

Notice of KEY Executive Decision containing exempt information

This Executive Decision Report is part exempt, and Appendices A & B are not available for public inspection as they contain or relates to exempt information within the meaning of paragraph 3 of Schedule 12A to the Local Government Act 1972. It is exempt because it refers to:

Paragraph 3 - Information relating to the financial or business affairs of any particular person including the authority holding that information; and It is in the public interest to withhold the information as the public interest in maintaining the exemption outweighs the public interest in disclosing the information as disclosing the information could prejudice the Council's position and this is not in the public interest.

Subject Heading:	Leisure Contract – Adoption Agency Model
Decision Maker:	Kathy Freeman, Strategic Director – Resources
Cabinet Member:	Cllr Gillian Ford
ELT Lead:	Patrick Odling-Smee, Director of Living Well
Report Author and contact details:	Manny Manoharran, Head of Culture, Leisure, Heritage and Libraries
Policy context:	People – things that matter to residents
Financial summary:	The proposed adoption of the Agency model offers a significantly improved financial position. to the Council – Appendix Exempt
Reason decision is Key	The contract variation will apply to all the leisure centres in the borough with a value of at least £700k p.a.

Key Executive Decision – Part Exempt Report

Date notice given of intended decision:	09/01/2026
Relevant Overview & Scrutiny Committee:	Place Overview and Scrutiny Subcommittee
Is it an urgent decision?	No
Is this decision exempt from being called-in?	No

The subject matter of this report deals with the following Council Objectives

People - Supporting our residents to stay safe and well X

Place - A great place to live, work and enjoy X

Resources - Enabling a resident-focused and resilient Council X

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

For the reasons outlined in this report, it is recommended that the Strategic Director of Resources:

1. approve the variation to the Leisure Management Contract with Sports and Leisure Management Limited, trading as Everyone Active (SLM). This variation permits SLM to operate the leisure centres as an agent, rather than as a principal, for the purpose of collecting income from public services.
2. approve the surrender of the existing leases of Harrow Lodge Leisure Centre (previously known as Hornchurch), Noak Hill Sports Complex (previously known as Broxhill) and Central Park Leisure Centre;
3. approve the grant of licences to occupy Harrow Lodge Leisure Centre, Noak Hill Sports Complex, Central Park Leisure Centre, Rainham Leisure Centre and Sapphire Ice & Leisure (previously known as Romford Leisure Centre).

AUTHORITY UNDER WHICH DECISION IS MADE

Part 3 of the Council's Constitution Scheme 3.3.3 - Powers common to all Strategic Directors

1.General

- 1.1 To take any steps, and take any decisions, necessary for the proper management and administration of their allocated directorate, in accordance with applicable Council policies and procedures.

Key Executive Decision – Part Exempt Report

1.2

As agreed at Cabinet on 9th April 2025:

1. Noted the basis on which SLM and the Council have agreed to continue discussions regarding negotiation on contractual uplifts to the leisure management contract as set out in the exempt part of this report.
2. Agreed in principle to conclude the negotiation on the above basis.
3. Delegated the further negotiation referred to at 1 above and agreement on final terms to the Strategic Director of Resources in consultation with the Leader and Deputy Leader of the Council and Cabinet Member for Adults and Wellbeing.

STATEMENT OF THE REASONS FOR THE DECISION

Under the current contractual arrangements, the management of leisure services is outsourced to SLM, which operates as the principal service provider.

Following a Tribunal decision in 2022 (HMRC v Chelmsford City Council [2022] UKUT 00149 (TCC)), HMRC published a Brief “Changes to VAT Treatment of Local Authority Leisure Services” in March 2023 confirming that, where local authorities provide leisure services to the public, income from those services may be treated as non-business for VAT purposes, reflecting the fact that local authorities provide leisure services under a special legal regime. This ruling enables the Council to consider adoption of an Agency Model.

Under the proposed Agency Model, SLM would act as the Council’s agent for the delivery of leisure services. The Council would therefore be the provider of leisure services to the public, delivered through its agent, SLM. As a result, income from leisure services would be treated as non-business for VAT purposes. SLM would continue to provide the operational services and staffing required to run the leisure centres.

The transition to an Agency Model is expected to have minimal impact on customers. The Council will be responsible for offering leisure centre memberships and services, while SLM and Everyone Active Charitable Trust (EA), acting as the Council’s agent, will manage the day-to-day operation of the centres and service delivery on the Council’s behalf.

Existing leases between SLM, the London Borough of Havering will need to be surrendered and SLM and EA will be granted a licence to occupy each of the facilities to reflect the variation to an agency model where the facilities are operated on the Council’s behalf as principal. Each licence will be coterminous with the agency agreement (and will terminate automatically on any earlier termination of the agency agreement). There are a number of third-party occupiers at the sites. As licences to occupy are a personal right, any leases, licences or hire agreements granted by SLM will need to be terminated on or before the lease surrender date and regranted as licences from the Council to each occupier.

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The Council has obtained independent legal advice from Browne Jacobson LLP in relation to the procurement and property implications of adopting the Agency Model.

