

Hertsmere Leisure Trust Contract – Appendix to the Audit Report

1. Governance of Tender Process

1.1 Hertsmere Leisure Trust

Hertsmere Leisure Trust is a registered charity and a company limited by guarantee governed by a Board of voluntary Trustees. They are a non-profit distributing organisation meaning that any 'surpluses' made from the delivery of services are reinvested back into the facilities they manage. HLT have no shareholders but many stakeholders including local authority partners, and the Trustees themselves who act as a 'check-and-balance' on the work of the Trust.

1.2 Procurement Process

The services of HLT were secured by the Milton Keynes Council (MKC) Procurement Department through a fully transparent competitive tender offered to the national market place and leisure trusts locally. Approval to tender was provided by Cabinet at the 23rd September 2008 meeting. The process followed the OJEU process and MKC were supported by two external consultants during the tender period.

1.3 Award of Tender

HLT were deemed to be the Most Economically Advantageous Tender (MEAT) via the council procurement process and were awarded the contract. The Cabinet minutes recorded:

'That authority be delegated to the Corporate Director Neighbourhood to award the contract following discussions with Group leaders and Cabinet Members' (Cabinet 21st July 2009 refers). This delegated decision was formally taken by the Corporate Director Neighbourhood on 3rd August 2009.

2. Hertsmere Contractual Obligations

2.1 Start and End of Contract

Milton Keynes Council's contract with HLT started on 1st September 2009 and will continue until 31st August 2024, with a possible five year extension until 31st August 2029. The cost of the contract from April 2017 is £341k /per annum across 12 sites.

2.2 Background to the Contract

HLT first started operating three centres in Milton Keynes Council in October 2006; this was a contract known as MK1 and consisted of three newly built centres - Oakgrove Leisure Centre, Tattenhoe Sports Pavilion and Medbourne Community Sports Pavilion. Contract 1 ran from October 2006 to 2012.

In 2009, HLT tendered for and won Contract 2 which included facilities previously directly managed by MKC and under contract with Leisure

Connections both of which proved to be unsuccessful and troublesome with little investment in the facilities. The planned maintenance budget for a number of the community facilities was removed as far back as 1998. As a direct result HLT took over a largely failing service with a damaged reputation and a demotivated undervalued group of employees.

At the end of the MK1 contract period HLT continued to run these facilities as an extension of the existing contract until Oct 2015, with a 3 month break clause. The decision to offer this extension was taken by the Service Director in consultation with the Cabinet Member. This extension was a gesture of 'good will' by HLT and enabled these sites to be managed without disruption to the users while the council followed the Community Asset Transfer (CAT) process. Medbourne transferred to Shenley Church End Parish Council in February 2015. Tattenhoe and Oakgrove transferred into the Contract 2 as a variation until 2024 with a 3 year break clause commencing from January 2016.

2.3 List of Facilities Managed

HLT manage the following facilities under Contract 2:

Bletchley Leisure Centre / Tattenhoe Pavilion and Sports Ground / Oakgrove Leisure Centre /Sycamore Hall / Warwick Road Activity Centre/ Crownhill Meeting Place and Crownhill Sports Pavilion / Westcroft Meeting Place/ Westcroft Pavilion and Sports Ground / North Furzton Pavilion and Sports Ground /Walnut Tree Sports Ground and Pavilion /Hodge Lea Pavilion and Sports Ground / Monkston Park Community Centre.

Buildings within the contract were offered out to parishes via the Parish Liaison Team prior to the procurement process commencing with a deadline of 15th February 2009. (Cabinet 21 July 2009 refers). A number of facilities did devolve, particularly to Woughton Community Council. With the exception of Crownhill Meeting Place and Sports Ground none of the above buildings received any such interest and consequently were included in the emerging leisure contract. Negotiations commenced with Shenley Church End Parish Council but subsequently the Parish Council chose not to take on its management and the facility was included in the contract.

