



# **NORTHAMPTON BOROUGH COUNCIL OPTIONS APPRAISAL**

## **FINAL REPORT**

**MARCH 2010**

**Integrity, Innovation, Inspiration**

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# **NORTHAMPTON BOROUGH COUNCIL OPTIONS APPRAISAL**

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## **CONTENTS**

Introduction .....	5
Overview Of Current Service .....	7
Value For Money .....	9
Trusts – Not For Profit Distribution Organisations (NPDO) .....	12
Partnership With An Existing Trust .....	18
Private Sector Partnerships .....	20
Management Options Appraisal .....	22
Financial Appraisal .....	27
Commercial Sector Approach .....	31
Conclusion .....	34
Recommendations .....	35



### INTRODUCTION

This section of the report details the management options that Northampton Borough Council (NBC) should consider. As outlined within the Council's brief it focuses on the following key areas:

- ◀ Determination of whether if the Council is achieving value for money from its current sport and leisure service.
- ◀ Identification of the range of opportunities to maximise financial advantage, and in particular access opportunities for savings and investment that may not currently be available to NBC.
- ◀ Identification of criteria against which potential options can be measured.
- ◀ Identification of the advantages and disadvantages of each management option.
- ◀ A financial evaluation of each option.

The scope of the facilities and services included within this review include:

- ◀ Mounts Baths.
- ◀ Lings Forum.
- ◀ Danes Camp.
- ◀ Sports Development.

It should be noted that the review does not consider in detail the options for the management of the Council's Cultural Services (including the cinema at Lings Forum); however, some comment is made with respect to this wider scope in the conclusion to the report.

### Key facts about transferring sport and leisure services to external partners

The following is a 'snapshot' of the key facts about alternative management options. It also provides a flavour of some of the key decisions the Council must take in the context of a decision to transfer the management of its services to an alternative service provider:

- ◀ The Council will retain ownership of the assets (i.e. sports facilities etc.), regardless of which management option is chosen.
- ◀ The type of lease arrangement for facilities is dependent upon the age and quality of facilities being transferred. The private sector and trusts are, in general, only willing to take on new facilities on a full repairing lease basis.
- ◀ It is normally more cost effective for the Council to invest capital in facilities than the partner, as the partner is unlikely to be able to reclaim the VAT on the investment.
- ◀ Staff currently employed in the service will transfer to the new partner with protected terms and conditions of employment (i.e. TUPE will apply).
- ◀ TUPE does not cover pension provisions.
- ◀ The Council must consider if it will 'require' the partner to become an admitted body to the local government pension scheme, or determine whether a broadly comparable pension scheme will be sufficient.
- ◀ If the Council chooses the admitted body route, it will have to advise on whether it is willing to pay for an open or closed scheme.

## NORTHAMPTON BOROUGH COUNCIL OPTIONS APPRAISAL

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- ◀ Although the partner may wish to purchase support services (e.g., HR, payroll, legal) from the Council in the initial stages, it may ultimately decide to purchase these from the external market in future years. Therefore, the funding it receives for the provision of support services cannot 'tie' it to having to purchase these from the Council (i.e., as a sole provider).
- ◀ If the Council provides financial support services to the partner it will have to ensure that all funds are paid directly into the partner's bank account and not the Council's. It has been the case for some trusts that their income is paid into the Council's bank account.
- ◀ Similarly, it needs to be clear that the partner is purchasing services from the Council and that this is demonstrated with the appropriate financial transactions.
- ◀ Where the partner does purchase services from the Council, the Council will have to perform against the SLA developed by the partner, rather than giving the partner 'what it is prepared to provide'.
- ◀ If the partner does not wish to purchase any support services from the Council it needs to be given the wherewithal (i.e., staff, budget, infrastructure) to access these support services from the open market. The Council must then deal with the residual costs associated with providing support services to the externalised service (e.g. absorb costs across other departments, restructure, redundancy, etc.).
- ◀ If the Council transfers to a Trust, it will be entitled to have up to 20% representation on the board of trustees.
- ◀ A trust can achieve up to 80% mandatory rate relief on its facilities.
- ◀ If the Council transfers to a private operator it will have to accept that this organisation will wish to build an element of profit into the contract. Depending on the partner, the competitiveness of the tendering process and the attractiveness of the contract, this profit margin could range from between 6 to 12% of income.
- ◀ If the Council transfers the management of its services to a trust operating in a neighbouring local authority area it will have to accept that this organisation would expect a contribution to its overall reserves account.
- ◀ If the Council transfers the management of its services to a neighbouring area trust, the governance arrangements will be determined by the partner trust.

