

Report of the Director of Learning and Leisure

Executive Board

Date: 18th October 2006

Subject: Leeds Sports Trust – progress report

Electoral Wards Affected:
All

Specific Implications for:

Equality and Diversity	<input type="checkbox"/>
Community Cohesion	<input type="checkbox"/>
Narrowing the Gap	<input type="checkbox"/>

Eligible for Call In

Not Eligible for Call In
(Details contained in the report)

EXECUTIVE SUMMARY

This report provides Executive Board with an update on progress made since the initial Executive Board decision, in March 2006, to the in principle transfer of the Sport and Active Recreation Service to a Non Profit Distributing Organisation (Trust).

The report also provides a summary of the implications to the Trust proposal from the publication, in June 2006, by the Audit Commission – “Public sport and recreation services – making them fit for the future”.

The report summarises progress within a number of key areas:

- Project management/governance;
- HR issues
 - Support Services
 - Consultation
- Property issues;
- Legal aspects;
- Financial issues.

Executive Board are requested:

- 1.1 To approve a charitable company limited by guarantee as the intended legal form of the Trust, with 19% Leeds City Council representation, as outlined under the Legal and resource implications section;
- 1.2 To recognise the reconsidered level of net annual savings from NNDR (rates)/ VAT

as being a maximum of £1,164,921 and an estimated minimum £725,921 per year, based on 2006/07;

- 1.3 To approve the increased, estimated set-up costs of £464,417 involved in creating the Trust, due to be committed over the 2006/07 and 2007/08 financial years.
- 1.4 To approve the next implementation stage of the Trust transfer through to March 2007, with a target date of 1st April 2008 for the Trust to become fully operational;
- 1.5 To note the key tasks to be addressed during the next implementation stage;
- 1.6 To approve the proposals for decision-making, with further progress reports provided to Executive Board at key moments throughout the process, in particular to formalise the legal establishment of the Trust and the formal approval to transfer staff and facilities to the Trust;
- 1.7 To note all other aspects of the report, the attached appendices and progress being made.

1.0 Purpose Of This Report

- 1.1 This report provides Executive Board with an update on progress made since the initial Executive Board decision, in March 2006, to the in principle transfer of the Council's sport and recreation facilities and consequently the Sport and Active Recreation Service to a Non Profit Distributing Organisation (Trust).
- 1.2 The report seeks approval from Executive Board to progress to the next implementation stage of the Trust transfer, with a target date of 1st April 2008 for the Trust to become fully operational.

2.0 Background Information

- 2.1 A previous report to Executive Board in March 2006 outlined the findings from an independent assessment of the Trust option by legal firm, Lawrence Graham, who have experience in establishing over 40 leisure Trusts across the United Kingdom. The appraisal undertaken by Lawrence Graham together with Peter Kay of Fusion highlighted the considerable annual savings that could be realised, as well as the opportunity to build on the successful current work of the Service.
- 2.2 After considering this report, Executive Board agreed in principle to the development of the Trust. The Board also agreed that all savings accruing from the establishment of the Trust be reinvested back into the Trust and the city's Leisure Centres to help maintain and improve service delivery.
- 2.3 **“Public sports and recreation services - Making them fit for the future”, Audit Commission, June 2006.**

The Audit Commission produced a report earlier this year examining the current and future provision of public sport and recreation facilities. The report encouraged the need for local authorities to take a strategic approach in terms of sport and

recreation service provision, with partnership working encouraged with the private sector, education, health and neighbouring authorities.

