

**Report of: Events Development Officer**

**Report to: Chief Officer Culture and Sport**

**Date: 06/11/19**

**Subject: Memorandum of Understanding for World Triathlon Series 2020**

Are specific electoral wards affected? If relevant, name(s) of ward(s): Roundhay, Moortown, Headingley, Kirkstall, Hyde Park and Woodhouse and City and Hunslet	<input checked="" type="checkbox"/> Yes	<input 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. The World triathlon Series event is being held in Leeds 2020 on the 6<sup>th</sup> and 7<sup>th</sup> June.
2. The event is being delivered as a partnership between Leeds City Council and British Triathlon.
3. On the 13<sup>th</sup> December 2017 Executive Board gave approval to host the 2018, 2019 and 2020 WTS events.
4. A further report was taken to Executive Board in October 2018 informing them of a successful bid to the West Yorkshire Business rate pool. The funding allocated included an additional allocation of funding to complement the aforementioned contribution from the Council. This funding helped secure the event in Leeds for 2019 and 2020.

### Recommendations

The Chief Officer Culture and Sport:

- (i) Notes the legal and commercial risks of entering into the MoU; and
- (ii) Grants authority for LCC to enter into and sign the MoU for 2020.

## **1 Purpose of this report**

- 1.1 To obtain approval to enter into a legal agreement with British Triathlon to host the World Triathlon Series event in Leeds on 6<sup>th</sup> and 7<sup>th</sup> June 2020.

## **2 Background information**

- 2.1 In December 2017, Executive Board received a report on the International Triathlon Union (ITU) World Series 2018 to 2020. The Board resolved:

- the continued contribution of £230,000 per annum as cash contribution towards hosting the event;
- the Chief Officer Culture and Sport to be given authority to enter into any legal agreements for the 2019 and 2020 WTS event; and
- the Memorandum of Understanding for the World Triathlon Series Leeds 2018 (and any subsequent World Triathlon Series event) between British Triathlon Federation and the Council to be entered into on the same financial basis as that previously agreed for the 2017 event.

- 2.2 Officers have been working alongside partners from British Triathlon, UK Sport building on the success of the 2016, 2017 and 2018 WTS events. Building on the Memorandum of Understanding for 2019 a new Memorandum of Understanding is required to cover the 2020 event.

## **3 Main issues**

- 3.1 As resolved at the Executive Board in April 2015 and December 2017, the Chief Officer Culture and Sport should enter into a contractual arrangement or agreement to deliver the event following appropriate legal advice.

- 3.2 It was agreed that a contractual arrangement in the form of a Memorandum of Understanding (MoU) should be developed to formalise the relationship between Leeds City Council and British Triathlon, the event hosts.

- 3.3 The MoU is designed to establish the terms, understanding and responsibilities for the staging of the WTS event that will take place on the 6<sup>th</sup> and 7<sup>th</sup> June 2020 in Leeds. It also identifies the governance structure that will be put in place to ensure the wider developmental benefits are achieved within Leeds through the staging of the event. The MoU covers:

- a) Objectives
- b) Governance
- c) Finance
- d) Timescales

3.4 UK Sport and Triathlon England are identified as partners within the MoU, but do not constitute signatories as British Triathlon hold ownership rights to the event and UK Sport are a funding partner of British Triathlon. The financial risk sharing is between British Triathlon and Leeds City Council under the new management arrangements for the event.

#### **4 Corporate considerations**

##### **4.1 Consultation and engagement**

4.1.1 The Leader of the Council, has been consulted and is aware of the MoU.

4.1.2 Legal and financial advice has been received from within Leeds City Council, forming the content of the document. 'The arrangements for the 2020 event will largely mirror those previously agreed for 2019 and previous events. As per the 2019 MOU there will be a 4 way underwrite between LCC, BTF, Triathlon England and the International Triathlon Union (ITU) to cover any budget deficit arising from the event with the Council's maximum exposure being £120k. British Triathlon (Stakeholder Board members) have been consulted on the content of the document.

##### **4.2 Equality and diversity / cohesion and integration**

4.2.1 The LCC equality team, public health and Adult Social Care are members of the internal project team and have had specific input into the communications and delivery of the event.

4.2.2 There are no specific equality issues raised in relation to the signing of the MoU.

##### **4.3 Council policies and best council plan**

4.3.1 The event provides Leeds with yet another opportunity to demonstrate its international standing on a world stage. The WTS Leeds will especially support the city's ambition as set out in the Best Council Plan to be a strong economy and compassionate city as well as directly contributing to the outcomes of "enjoy happy and healthy active lives" and "enjoy greater access to green spaces, leisure and the arts" . Key Best Council priorities supported include inclusive growth, resilient communities and health and wellbeing.

##### Climate Emergency

4.3.2 Officers will work with the organisers of the event around effective methods of transportation to the transition points and encourage the use of recyclable and compostable materials where possible.

##### **4.4 Resources, procurements and value for money**

4.4.1 The MoU provides the Council with a method of ensuring the financial input agreed at the April 2015 Executive Board is spent on objectives that will support the delivery of the Best Council Plan. The financial implications are set out in the following section.