### **OVERVIEW OF CURRENT SERVICE**

NBC's leisure facilities stock is similar to that of other councils throughout the country and is in need of significant investment. The main challenges facing each facility are identified and summarised below:

#### **Mounts Baths**

- ✦ Although an attractive example of a facility developed in the early part of the 20<sup>th</sup> century, its Art Deco design has an impact on any refurbishment designs and maintenance costs.
- ✦ It has a town centre location which appears to be positive from a wider community access perspective; although there can be issues with the corresponding night time economy.
- ✦ The facility has no designated car parking, although there is a public car park on the opposite side of the main road.
- ✦ The Council has converted part of the facility into a fitness suite, which is one of its best performing amenities from a financial perspective.
- ✦ The facility is landlocked, so there is no room for expansion of the site.
- ✦ The facility is politically sensitive and holds a place in the hearts of many older Northampton residents.
- ✦ The facility serves the main inner city area of Northampton.

#### **Danes Camp**

- ✦ Opened in January 1987, this is the Council's newest facility and consists of a leisure pool with fitness and dryside sports facilities.
- ✦ Key areas of the facility are 'tired' and in need of investment to bring them, and the facility as a whole up to current day standards.
- ✦ It has a limited 'swimming' offer, and is more focused on play. However, there is a need to refresh its leisure water offer as it is becoming dated.
- ✦ The under 16 market is key user group, especially of the leisure pool.
- ✦ After the facility was developed, housing was built in the areas around it, so it is somewhat hidden from the main road. In essence users feel like they are entering a housing estate to access the facilities.

#### **Lings Forum**

- ✦ This facility is very tired and in need of significant investment.
- ✦ Recent improvements to the pool changing facilities have been well received by customers and have contributed, in part, to the increased use of the pool.
- ✦ The replacement and wider refurbishment of the facility has always been part of a wider master planning exercise for the Weston Favell shopping area; however, this has not come to fruition. This is further complicated by the fact that any expansion of the retail offer would contravene planning policies designed to develop and enhance the town centre.
- ✦ The facility is located adjacent to the shopping centre; however it does not have a designated car park facility sufficient for its customer base. Customers previously used the Focus (DIY Superstore) car park; however, restrictions have now been placed on the use of this by Lings Forum customers.

- ◀ Physically, in the context of its somewhat obscured location, the facility has limited 'presence', and could be easily missed.
- ◀ It has the best financially performing fitness facility, but the worst performing pool.
- ◀ DDA access will be an ongoing issue with the facility unless significant funds are invested to either replace, or significantly restructure and refurbish, it.
- ◀ The facility serves the main area of deprivation in the east of the Northampton borough.

### **Sports Development**

It is not only the Borough's facilities that have faced significant challenges; the Sports Development service has seen regular reductions in its core budget over a number of years. The service also has a number of externally funded temporary posts in place where the funding is due to run out in 2011. Therefore, one of the key challenges will be to identify alternative sources of funding to maintain these posts, albeit that their focus may change.