The potential financial benefits are significant and provide a strong rationale for progressing to the Agency Model as soon as practicable, rather than waiting until the current contract expires in September 2036.

OTHER OPTIONS CONSIDERED AND REJECTED

1. **Do Nothing:** SLM will continue to operate the leisure centres for the remaining ten years of the current contract, until 30 September 2036, at no cost to the Council. However, the Council would forgo the significant financial savings that could be achieved through the implementation of the 'Agency Model'.
2. **Termination of the current contract was considered but rejected for the following reasons:**
 - The contract term does not expire until 30 September 2036.

As this is an existing long-term contract, and the proposed Agency Model with SLM is expected to deliver savings for the 2026/27 financial year and beyond (***as set out in the attached Exempt Appendix A to this report***), without adversely affecting the ongoing delivery or quality of services to local residents, no alternative options were considered.

PRE-DECISION CONSULTATION

Not applicable – there will be no change to the operation of the leisure facilities and therefore no impact on customers' experience of the service. Customers will be fully informed that it is the Council providing the leisure services through an agent through signage, user terms, invoices and the Everyone Active and Council websites.

NAME AND JOB TITLE OF STAFF MEMBER ADVISING THE DECISION-MAKER

Name: Manny Manoharran

Designation: Head of Culture, Leisure, Heritage and Libraries

Signature:

Date:

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

The Council has obtained external legal advice from Browne Jacobson LLP on the Agency Model and its potential implementation in Havering.

The Council considers that the proposed variation is not ‘substantial’ within the meaning set out in Regulations 72(1)(e) and 72(8) of the Public Contracts Regulations 2015. The Council proposes to publish a Voluntary Ex-Ante Transparency (VEAT) notice to inform the market of the variation.

FINANCIAL IMPLICATIONS AND RISKS

This decision paper is seeking approval to enter into the contract variation enabling SLM to operate as an agent, the surrender of the existing leases for three leisure centres, and the grant of new licences to occupy across the five sites.

Entering into the agency model allows the leisure operator to deliver services on behalf of the Council as an agent rather than as a principal contractor. This means the operator collects income from customers but does so on the Council’s behalf, with the Council retaining responsibility for the underlying supply of services.

The Council receives a guaranteed minimum annual payment, alongside a percentage share of any excess revenue generated above an agreed threshold. The operator bears the financial risk associated with meeting the guaranteed payment and is responsible for operational cost pressures.

A key benefit of the agency model is that it enables the Council to recover input VAT on eligible costs and removes the requirement to charge output VAT on leisure services, improving the Council’s overall financial position.

The surrender of the existing leases and the grant of new licences is required for the agency model implementation.

The financial implications and associated risks are detailed in the exempt section of this report due to commercial sensitivity.

HUMAN RESOURCES IMPLICATIONS AND RISKS (AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)

There are no human resource implications or risks associated with the recommendations of this report.

EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS

The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the Council, when exercising its functions, to have “due regard” to:

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- (i) The need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010.
- (ii) The need to advance equality of opportunity between persons who share protected characteristics and those who do not, and;
- (iii) Foster good relations between those who have protected characteristics and those who do not.

Note: "Protected characteristics" are age, sex, race, disability, sexual orientation, marriage and civil partnerships, religion or belief, pregnancy and maternity and gender reassignment.

The Council is committed to all of the above in the provision, procurement and commissioning of its services, and the employment of its workforce. In addition, the Council is also committed to improving the quality of life and wellbeing for all Havering residents in respect of socio-economics and health determinants.

An EHIA (Equality and Health Impact Assessment) is usually carried out and on this occasion is not required.

The Council seeks to ensure equality, inclusion, and dignity for all in all situations.

HEALTH AND WELLBEING IMPLICATIONS AND RISKS

Physical activity is a key contributor to improving health and wellbeing, including mental wellbeing, for Havering residents. Adopting an agency model for the management of leisure services will provide the Council with greater oversight and flexibility to shape the delivery of leisure provision. This approach will support targeted, community-based programmes that align with the Council's health and wellbeing priorities, help address health inequalities across the borough, and contribute to reducing levels of physical inactivity. Continued investment in leisure services and facilities through the agency arrangement will support improved access, participation, and long-term health outcomes for residents.

ENVIRONMENTAL AND CLIMATE CHANGE IMPLICATIONS AND RISKS

There are no environment and climate change implications and risks associated with the recommendations of this report.

<https://lbhgov.sharepoint.com/sites/SustIntranet/SitePages/Committee-Guidance.aspx>

BACKGROUND PAPERS

None

APPENDICES

Exempt Appendix A FINANCE - LEISURE CENTRE AGENCY MODEL
Exempt Appendix B Advice Note

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Part C – Record of decision

I have made this executive decision in accordance with authority delegated to me by the Leader of the Council and in compliance with the requirements of the Constitution.

Decision

Proposal agreed

Details of decision maker

Signed

Name: Kathy Freeman

Cabinet Portfolio held: Social Care and health

CMT Member title:

Head of Service title

Other manager title:

Date:

Lodging this notice

The signed decision notice must be delivered to Committee Services, in the Town Hall.

For use by Committee Administration

This notice was lodged with me on _____

Signed _____