2.4 Contract Terms

The Leisure Contract contains a number of keys terms including the following but not exclusively:

- Regular Meetings of Council's Representative and Contractor
- Standards of Performance
- Notification of Complaints
- Performance & Breach of contract
- Insurance & Division of Liabilities
- Freedom of Information requests
- Terms of variations
- Centres will be Emergency Rest Centres
- Payment details
- Contractors Obligation to Continuous Improvement

3. Key Performance Indicators (KPI's)

The Leisure Contract ensures a number of key indicators for the Council are achieved including increased participation by 1% year on year. A new Management Plan (and being used as a model for other contracts within the Council) will be implemented from April 2017 and covers the monitoring of the performance of the contractor.

The following key performance indicators will be reported on a quarterly basis:

- Service Delivery
- Marketing and Research
- Customer Satisfaction

On a quarterly basis HLT provide qualitative and quantitative data which is submitted to Performance Plus and interrogated by the Senior Management Team. This data is divided into three main categories:

- Under 16 years
- Over 60 years
- Adults 17 – 59 years

The data comes directly from the HLT IT system and can be expanded and analysed

beyond the categories listed above. MKC are currently looking at how these figures can be recorded so that detailed and specific information can be collected and the data used for measuring performance, planning and implementing council strategies i.e. Health and Wellbeing and Sport and Active Communities and against Sport England's targets.

Table 1: Current Key Performance Indicators measuring HLT Obligations.

HLT performance is measured yearly from 1st April until 31st March and the figures below highlight a complete year of the contract.

Year	Participation	% +/-	Rectification Notice Received Y/N	Marketing & Research Strategy Received Y/N	Free Swimming time allotted to Schools Y/N	Sports Development Y/N	Customer Satisfaction Survey Received Y/N
2011/12	713,377	n/a	N	Y	Y	Y	Y
2012/13	776,193	+8%	N	Y	Y	Y	Y
2013/14	*715,652	-8%	N	Y	Y	Y	Y
2014/15	808,068	+11%	N	Y	Y	Y	Y
2015/16	828,979	+2.5%	N	Y	Y	Y	Y

*Fall in participation due to the end of a government initiative for free swimming which coincided with the London 2012 Olympic Games. The Amateur Swimming Association (ASA) recorded similar figures nationally.

4. Contractual Successes

4.1 Financial

During the tender process for the Leisure Contract HLT made a number of investment promises in their documentation across the facilities. HLT have successfully implemented these investment plans in the timeframes agreed with MKC.

Facility	Amount Invested	Project Detail	Date Completed
Bletchley Leisure Centre	£60,000	Front of House IT system installed	December 2009
Bletchley Leisure Centre	£30,000	Starbucks and catering equipment	December 2009
Bletchley Leisure Centre	£10,000	Online booking & membership system	December 2009
Bletchley Leisure Centre	£15,000	Fast Track entry system for Members	June 2012
Tattenhoe Sports Pavilion	£10,000	Front of House IT system installed	April 2010
Oakgrove Leisure Centre	£25,000	Front of House IT system installed	April 2010
Hodge Lea	£220,000	Complete Fit out of Hodge Lea Sports Pavilion.	November 2010

In addition to the agreed investment HLT also identified a number of improvements required as well as some investment opportunities to help support MKC strategic objectives.

The details below outline additional projects completed by Hertsmere Leisure:

Facility	Amount Invested	Project Detail	Date Completed
Bletchley Leisure Centre	£30,000	New Gym installed for Rugby World Cup teams with centre	September 2015
Bletchley Leisure Centre	£250,000	Gym refurbishment	September 2015
Bletchley Leisure Centre	£35,000	New up to date spin bikes	August 2016
Bletchley Leisure Centre	£25,000	Oncourse, a Swimming lesson management system which enables parents to see child progress	April 2012
Westcroft Meeting Place	£35,000	Refurbishment of main hall, kitchen and toilet areas, including new ceiling, lights, decoration and flooring throughout	December 2010
Crownhill Meeting Place	£60,000	Complete refurbishment of main hall, kitchen and toilet areas, including new ceiling,	September 2011