# NORTHAMPTON BOROUGH COUNCIL

## OPTIONS APPRAISAL

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### VALUE FOR MONEY

A key component of this study is to determine whether the Council is achieving value for money from its existing operation. In order to do this there is a need to consider:

- ▶ The quality of facilities and services available.
- ▶ The income generated.
- ▶ The impact they have on the local community.

Section 1 identifies the usage and reach of the service and the impact it has on residents. Therefore, the key component in this section is to determine the efficiency and economy of the service.

NBC's current service generates £2.8 million of income, but expends approximately £5.58 million; an annual subsidy of circa £ 2.7 million. Therefore, every pound spent at the facility by customers and users is, in effect, matched by a comparable contribution from the Council. However, it is important to recognise that, of the £2.7 million subsidy, £1.08 million comprises support services recharges.

A range of performance measures have been identified which indicates the general performance of each of the facilities and service areas from a financial perspective.

Performance measure	Lings	Danes	Mounts	Sports Dev	Full service
Total income	813,282	1,000,997	886,572	126,272	2,827,125
Total expenditure	1,714,490	1,961,020	1,583,054	322,307	5,580,872
Total employee costs	781,593	899,611	746,092	193,971	2,621,267
Support services charges	339,188	371,959	305,788	61,739	1,078,676
Staffing as a % of income	-96%	-90%	-84%	-154%	-93%
Staffing as a % of total expenditure	46%	46%	47%	60%	47%
Income as a % of expenditure	-47%	-51%	-56%	-39%	-51%
Support costs as a % of income	-42%	-37%	-34%	-49%	-38%
Support costs as a % of expenditure	20%	19%	19%	19%	19%

Analysis of the above identifies that:

- ▶ Mounts Baths is, in relation to the level of income generated, the most efficiently staffed facility.
- ▶ Danes Camp generates the most income, but also incurs the highest level of expenditure: this is in part, due to the level of staff costs. The reason for this is the leisure pool which while it generates more income, costs more to staff because of the design of the pool and its leisure features.
- ▶ Lings Forum barely generates sufficient funds to cover its staffing costs and, of the three, has the highest staff cost as a percentage of income. A key feature of Lings financial profile is the low level of income it generates from its swimming pool in comparison to the other two sites.

## NORTHAMPTON BOROUGH COUNCIL OPTIONS APPRAISAL

- Sports Development generates a proportion of its costs from external grants; this is, for the purpose of this exercise, treated as income in the above scenario.
- In general Support Services recharges equates to approximately 20% of total expenditure. This would be a key area of saving which the Council itself would have to achieve regardless of the savings from any externalisation process.

### ***Fitness membership***

The table below identifies the number of members each fitness facility generates per piece of static fitness equipment. This is a key measurement of the success of the fitness operation in attracting members.

	<b>Mounts</b>	<b>Lings</b>	<b>Danes</b>	<b>Total</b>
Total direct debit members	1554	1572	1368	4493
Stations	53	53	56	162
<b>Members per station</b>	<b>29</b>	<b>30</b>	<b>24</b>	<b>28</b>

A number of key comments can be made about NBC's performance, including:

- The service is punching above its weight in relation to current fitness membership; particularly given the quality of the environment; facilities, car parking etc., within which they are located.
- The members per station ratios of c. 29-30 are higher than many high performing trusts and private sector operators.
- The above ratios are also high given the intensity of competition from the private sector fitness market in Northampton.
- It is interesting that Danes Camp has the lowest members per station ratio given that it serves a relatively affluent catchment. This may be a reflection on the quality of the offer and that its niche is slightly below that of the commercial health and fitness operators; which residents local to Danes Camp can afford to access.

### ***Swimming pool income***

	<b>Lings</b>	<b>Danes</b>	<b>Mounts</b>	<b>Total</b>
Swimming fee	44,291	227,595	149,191	421,078
Swimming lesson Income	58,318	103,762	109,890	271,970
Pool hire fee	11,611	1,717	35,209	48,537
	114,220	333,074	294,290	741,584

The above table reinforces some of the challenges faced by the service, especially in generating income from the swimming pool at Lings Forum. Key points to note include:

- Lings generates less than one third of the general swimming income than Mounts achieves and less than a fifth of that generated at Danes.
- This is key in relation to the staffing cost as a percentage of income as the pool still requires a minimum staffing level regardless of the general levels of usage it attracts.