- 2.4 In-house, private sector and Trust models of service provision were considered, with the conclusion that no particular model appeared to be more effective than another. The major change of the past 4 years has been a transfer of management from in-house to Trusts, with the private sector remaining static. The report noted that “the re-investment of significant levels of (VAT/NNDR) savings in sport and recreation provision was infrequent” and when invested these “tended to support maintenance budgets rather than assist... rationalisation and improvement of provision.”
- 2.5 A detailed options appraisal of leisure centre facility stock is recommended as key to the long-term facility provision plans for a local authority. This exercise has already been undertaken in Leeds with regard to the New Leaf PFI project and a similar, objective, detailed exercise is also currently underway for the remaining leisure centres, to provide a clear picture of planned future provision levels. As the Audit Commission notes that the strategic planning of local sport and recreation services is underdeveloped with little robust assessment of current private and public leisure provision, community needs and future demand it will be essential to include assessment of these issues in the options appraisal.
- 2.6 The report also highlights the need for improved performance management to demonstrate value for money, through the use of financial performance indicators and measurable social outcomes within delivery arrangements.
- 2.7 A potential weakness of the report is that little notice is given to the potential investment opportunities created by the Prudential code, especially when matched against the NNDR/VAT savings that a Trust solution provides. The report highlights the limited current numbers of authorities who have used prudential borrowing for new facilities, but does provide a case study on this. The report also notes that when externalising services “councils are missing opportunities to make efficiency savings in relation to central services.”
- 2.8 The report also found that “...all trusts within the study had invested in improved services”.

3.0 Main Issues

- 3.1 A number of key work areas have been progressed since the March 2006 Executive Board report and a summary of the work undertaken in each of the following areas is outlined below:

- Project Management/ Governance
- Human Resources
- Property issues
- Legal issues
- Resource implications/ financial reassessment

3.2 Project Management/ Governance:

A project board to oversee the development of the Sport Trust project was established in February 2006, currently chaired by the Director of Learning and Leisure. The project board includes officers from across both the Learning and Leisure Department and the council as a whole.

- 3.3 A project team was also formed in June 2006, chaired by the Head of Sport and Active Recreation. The project team also includes a range of both departmental and corporate officers.
- 3.4 Terms of reference have been agreed for both groups and their respective membership is included within the project initiation document (PID).
- 3.5 Dedicated staff positions have been created to drive the Trust development process forward. A Sports Trust officer post has been created within the Learning and Leisure Department on a 1 year secondment basis. A further full time post has been seconded for 18 months from Corporate HR. Finally, a Project Manager post within Development Department has been advertised to provide a full time project manager resource to the project on appointment. This officer is expected to be in post by the end of December 2006
- 3.6 Collectively, the various dedicated project officers, alongside the officers of the project board and project team, together with senior staff within the Sport and Active Recreation Service itself, there is now established an effective resource to ensure the successful implementation of the project. Importantly, the project is being progressed as a major corporate initiative
- 3.7 As noted above, a project initiation document has been developed for the project. The project plan is currently being finalised. The council's Project Assurance Unit will also consider the project.
- 3.8 Consideration has also been given in detail to the need for external project consultant support. In particular there was a concern that a Sports Trust had clearly never been established before in Leeds and it was felt that consultants with previous experience of establishing a Trust may be able to ensure that no significant issues were overlooked. However, after consideration of the initial project plan, it has been concluded that with the wide range of experience, knowledge and skills available across the local authority the need for consultant support at this stage is limited. Consultants will be called upon to act within a "critical friend" role in assessing the proposed project plan to ensure that it seems appropriate and that it provides an effective framework for progressing the Trust project. They will also be used to provide advice regarding specific areas of work where necessary.
- 3.9 It also needs to be recognised that there will be a need for a very clear separation of roles by the end of this next implementation stage (i.e. March 2007), to ensure there are clear lines of responsibility/accountability for both the emerging Trust and the council. Discussions are currently underway to determine the most appropriate project board arrangements upon establishment of the shadow Trust and taking into account any issues arising from the scheme of delegation proposed below.
- 3.10 A summary of the elements within the current Sport and Active Recreation Service that are planned to transfer to the Trust are detailed within Appendix 1.
- 3.11 **Scheme of delegation**
- 3.12 It is proposed that the following critical decisions will be taken in accordance with the usual delegation arrangements :
- Approval of completion of Stage 2 – Initiation phase (i.e. this report) and of the following subsequent project phases:

- Stage 3 – Moving to implementation 1 (October 2006 – March 2007) – leading up to the implementation of the shadow Trust board;
- Stage 4 – Moving to implementation 2 (April 2007 – March 2008) – the 1st year of the shadow Trust board being operational;
- Stage 5 – Implementation (April 2008) – full transfer and operation of the Trust;
- Stage 6 – Closure (April 2008 – June 2008)
- Approval of the principal terms of the agreements between the Council and the Trust, which sets out the Trust vision for the future provision of sport and active recreation services in Leeds. This will include the long-term objectives of the Council and the Trust and their shared objectives. This will explain how the Trust and the Council will work in partnership to deliver these objectives. As an appendix, the agreements will contain a Capital Investment Plan, which will set out proposals for the future of the sport and active recreation property portfolio under the Trust's stewardship. These will be further developed in partnership with the Council as the Trust moves forward ;
- Approval of the management fee arrangements and the delivery plans, which will set out the specific services to be implemented by the Trust during 2008/09;
- Approval of the City Council members of the Trust and the Trust Board;
- Approval of any agreements relevant to the transfer of staff;
- Approval to the grant of leases and licenses of all relevant properties;
- Approval to the financial arrangements, including insurance arrangements and pensions;
- Approval to enter into Service Level Agreements.

3.13 It is proposed that the remaining decisions required during the project will be dealt with by the Trust Project Board via delegated decisions by officers in accordance with the existing arrangements.

Where there are proposed or actual significant changes to project scope (including content, cost, quality and programme) a further report will be tabled to Executive Board.

3.14 **New Leaf Leisure Centre PFI project**

The Sport and Active Recreation Service/ Learning and Leisure Department is currently the client for the above PFI project, where it is proposed that the Trust will be responsible for the operational, day-to-day management of customer-facing service delivery. This is a new, innovative approach to leisure centre PFI projects, with HM Treasury recently endorsing such a proposal.

3.15 Clearly, as this is a new approach, there will be considerable interface issues to be resolved between the emerging Trust and the Council and, in turn, between the Council and the PFI contractor. These have yet to be discussed, but it is proposed that the Trust Project Board becomes the decision-making body for the issues relating to the Trust/ Council interface, via delegated decisions by officers, without the need to report back to Executive Board.

3.16 **Human Resources issues**

A central consideration will be the range of HR issues that need to be addressed within the Trust project. Key aspects include the TUPE transfer of staff and pursuing admitted body status with the West Yorkshire Pension Fund. The secondment of a project manager from Corporate HR, mentioned above, will be crucial in assisting in this area of the project. Further information regarding the progress made with the various HR issues will be reported back to Executive Board at a later date.

3.17 **A) Support Service implications**

The March 2006 Executive Board report noted the considerable current support service costs and the intention to initially buy these back from the Council via a service level agreement with each particular support service (corporate and departmental). A similar arrangement already exists between both Education Leeds and the housing ALMOs and the council.

- 3.18 Work has been undertaken within Learning and Leisure and Corporate Services to establish the current range of support functions undertaken, the amount/level of officer involvement in these functions and then the calculation of the current cost based on officer time, together with an allowance for office overheads.
- 3.19 The current, Support Services Review has been beneficial to this process, as support services are already being asked to undertake this work across the council.
- 3.20 With a baseline cost of support services now established, the next stage will be for service level agreements to be compiled, outlining the work that will be undertaken on behalf of the Trust.
- 3.21 It is anticipated that each of the service level agreements will be for an initial year, with options to extend into a second and third year, by which time the Trust will be in a stronger position to determine its future support requirements.
- 3.22 The Audit Commission highlighted the particular issue of support service costs within their recent study of public sports and recreation services. They indicated that a potential disadvantage of a Trust, is that overheads of council's central services, not transferred to the Trust, would be spread over fewer services, with the implications that there is an additional cost for the relevant council. The analysis work already undertaken has considered this issue, and the current Support Services Review will consider it further.

3.23 **B) Staff consultation**

Following the March Executive Board and the in principle approval to proceed, a letter and frequently asked questions information sheet was posted directly to all employees across the Sport and Active Recreation Service. This will be the single largest change to affect the Service and effective communication with staff has been recognised as being essential.

- 3.24 Further consultation opportunities with staff have been progressed through a variety of means, including:
- Internet pages established on the Leeds City Council website, providing an introduction to the Trust proposal and useful background material, together with a specific e-mail address to raise any questions/concerns (sporttrust@leeds.gov.uk). This is open to both staff and the general public.