		lights, decoration and flooring throughout. New kitchen and boiler and heating system fitted	
Crownhill Sports Pavilion	£35,000	Due to two break in within this facility HLT replaced all doors and security systems to ensure the site was safe. The site also underwent a full redecoration, replacement showers and toilet facilities.	July 2016
Furzton Sports Pavilion	£27,000 match funded investment with Sport England	Following a successful sport England bid HLT match funded the £50,000 of sport England to install a drainage system into the playing pitches at Furzton.	May 2013 – July 2015
Tattenhoe Sports Pavilion	£15,000 As above	As part of the project above the SE bid was also to complete work on the drainage system at Tattenhoe Sports Pavilion	May 2013 – July 2015
Tattenhoe Sports Pavilion	£24,000	Due to a partnership with MK College, HLT have invested extra on one football pitch to bring it up to an elite footballing standard	2012 – present day
Tattenhoe Sports Pavilion	£19,000	New Bar and catering equipment	April 2011 and September 2016
Oakgrove Leisure Centre	£30,000	Installation of the customer retention system. This enabled the customers to use both sites and record their achievements throughout	April 2010
Oakgrove Leisure Centre	£100,000	Replacement gym equipment and site refurbishment	Sept 2015 & Sept 2016
Oakgrove Leisure Centre	£15,000	New signage, website and decoration,	Sept 2016

To date, HLT's capital investment can be summarised as follows:

- Bletchley Leisure Centre - £455,000 IT and gym equipment. Hodge Lea Pavilion - £220,000 to complete refit of the facility
- Westcroft Meeting Place - £35,000 investment and refurbishment
- Crownhill Meeting Place - £60,000 investment and refurbishment
- Crownhill Sports Pavilion - £35,000, complete refurbishment
- Warwick Road Activity Centre - £5,600, initial redecoration
- Furzton Pavilion - £ 27,000, drainage works on playing fields
- Oakgrove Leisure Centre – £ 145,000 Equipment and refurbishment
- Tattenhoe Pavilion - £ 58,000 investment and refurbishment

4.2 Positive Performance

HLT have continued to deliver a range of diverse activities above and beyond their contractual requirements and developed a number of key partnerships which can be summarised as follows:

- HLT has committed to continue the role of a Sport Development Officer for an additional 12 years. This is beyond the original three year contractual requirement of £25k per annum resulting in an additional investment to HLT of £300k and a direct benefit to MKC.
- Successful delivery at Bletchley Leisure Centre of a partnership with the MK Clinical Commissioning Group, project managing Get Active Keep Active programme for adults with lung disease to improve their quality of life and assist with condition maintenance.
- HLT was pivotal in the success of The Rugby World Cup in Milton Keynes in 2015. Fitness equipment was replaced to coincide with the arrival of Samoa and Fiji Rugby Union Teams. HLT welcomed both teams and as result MK citizens embraced and enjoyed the events.
- In partnership with Milton Keynes College HLT offer apprenticeships and to date 50 members of staff have achieved a variety of NVQ qualifications. There are currently 5 leisure apprentices and 3 members of staff attending a Sports Leadership Course at MK College. HLT provide the opportunity for all the course members to complete the required voluntary hours to achieve the qualification.
- HLT currently employs around 300 local people and as an organisation operate a Training Academy offering all staff the opportunity to expand their knowledge in their chosen area or explore other avenues.
- HLT gained Street Games Mark for the Fun, Fitness and Football project at Tattenhoe Sports Pavilion.
- Oakgrove Leisure Centre has had a major refurbishment with a new improved fitness suite with new spin cycles and sports equipment.
- The After School Junior Sports Programme at Bletchley Leisure Centre continues to do well. The retention on these sessions is over 90%, with the quality of provision contributing to this success.
- MK 50 was celebrated by HLT offering free activities to the general public at Bletchley and Oakgrove Leisure Centres on the birthday weekend with over 500 people.
- HLT provided 'warm up' sessions to participants in the Sport Relief Mile and supported the Council in running a successful event.
- BLC was evaluated for QUEST (Industry recognised quality management system) over a 3 day period and received a GOOD registration.
- HLT have secured funding from the Community Badminton Network (CBN) to run an initial 4 week Badminton project for service users of Rethink.