- ◀ Lings also generates a significantly lower level of swimming lesson income than the others. A key factor in this is the lack of car parking at or adjacent to the facility. Although this does not appear to affect individual activities such as fitness, it may be having a more profound influence on the propensity of parents to bring their children to swimming lessons at the venue.

### **Summary**

In summary, there are several key areas where NBC is achieving value for money from its current operation. A key example is the fact that its fitness operation is achieving higher levels of income than would normally be expected from comparable services.

Furthermore, it would appear that this income level will be improved upon during the current financial year. However, it is also clear that the service has a range of challenges which affect its ability to offer value for money. The main ones being that the quality of the swimming facility and availability of parking at Lings Forum significantly affects the ability of the Council to sell this service to local residents. Furthermore, the age and condition of existing plant and machinery also affects the service's ability to operate as efficiently as a new facility.

In relation to value for money, the key challenge for the management options appraisal for the service and the Council is the degree to which following can be achieved:

- ◀ Financial savings as a result of the management model implemented (e.g. NNDR and VAT).
- ◀ Increased income from the activities at each facility; especially in light of the existing high income levels already achieved from fitness.
- ◀ The potential for efficiency savings to be achieved within the operation of the service.
- ◀ The potential savings from support services which the Council can achieve through the externalisation process

### **TRUSTS – NOT FOR PROFIT DISTRIBUTION ORGANISATIONS (NPDO)**

#### **Types of trust – not-for profit distribution company (NPDO)**

Two main types of trust vehicles have been developed to deliver sport and leisure services. These are currently employed in the management and operation of leisure services throughout the country and have a proven track record:

- ◆ Company Limited by Guarantee (CLG).
- ◆ Industrial Provident Society (IPS).

In addition to the above, a new company structure - the Charitable Incorporated Organisation (CIO) is in the process of being developed by the Charity Commission. It is, in effect, a simpler model of the CLG.

#### ***Company Limited by Guarantee (CLG)***

A CLG is fairly quick and easy to establish. It is the most common type of company in the third sector. Member and trustee liability is limited to the amount they have promised to contribute to the company's assets if it is wound up; usually a nominal sum of £1. However, this does assume that said members and trustees have not acted unlawfully in carrying out their duties.

A CLG is governed by company law (i.e. Companies House) and where it achieves charitable status, is also required to operate within charity law and guidance (as identified by the Charity Commission). The CLG must, therefore, submit returns to both of these organisations on an annual basis. The nature and scope of responsibilities for both company directors and trustees are well established in law with clear guidelines to consult and follow.

One of the key advantages of a CLG is that it enables the company to attract "the great and the good" onto its management board (i.e. as company directors and trustees of the charity). However, such trustees are volunteers and their position is unpaid. As a result, the challenge is to obtain people with the right level of altruistic interest in sport and with the requisite level of skill and expertise to manage the company.

Furthermore, where the trust has been established by the local authority there are specific guidelines as to the proportion of trustees allowed to be elected members or employees of the local authority. The standard rule of thumb is that such representation cannot comprise more than 20% of board membership. However, some trusts and councils have taken the view that elected members do not necessarily make good trustees (i.e. expertise, conflict of interest, time commitments) and have sought to identify other individuals to be involved as Board members.

#### ***Industrial Provident Society (IPS)***

An IPS model is registered under the Industrial and Provident Societies Acts. They are currently governed by the Financial Services Authority (FSA), although there are moves to incorporate them within the jurisdiction of the Charity Commission. An IPS can be deemed to have charitable objects and can be viewed as an exempt charity and qualify for the same financial advantages as a charitable trust.