- Trust visits to operating Trust. Staff visits have been undertaken to Kirklees, Salford and Barnsley to allow staff to discuss with colleagues within established Trusts issues that are relevant to them.
- Sport seminars are held on a quarterly basis to brief staff on progress being made and to allow for the opportunity for questions to be asked. These have also featured staff from established Trusts presenting their findings to staff.
- “Trackside” newsletter launched across the service to keep staff updated about the Trust, capital investment and other matters relating to the service.
- Development of further frequently asked questions sheets, to ensure consistent responses are provided to staff and customers.
- Monthly “sounding boards”, where senior managers can address issues raised within a small staff group.
- “Trust Champions” have been identified across the service to ensure that information and awareness about the Trust project can be effectively communicated across the diverse staff locations.
- Site visits to all leisure centres/ the sports development unit have been arranged for the Head of Sport and Active Recreation to brief staff personally and be available to respond to their questions.

3.25 **C) Public consultation**

3.26 Public consultation has been limited to date, although an area of the Council’s website has been developed to provide background information about the Trust project, including a copy of the March 2006 Executive Board report, a summary of the Lawrence Graham appraisal and a Frequently Asked Questions briefing note. An e-mail address specifically for Trust questions to be raised has also been established.

3.27 Further public consultation is planned should Executive Board accept this report. This will include:

- Specific customer Frequently Asked Questions handouts widely available to try to answer some of the key questions the public may have;
- Dedicated notice boards being established at all leisure centres, providing background information regarding Trusts and regular updates to users regarding progress being made;
- Comments forms available at all leisure centres for the public to express their opinions and raise any issues they may have. Replies will be published where possible on both the website and placed on the noticeboards in sites;
- Regular press releases to provide updates about the Trust’s development.

3.28 **D) Trade Union consultation**

3.29 Communication has been underway with GMB and Unison for some time, through briefings with the Head Of Service and, in the case of GMB, their proactive involvement within the Trust/PFI Communication Group. Efforts have also been made to engage with Unison in this group and, ideally both major unions will be involved shortly. The Unions have also been involved in staff seminars.

3.30 Leeds Sports Trust has been regularly discussed at departmental JCC meetings.

- 3.31 The first formal negotiation meeting with the Trade Unions is anticipated to take place following the October Executive Board meeting. Previously, a brief presentation at the Corporate JCC meeting on 14 July 2006 took place. The Unions had been asked to provide a comment with regard to the proposed transfer to a Sports Trust, based on the findings of the initial Lawrence Graham appraisal and the March 2006 Executive Board report. However, unfortunately no comment has since been received from the Unions to include within this report.
- 3.32 **Property Issues**
- 3.33 Initial consideration has been undertaken in respect of the proposed occupational arrangements of the buildings to be used by the Sports Trust.
- 3.34 At this stage consideration is being given to the type of lease arrangement that would be for granted both for the existing leisure recreation and sports centres and those replacement facilities that are being pursued through the New Leaf PFI Project and would be maintained by the PFI Contractor over 25 years.
- 3.35 In order for the Sports Trust to obtain the financial savings in respect of NNDR the Trust will need to be granted an interest in the properties so that they are the party who are responsible for the payment of NNDR and that this responsibility does not rest with the council.
- 3.36 In addition there are a number of the main heads of terms of any occupational arrangement that have to be agreed and assessed. The key ones are:
- (1) The term/length of the occupational arrangement.
 - (2) The rent payable under such an arrangement.
 - (3) The repairs/maintenance responsibility between the Sports Trust and the council for the buildings and sports equipment and the associated impact on the management fee for the Trust.
 - (4) Insurance arrangements for the buildings/premises.
 - (5) The right to charge the buildings in order to use them as security for loans.
 - (6) The right to transfer the arrangements to another party.
 - (7) The termination or surrender of the occupation either because the running of the facility is no longer viable or because the facility is being replaced elsewhere.
 - (8) Interface management arrangements between the council, Trust and PFI Contractor - fixtures, fittings and equipment.
- 3.37 In respect of the occupational arrangements initial consideration is being given to granting the Sports Trust a 25 year lease of the properties owned by the council. There will need to be further consideration to the occupational arrangements for the New Leaf PFI buildings.
- 3.38 A key factor to be considered in relation to determining the rent payable will be the likely effect on the council's VAT position, if the lease could be construed as a supply which was other than "non-business".
- 3.39 There may be consequential issues in relation to the valuation of the sports facilities, and the council's statutory obligation to dispose of land for the best consideration which can reasonably be obtained.

