

Report of the Head of Active Leeds

Report to the Chief Officer Culture and Sport

Date: 25/10/18

Subject: Fitness Class Licences Waiver of Contracts Procedures

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

1. A waiver to procure fitness class licences was signed off in February 2017, but as part of this it was to review the process every year. However things will not change from one year to next and in order to reduce officer time it is recommended that the waiver is extended for a further 4 year.
2. The value of health and fitness membership for the service is £5.8m per annum and specific casual fitness class income of over £500k per annum. Not being able to keep up to date with the latest trends in fitness classes will have massive financial implications on the service.
3. To enable the service to compete in the fitness market is essential that we are able to provide new trends and products. Failure to be at the forefront of new products is likely to lead to customers using our competitors, which would reduce the services income.
4. The council currently pays monthly fees for Les Mills and Clubbercise licences. At the time this report was written the council had a combined total of 30 licenses for Clubbercise and Les Mills
5. To carry out a full tender process is not achievable as these licences are unique and therefore have no competition.
6. The only way to procure these fitness licences is to purchase them directly and as speedily as possible in order to meet current trends and customer expectations.
7. PPPU have requested that in order for the service to maintain good practice it should obtain a waiver from the Chief Officer giving permission for Active Leeds staff to waive

a full tender process each time this type of product is required.

8. In 2018/19 Active Leeds team project to spend 18K on procuring licences for industry specific fitness programmes.

Recommendations

1. The Chief Officer for Culture and Sport is recommended to approve the waiver to procure the offering of licensed industry specific fitness classes for a period of 4 years, due to the following contracts procedure rule(s):
 - Contracts procedure rule no 3.1.6 – requirement to use existing suppliers.
 - Contracts procedure rule no 3.1.15 – requirement to use the council's standard tender documents.
2. The service will maintain a list of licensed suppliers and add/delete as and when appropriate.

1 Purpose of this report

- 1.1** This report aims to highlight to the Chief Officer for Culture and Sport why the business is unable to comply with a full tender process each time an industry specific unique licence for a new fitness programme is procured.

2 Background information

- 2.1** A waiver to procure fitness class licences for Active Leeds was signed off in November 2017, but as part of this it was to review the process every year. However things will not change from one year to next and in order to reduce officer time it is recommended that the waiver is extended for a further 4 year.
- 2.2** The fitness industry is constantly evolving. New products and trends come into the industry often and usually follow trends from America.
- 2.3** The council currently pays monthly fees for Les Mills and Clubbercise licences. At the time this report was written the council had a combined total of 30 licenses for Clubbercise and Les Mills. In addition to this the council also pay a monthly fee for 4 licences to Metafit in order to download and use their music and class format in our leisure centres.
- 2.4** Purchasing unique licensed programmes enables the service to deliver a branded, consistent and competitive service to our customers.
- 2.5** These products are unique and there is no alternative supplier for these, for example, the company Les Mills are the only supplier who have the Les Mills branded products such as Body Pump, Body Combat. These brand names are well established in the market and subsequently are attractive to our customers and potential customers. Due to this they do generate a higher number of participants, and therefore a greater level of income for the service.
- 2.6** To enable the service to compete in the fitness market is essential that we are able to provide new trends and products. Failure to be at the forefront of new products is likely to lead to customers using our competitors, which would reduce our income. The market currently is saturated with competitors in Leeds. In order to prevent this from happening and to ensure that income is maximised as much as possible, the Service continually research the fitness market to ascertain what products are available and which are suitable for the market in Leeds. Current products which are currently being delivered include Les Mills, Metafit and Clubbercise as an example.
- 2.7** As part of the Council's contract procurement rules, staff are required to carry out a tender exercise before they are able to procure a service. It is impossible to do this as the process is not fit for purpose, these are unique products and as such there is no competition. Therefore it is imperative that the recommendations proposed in this waiver are agreed.
- 2.8** PPPU have requested that in order for the service to maintain good practice it should obtain a waiver from the Chief Officer giving permission for Active Leeds staff to waive a full tender process each time this type of product is required.
- 2.9** In 2018/19 Active Leeds team project to spend 18K on procuring licences for industry specific fitness programmes. It is expected that in 2019/20 this could rise as we pilot virtual licensed programmes to £20k. This spend however will be

offset by maintaining and increasing income.

3 Main issues

Reason for contracts procedure rules waiver

- 3.1** The reason that this waiver request is being made is because of the need for the service to be quick, efficient and flexible in the procuring of unique industry led fitness programmes and to ensure procurement rules are followed. The existence of these unique products would render any procurement exercise as an unnecessary step.