#### 4.5 **Legal Implications, access to information and call In**

- 4.5.1 The Memorandum of Understanding (The “MoU”) sets out the terms, understanding and responsibilities between LCC and BTF for the staging of the World Triathlon event that will take place on the 6<sup>th</sup> and 7<sup>th</sup> June 2020 in Leeds.
- 4.5.2 BTF own the event and have contracted event management staff to operate “the in field of play” race and oversee the overarching event.
- 4.5.3 Termination of the MoU can take place in the following circumstances:-
- i. There is a change of Control of BTF; or
  - ii. BTF's financial position deteriorates to such an extent that in the Council's opinion BTF's capability to adequately fulfil its obligations under the MoU has been placed in jeopardy; or
  - iii. Either Party fails to comply with any applicable Law; or
  - iv. BTF fails to maintain insurances; or
  - v. Either Party commits a material breach of any term of this MoU which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 14 days after being notified or becoming aware of such breach; or
  - vi. BTF takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business; or
  - vii. Either Party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its obligations under this MoU or its business.
- 4.5.4 Termination can also take place following notice by either party, on an annual basis at the completion of the Event. Early termination can only take place by mutual consent.
- 4.5.5 LCC’s liability under the MoU is limited to the value of the MoU. BTF has a cap on its liability which is also limited to the value of the MoU.
- 4.5.6 If the Event is cancelled and the cancellation, deferment, delay or postponement is the fault of one of the Parties, such Party shall be liable for any losses, damages, costs and expenses suffered or incurred by the other Party as a result of such cancellation, deferment, delay or postponement. If the Event is cancelled due to Force Majeure neither party would be responsible to pay each other costs.
- 4.5.7 Neither party shall be in breach of the MoU nor liable for delay in performing, or failure to perform, any of its obligations under this MoU if such delay or failure result from events, circumstances or causes beyond its reasonable control (ie Force Majeure). If the period of delay or non-performance continues for 2 months

or more, either party may terminate this MoU by immediate written notice to the affected party.

4.5.8 The financial responsibility for the staging of the Event sits with the BTF. LCC will provide a direct financial contribution of £230,000 towards the delivery of the WTS event in accordance with the MoU. The Council will also pay an additional £100,000 for the 2020 event and £30,000 towards event activation funded by the successful Business Rate Pool bid. The Parties shall also provide an Underwrite to the event budget with the LCC underwrite capped at £120,000 as per previous years MOU, with any additional support over and above this to be met by the other Key Stakeholders. This underwrite will cover any overspend arising on the event budget whether due to increased costs and/or reduced income against all event budget lines. The Underwrite is split as follows (taken from the MOU):

**Extract from the MOU below:**

**Finance**

*i. Financial Responsibility.*

*The financial responsibility for the staging of the Event has been agreed and is shared across the Stakeholders with direct financial contributions of £300,000 from UK Sport, £25,000 from BTF and £25,000 from Triathlon England.*

*ii. LCC will provide a direct financial contribution of £330,000 towards the delivery of the Event in accordance with this clause 5.*

*iii. The stakeholders have also agreed the underwrite level should the event be delivered at an operating loss. This underwrite will cover any overspend arising from the event budget whether due to increased costs and/or reduced income against all event budget lines. The Stakeholders have also agreed the split of any operating surplus from the event. Any underwrite split or surplus is allocated as follows: -*

	UNDERWRITE	COMMENTS	SURPLUS
ITU	25.00%		12.50%
LEEDS CC	45.00%	capped at £120k	30.50%
BTF	15.00%		19.00%
TE	15.00%		19.00%
UKS	0.00%		19.00%
	100.00%		100.00%

*The maximum amount of underwrite that LCC shall provide will therefore be capped at £120,000.*

*Leeds CC has proposed to invest an additional £30k into the 2020 budget, specifically on event activation/animation. As part of this proposal, should the event make a surplus then this £30k should be repaid back to LCC in the first instance before any surplus calculations are declared.*

*Any amount agreed between the Parties (acting reasonably) as being due and payable shall be paid on receipt of a valid invoice.*

4.5.9 Any rights for the Event are contained in Appendix 2 of the MoU;

- 4.5.10 The MoU is largely based on the 2019 MOU. BTF has provided an indemnity to LCC against any costs, expenses, damages and losses that LCC may incur as a result of any claim brought against LCC for any infringement of a third party's rights (including Intellectual Property Rights), arising out of or in connection with any Intellectual Property rights granted pursuant to the MoU;

BTF is to indemnify LCC against all claims, proceedings, damages, costs and other liabilities which may arise out of the performance or non- performance by BTF of its obligations under the MoU or the presence of BTF or any BTF staff on LCC premises. This indemnity is subject to the value of the insurances required to be maintained pursuant to the MoU (£10m Public Liability Insurance and £10m Employer's Liability Insurance and other relevant insurances) and to the extent a claim cannot be made against the insurances, BTF's liability is capped at the value of the MoU.

#### **4.6 Risk management**

- 4.6.1 A risk register is held to cover the event risks and one to cover citywide risks; these are reviewed regularly and signed off at the Stakeholder Board.
- 4.6.2 The development of the MoU ensures a legal agreement is in place that lowers the risk of the objectives not being achieved and ensures the funding provided by the Council is managed in an open and auditable manner.

### **5 Conclusions**

- 5.1 The production of a MoU, as resolved by Executive Board in April 2015 and December 2017, will ensure the rights and finances of the Council are protected while delivering an International event to increase the profile of Leeds as a city.

### **6 Recommendations**

- 6.1 The Chief Officer Culture and Sport:
- Notes the legal and commercial risks of entering into the MoU; and
- Grants authority for LCC to enter into and sign the MoU for 2020.

### **7 Background documents<sup>1</sup>**

- 7.1 None.

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<sup>1</sup> 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.