- 3.40 It is proposed that further work is undertaken in respect of the occupational arrangements and that once the terms are agreed these are approved by the Director of Development or referred back to the Executive Board as appropriate.
- 3.41 **Legal And Resource Implications**
- 3.42 **Legal Issues**
- 3.43 The Director of Legal and Democratic Services has taken advice from counsel in relation to the council's powers to enter into the proposed arrangements, and the need or otherwise for a competitive procurement exercise.
- 3.44 Counsel has expressed the clear view that in relation to establishing the legal vehicle for the Trust, acquiring charitable status for it, granting to it a lease of the leisure and recreation facilities , and making grants to it the council has sufficient powers under section 2 of the Local Government Act 2000 (the so-called 'well-being' powers).
- 3.45 S2(1) of the Local Government Act 2000 provides :
- Every local authority is to have power to do anything which they consider is likely to achieve any one or more of the following objectives –
- a. the promotion or improvement of the economic well-being of their area
 - b. the promotion or improvement of the social well-being of their area
 - c. the promotion or improvement of the environmental well-being of their area
- 3.46 Any one of the following categories may benefit from the use of the powers – the whole of the area; - part of the area; - all persons resident or present; - or any person resident or present. As government guidance points out: - "this should encompass all groups within a community (including ethnic minorities, women, faith communities, older people, young people and children, and disabled people as well as business, voluntary groups and other local organisations).
- 3.47 In determining whether, or how, to exercise this power, the council must have regard to its community strategy (Vision for Leeds).
- 3.48 It is notable that the Act does not require the council to be certain that well-being will be promoted or improved as a result of these arrangements, only that it considers it is likely. In addition, neither the Act nor the government guidance is prescriptive about how well-being, or its promotion or improvement are to be measured. The guidance states that these are matters for the local authority itself "taking account of their local circumstances". It follows therefore that the council has a broad discretion in deciding how to assess well-being in this context, and the contribution which these arrangements are likely to make to it.
- 3.49 In response to the question as to whether a procurement exercise is required, counsel has expressed the clear view that as the Sport and Active Recreation Service will be going outside of the council and will not be provided to or through the council, there will be no service contract or concession contract and therefore there is no procurement by the Council. It was counsel's view that the disposal of the whole of the premises and facilities is not, in itself, a procurement activity, and the fact that the lessee may be said to make use of what used to be the council's assets

(and may be again at the end of the lease) does not make it a concession contract – and there is no contract for services within the definition in the Public Contracts Regulations 2006. In those circumstances a full procurement exercise is not required.

- 3.50 The “Appraisal of Trust Option for Sports Services” by Lawrence Graham, solicitors, (at pgs.71-78) sets out the key characteristics and implications of various legal vehicles available for the sports trusts. That document, which was completed in October 2005, recommends that the most appropriate legal vehicle for the Trust would be a charitable company limited by guarantee.
- 3.51 One of the features of such a company is that it is not automatically exempt (as is an unincorporated charitable trust) from the rules relating to the capital finance effects of regulated company status. Following the repeal of relevant parts of the Local Authorities (Companies) Order 1995 and their awaited replacement by new regulations yet to be made by the Secretary of State there is some uncertainty as to the effects of regulated company status. Before the repeal, this status meant that certain capital finance transactions of a regulated company were treated as those of the Council itself. Until the agreements with the Trust are progressed further, it is unclear whether this status will be significant or not.
- 3.52 It is possible for a company limited by guarantee to avoid regulated status by retaining less than 20% of the total voting rights at general meetings of the company, and ensuring that less than 20% of the directors are persons associated with the council. Although holding such a minority interest might be thought disadvantageous to the council there were a number of other ways in which the council could seek to protect its position as a stakeholder. Those include:
- Provisions in the company’s rules requiring the Council’s agreement to certain fundamental changes
 - Additional voting rights on certain key decisions
 - A members’ agreement which would require the consent of the council to certain fundamental changes, such as a change in the company’s objects, or a change in voting rights, or changes to an agreed business plan
 - Provisions in the lease governing the level of services to be provided
- Although it is worth noting that if the company is to be successfully registered as a charity such protections would have to be consistent with the independence of the board to run the affairs of the company as charity trustees.
- 3.53 The Director of Legal Services has reviewed the analysis by Lawrence Graham, and supports their recommendation. The council have significant experience of the operation of a limited company structure, as opposed to unincorporated trusts. The majority of the council’s strategic and key partnerships (for example, Education Leeds and the Grand Theatre) have limited company status, and significant community and local partnerships (for example, the ALMOs) are companies limited by guarantee.
- 3.54 In summary, at the present time, it is considered prudent for the Trust to seek to avoid regulated company status and, at the same time, this should satisfy the need for the Trust to be regarded as independent from the Council for the purposes of registration of the Trust as a charity. Therefore, elected member representation on the company Board will need to be no more than 19.9%.