5.0 Issues Arising

5.1 Parish concerns

Shenley Brook End and Tattenhoe Parish Council have over a period of time expressed concern about facilities in their parish and the issues can mainly be summarised as:

- a. Cleaning
- b. Litter
- c. Dual Use of facilities

These have been highlighted on a number of occasions and followed up promptly by monitoring officers. Understandably of concern for the Parish, on occasion the background to these issues has not always been as first presented. Cleanliness and litter is often about a point in time and with the new HLT management structure in place since last September there is a now a level of improved consistency.

5.2 Legal implications of taking key sites out of the contract

In order for this to be considered the Council must serve a Council Notice of Variation on the contractor eg to remove any facility from the contractor under Clause 9 of the Conditions of contract.

Clause 9.3 of the contract states:

'that the specification cannot be varied (by omissions or additions) and the Annual Contract Fee cannot be adjusted unless the procedure set out in clause 9.2 for variation is followed'.

Under clause 9.2.1 (c) states

'that the Council cannot propose a variation which would materially and adversely affect the ability of the Contractor to perform the Services or cause or be likely to cause Loss of Revenue or incur expenditure in a way that is not adequately compensated for.'

Therefore, the removal of any facility which causes or is likely to cause loss of revenue to HLT (and in this regard, the contract would have to be looked at as a whole and not just in relation to one facility) the Council will need to compensate HLT. The amount of compensation must be agreed with the Council and HLT.

The contractor must not be in a *'No Better, No Worse position than if a Council Notice of Variation had not been proposed.'*

If the parties cannot agree the dispute will be determined in accordance with clause 13.4 Dispute Resolution

6. Clarification to the Contract

It is important to highlight the losses HLT have incurred as a result of the information published in the original tender documentation.

HLT have absorbed all these losses with no additional payments required from MKC and no reduction in service to the users of these facilities. Such as:

- Loss of income of £ 57k (to date) from Arabian Gym based at BLC. The tender included an income of £30k p/a for exclusive use of the facility by Arabian Gym and informed the financial submission. This was not paid in full until 2015 which resulted in the current loss of £57k.
- £30k per annum expected income generation from Warwick Road Activity Centre. The tender failed to inform the bidders of the resident nursery's hourly rate of £1.98. This resulted in an actual income of £6,073 a loss of £23,927 in the first year. 7 years on the nursery pay £8.00 per hour compared to £17.00 per hour paid in all other facilities. HLT continue to support the nursery by bearing the consequential loss.
- Loss of expected income at Oakgrove Leisure Centre given the stalling of house building in the local area due to the downturn in the property market (2008).
- Tender information relating to usage of football pitches managed directly by MKC were valued £34,000 p/a. The actual maximum was £27,252. The difference of £6748 will result in a loss of £101,250 to HLT over the term of the contract assuming 100% utilisation.
- In 2011 HLT recorded a loss of £ 75k in their published accounts as a direct result of tender information.

7. Officer time devoted to challenges to the Leisure Contract

Despite an audit in the Autumn of 2016 of the monitoring of the HLT leisure contract (which received 'Good' the highest that can be achieved) and within a climate of reduced officer resources, the time devoted to both investigate, follow up, attend meetings, site visits and write subsequent reports and briefs has been considerable.

This is representative of a commitment to support the operational success of the contract and to ensure concerns expressed were / are fully addressed.

8. Position Statement

The Leisure and Community Team responsible for the monitoring of the Hertsmere Leisure Contract consider that:

1. The Leisure Contract continues to deliver value for money for MKC.
2. Contributes to the MKC Corporate Plan on a number of objectives.
3. The contract significantly contributes to MK's health, wellbeing and physical activity agenda
4. Significantly contributes at no cost to the Council to major events in MK including Sport Relief (4x), MK50, Rugby World Cup and County Swimming Championships
5. HLT works positively and inclusively with strategic partners and stake holders adopting a philosophy of participation, encouraging users and non-users to adopt a healthy life style promoting a change for life.