Consequences if the proposed action is not approved

- 3.2** Failure to be able to procure these unique licences would significantly undermine the service offer within a highly competitive operating environment and would have a significantly negative impact on income.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 Members of the team review programmes 3 times per year and these reviews include viability of classes to ensure they are fit for purpose
- 4.1.2 The fitness team regularly search the industry for new products through attending benchmarking forums such as “LFX” or industry specific shows such as Leisure Industry.
- 4.1.3 Feedback from customers is monitored regularly via social media, verbal/written communication is considered and annual surveys with customers are completed.
- 4.1.4 Fitness staff are encouraged to speak with customers prior to and following each class for feedback on classes
- 4.1.5 Staff from both the management and operational teams also contribute towards regular discussions regarding the programmes delivered by our service through formal meetings with the fitness teams
- 4.1.6 The services finance officer has been consulted and is in agreement with the approach.
- 4.1.7 The portfolio holder for Environment and Active Lifestyles was consulted on the 19th October 2018

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 Leeds City Council aims to procure music from different genres and generations, in order to attract customers from a variety of age and cultural backgrounds. However none of the current classes are exclusive and are welcoming to people from all backgrounds.
- 4.2.2 The procuring of any industry specific fitness programmes will not have any additional effect on equality and diversity or cohesion and integration within the service.

4.3 Council policies and City Priorities

4.3.1 The waiver request is related to the following council policies:

- Best Council Plan
- Vision for Leeds

4.4 Resources and value for money

- 4.4.1 The waiver of this process represents value for money as it enables the Active Leeds staff to make decisions on implementing programmes quicker and more efficiently and to not waste officer time on an inappropriate exercise.
- 4.4.2 The annual costs of the licences is in the region of £20k per annum and hence on a 4 year period this would be worth in the region of £80k. The value of health and fitness membership for the service is £5.8m per annum and specific casual fitness class income of over £500k per annum. Not being able to keep up to date with the latest trends in fitness classes will have massive financial implications on the service.
- 4.4.3 A waiver enables Active Leeds staff to purchase these unique industry specific fitness programmes.
- 4.4.4 This waiver would ensure that the licensed products would be procured which would increase the number of participants taking part in these classes and subsequently protect and most likely increase the levels of income taken. This would ensure that a significant level of value for money will be obtained.
- 4.4.5 The waiver will be for a period of 4 years.

4.5 Legal Implications, Access to Information and Call In

4.5.1 This decision is not subject to a call in.

4.6 Risk Management

- 4.6.1 If the Chief Officer Culture and Sport does not agree to the contents of this waiver then a full tender process would be carried out each time a licence is required which would prove time consuming, a waste of staff resource and unnecessary given these products are unique. The process being proposed is a pragmatic response to dealing with unique products that form the basis of what customers expect to see delivered in any good health and fitness environment.
- 4.6.2 If these products were not procured then it will lead to a much weaker service offer and loss of income.
- 4.6.3 The partnership which the service has entered into with Alliance is built on Leeds being competitive in the marketplace. Purchasing unique industry specific products supports this.

5 Conclusions

- 5.1 In conclusion it is recommended that the Chief Officer for Culture and Sport agrees to waive the need to go out to tender on each occasion to procure the offering of licensed industry specific fitness classes.

- 5.2 These products are unique and there is no alternative supplier for these, for example, the company Les Mills are the only supplier who have the Les Mills branded products such as Body Pump, Body Combat. These brand names are well established in the market and subsequently are attractive to our customers and potential customers. Due to this they do generate a higher number of participants, and therefore a greater level of income for the service.
- 5.3 To enable the service to compete in the fitness market is essential that we are able to provide new trends and products. Failure to be at the forefront of new products is likely to lead to customers using our competitors, which would reduce our income. The market currently is saturated with competitors in Leeds.

6 Recommendations

1. The Chief Officer for Culture and Sport is recommended to approve the waiver to procure the offering of licensed industry specific fitness classes for a period of 4 years, due to the following contracts procedure rule(s):
 - Contracts procedure rule no 3.1.6 – requirement to use existing suppliers.
 - Contracts procedure rule no 3.1.15 – requirement to use the council's standard tender documents.
2. The service will maintain a list of licensed suppliers and add/delete as and when appropriate.

7 Background documents¹

- 7.1 None.

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.