will submit a bid and a number of factors will be taken into account mainly their resource, whether its meet their requirement as a business and the number of bids their clients have. We have in the past had one tender but have had as many as 30 tenders. It depends on what the market is like and how many providers there are in that marketplace.

Councillor Adeleke said this was a huge project and we should have got more bidders

B Hosier said to confirm that the council approached the whole market in line with the open procedure. Only two companies submitted bids so that's all the council can deal with.

Councillor England said no deal is better than a bad deal.

B Hosier said as mentioned earlier, the council approached the market with its requirements and organisations decide if they want to bid or not.

Councillor Mahmood said should the council have considered that they need a few more bids to evaluate.

B Hosier said several companies had expressed an interest in the tender however, we do not know throughout the process who will submit the bid. However, a lot of clarification questions were submitted during the process so there was a lot of interest but these didn't result in bids.

Councillor Imarni said the consultant's report suggests they had approached a number of trusts – responded positively? Decided not to bid? Big operators

B Hosier said the big names that Councillor Imarni mentioned all expressed an interest however, as explained at Cabinet, we have not gone back to find out why they didn't submit a bid at this stage. We have awarded contracts in the past where we have received just one bid because it demonstrated it hit the criteria that the council have requested.

Councillor Mahmood said this is the public purse we are talking about

B Hosier confirmed this tender was undertaken in a competitive environment and the criteria agreed by this council was clearly won by SLM on the criteria of quality and price.

J Deane said that companies do not know how many bids the council will receive and will be evaluating.

Councillor Mahmood – community, risk and health & safety. Market criteria – did not include on scoring criteria.

R Smyth said the council had to make a judgement on key criteria. They have been excluded but highlighted the most important elements. Clearly any operator in the area will be working with local businesses and looking for opportunities to partner with them.

Councillor Mahmood said should that have been part of the criteria.

R Smyth said it wasn't overlooked. We spoke to members about the specification and criteria went to Cabinet. In terms of risk, the pricing and evaluated with a minimum requirement

which details a lot around risk. The contract also protects the council to ensure the organisation fulfil its requirements.

Councillor Mahmood moved the meeting into Part 2.

The Committee decided upon its recommendations to Council.

To refer to Full Council the Cabinet's decision CA/125/17 to award the Leisure Services contract to SLM for further consideration, for the following reasons:

- 1) To review the financial assumptions made in the assessment of bids, with emphasis on employee costs and termination/breakage costs.
- 2) To investigate SLM's proposed tax regime.
- 3) To reassess the Health and Safety criteria.
- 4) To consider the lack of assessment of benefit to local community and local business.

Voting:

To refer the above matters for further consideration - 11 votes for, and 1 abstained. .

To refer the matter to Council rather than Cabinet
6 votes for; 5 against, and 1 abstained.

OS/176/17 EXCLUSION OF THE PUBLIC

To consider passing a resolution in the following terms:

That, under section 100A(4) of the Local Government Act 1972, the public be excluded during the item in Part II of the Agenda for this meeting, because it is likely, in view of the nature of the business to be transacted, that if members of the public were present during this item there would be disclosure to them of exempt information relating to the financial and business affairs of the Council or of any particular person,

Local Government Finance Act 1972, Part VA, Schedule 12A, Part 1 paragraph 3.

OS/177/17 APPENDIX A – WORK PROGRAMME 2017/2018

The meeting closed at 00.20am

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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