3.55 Resource implications

3.56 A number of resource aspects, in addition to the officer/consultant resource outlined in 3.2 above, have been further investigated since the March 2006 Executive Board report, as follows:

- Financial reassessment of the likely NNDR (rates) and VAT savings;
- Collation of the range of set-up costs that will be incurred in order to establish the Trust;
- Identification of the range of new costs that will need to be addressed by the Trust;
- Clarification of the various support service costs both at their current level and to identify if there will be any increases expected following the establishment of the Trust. (See 3.17 above)

3.56.1 Financial reassessment

3.56.2 A sub-group of the main Project Team, including financial representatives from Learning and Leisure and from Corporate Services, including the taxation section, has conducted a thorough reassessment of the NNDR and VAT savings that can be expected to be generated by establishing the Trust, using 2006/07 budget information. These are summarised below, comparing with the 2005/06 used by Lawrence Graham.

3.56.3 The March 2006 Executive Board report outlined the expected new costs that the Trust would need to address, summarized as a cost of £559,000. Again, this has now been reconsidered, with the revised projection summarised below against the original figures:

	Lawrence Graham appraisal	LCC reassessment
NNDR savings	748,058	1,036,000
VAT savings	439,864	Best case: 600,000 Worst case: 161,000
Total:	1,187,922	Best case: 1,636,000 Worst case: 1,197,000
Additional annual costs to the Trust/ Council	559,125	417,079
Net annual saving -	628,797	Best case: 1,164,921 Worst case: 725,921

If the “best” case figure were fully converted to prudential borrowing, over a 15 year payback period, this would generate approximately £11m capital funding to reinvest into the service. Even the “worst” case figure would be able to generate approximately £7m in capital funding.

The VAT assessment in particular has proven to be a complicated and extensive exercise, with the difference between the “best” and “worse” case figure being achieved via the use of a “management fee” arrangement between the Council and the Trust. Such an arrangement is used by a number of Trusts already and has been supported by financial consultants who were specifically engaged to advice on this matter. Such a “management fee” arrangement would, however, be subject to final approval by HM Customs and Excise, a process which would have to be undertaken later in the Trust project.

It should also be noted that the VAT assessment is the combination of a range of different aspects and an assessment of their impact on one another. The VAT position will vary over time depending on the performance of the Trust and the type of activities undertaken. A more detailed explanation of the VAT assessment is included in Appendix 2.

It would therefore appear that the initial savings forecast within the Lawrence Graham report appear to be achievable following the reassessment exercise that has been undertaken.

One of the key stages in determining the level of savings is the development of the proposed business plan for the Sport Trust and its acceptance by the Trustees. Once the business plans are developed, in conjunction with a proposed investment plan, it will be possible to propose the eventual costs to the council, payable by the management fee. In addition it will be possible to confirm the costs to the council for managing the arrangements with the Trust. Approvals of these costs will be subject to the council’s budget approval processes.

3.56.4 Set-up costs –

3.56.5 A range of set-up costs were identified within the Lawrence Graham appraisal/ March Executive Board report. These have also been reconsidered and a revised list, including, where possible, dedicated internal officer costs, provided to give a more complete figure. These costs would be incurred over both the 2006/07 and 2007/08 financial years and also include a 10% contingency allowance:

	Lawrence Graham appraisal/ Exec. Board – set-up costs	LCC reassessment – set-up costs
Total:	250,000	464,417

3.56.6 The vast majority of these set-up costs relate to the Trust itself, with an estimated £281,971 being required prior to the Trust becoming fully operational. Lawrence Graham did not take any costs associated with the Trust itself into account within their appraisal. The identified costs include elements for officer support; professional advice (for property and legal aspects); branding; and Trustee recruitment and training.

3.56.7 In order to develop the project from the Trusts perspective, ensuring they have ownership of the initiative and are fully aware of the service being provided, etc. it is viewed as being important that a shadow Trust, together with key officer support, is established at an early stage. Importantly, this will also allow the key documentation

to be progressed and signed off, as the Trust will need to be involved in this process.

- 3.56.8 It is proposed such a body is ideally in place for the start of the 2007/08 financial year. Clearly there will be a number of costs associated with the shadow Trust for its' operation prior to the formal transfer in April 2008. These have been included within the above set-up cost estimate.

4.0 Next steps

- 4.1 There are a number of key areas that need to be considered and taken forward as the Trust project develops. These include an agreed capital investment plan, informed by the options appraisal currently taking place; a detailed business plan for the Trust; and the property issues relating to the leases required for the facilities involved in the transfer.
- 4.2 Early consideration needs to be given to the **capital investment programme** that will be implemented following the transfer, so that the full costs, timescales and closure issues can be fully considered. There will obviously be an impact on current users as this work is implemented and communication with customers is vital so that this can be minimised and alternative provision considered where possible.
- 4.3 One of the key aims of the next stage of the project must be to **establish a shadow board of Trustees**, with the Trustees positions advertised and interviewed to ensure the correct blend of business and social enterprise skills that will be required to strategically take the Trust forward. This needs to happen to ensure ownership of the Trust sits firmly with the Trustees and they do not feel that they are responsible for the future of an organisation that they do not know in detail. Learning and Leisure have identified the cost of this resource, alongside the required officer support, as a budget pressure within the 2007/08 budget process. These costs are also included within the summary of set-up costs outlined above.
- 4.4 Equally, there is a need for key officers of the Trust to be appointed at an early stage, as these full time positions will be required to ensure the viewpoint of the Trust is represented in the various project developments taking place. This will also involve the procuring of legal advisors to assist the Trust. It is proposed that the Trust's Chief Executive post is in place for the start of the 2007/08 financial year. The Trust's Finance Director post would then be appointed to commence as of 1st October 2007. The Sports Trust Project Officer within the Learning and Leisure Department will also transfer as of the start of the 2007/08 financial year to work on the project from the Trust's perspective full time.
- 4.5 At this stage of the process, it is important that there is a clear separation of roles between those advising the Council on the Trust proposals and those who may at some time in the future be either a Trustee or a senior officer of the Trust. Therefore discussions are taking place with the Director of Legal and Democratic Services to ensure that appropriate and timely separation of roles and duties are established.
- 4.6 Formal Union negotiation will also commence during the next phase of the project, with monthly meetings being arranged to cover all relevant aspects of the Trust so that the Unions can be effectively engaged.

5.0 Conclusions

- 5.1 Considerable progress has been towards the transfer of the Sport and Active Recreation Service to a Sports Trust. Project structures are now in place to drive this process forward over the coming months and ensure that an efficient transfer process takes place. This should lead to a Sports Trust being created that will be able to effectively improve the level of sport and active recreation provision offered to the citizens of the Leeds local authority area.
- 5.2 The financial reassessment appears to support and even enhance the conclusions made within the Lawrence Graham appraisal and the proposed tolerance levels should allow for the project to progress within an agreed parameter.
- 5.3 The intention is now to move forward within the various work streams established, especially in terms of moving towards an actual shadow Trust, so that the work undertaken can be shared and negotiated with this independent body. This is crucial to ensure that the majority of key items can be objectively agreed to and signed off.

6.0 Recommendations

Executive Board are requested:

- 6.1 To approve a charitable company limited by guarantee as the intended legal form of the Trust, with 19.9% Leeds City Council representation, as outlined under the Legal and resource implications section;
- 6.2 To recognise the reconsidered level of net annual savings from NNDR (rates)/ VAT as being a maximum of £1,164,921 and an estimated minimum £725,921 per year, based on 2006/07;
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