The key difference between an IPS and a CLG structure is the ability of the IPS to incorporate staff involvement on the board. Some local authorities, when considering which type of management arrangement to install, have chosen to specify such staff involvement as a key principle underpinning how the trust should function. However (at present), the IPS cannot be registered as a charity and therefore only qualifies for discretionary rate relief. Where the IPS model has been adopted, they do not appear to have faced any major difficulties in achieving this level of rate relief.

A number of IPS models have been implemented in a range of leisure trusts. These include, for example; Greenwich Leisure, Rossendale Leisure Trust, Salford Community Leisure Ltd, and Oldham Community Leisure).

### ***Rate relief***

As identified above, both models can achieve rate relief, although the IPS model is discretionary and the CLG model requires the company to have achieved charitable status.

### **Relationship between the Council and a trust/NPDO**

The relationship between a local authority and a trust is enshrined within the lease of the facilities and land. The trust is required to demonstrate “independence from local authority control” and must occupy any premises as the principal in its own right, and not as the council’s agent. This is what enables a trust to qualify for national-non-domestic rate (NNDR) relief.

### ***Type of lease***

In essence, there are two types of lease agreement: full or part repairing. The implications of both of these are outlined below:

#### ***Full repairing lease***

This option requires the trust (or the Council’s chosen operator) to take on full liability for the repair and maintenance of the facility stock over the term of the lease. NBC would expect it to meet all agreed condition liabilities for the length of the lease period and return the facilities to the Council in what would, potentially, be an improved condition.

This would be a very costly solution for NBC as the Trust/operator would identify a cost for every aspect of repair and maintenance associated with the service as well as all other possible risks. It is likely that in this circumstance an investment schedule would be required as part of the lease, and would be required to be carried out even if the investment was not totally necessary.

In addition, if a trust is required to make significant capital investment over the term of the lease (e.g., improvements to tired facility stock, upgrade of accommodation etc.) it would be liable for the VAT on the work required to realise this investment. As a result, a full repairing lease is rarely financially attractive. Furthermore, risks associated with a full repairing lease are only minimised when a new facility is developed.

Therefore, it is unlikely that any trust or private partner would take on such a lease (at least at a level of costs that would make such an arrangement worthwhile for the Council) for NBC's facilities.

#### *Part repairing lease*

A part repairing lease is where NBC and a trust share responsibility for the future repair and maintenance of the facilities. This would require NBC to maintain responsibility for specific parts of the buildings and to specify which aspects of the identified condition survey liabilities it will be responsible for and undertake to deliver. The trust would be required to commit to undertaking its share of the condition survey items and the enhancements it identifies for the facilities. However, a trust can only deliver on its commitments if provided with the wherewithal and the funds to deliver these. A number of key issues arise from this option, including:

- ✦ Where the division of responsibility lies.
- ✦ Whether there is an investment threshold applied to the split in responsibility.
- ✦ The potential cost of investment by each organisation.
- ✦ The ability/willingness of NBC to commit to responsibilities over the term of the lease.
- ✦ The ability of the trust to demonstrate independence and to respond to customer needs and changes within the market.
- ✦ Current condition of facilities and likely investment requirements over the next 15-20 years.
- ✦ The likely replacement schedule for facilities, major equipment, plant and machinery.
- ✦ Recent investment in the facilities, or the expected life of the asset.
- ✦ The most efficient way of procuring major capital works.

#### *Capital investment*

As identified previously, if a trust is required to invest capital in the facilities (i.e. via borrowing) it will be liable for the VAT on any contracted works required to deliver this investment. Over recent years, the trend has been for local authorities to borrow funds via prudential borrowing and in return for said funds to be repaid via a reduction in the grant. However, this arrangement only works where the investment results in increased use and higher levels of net income at the facility.

#### *Monitoring and evaluation*

Within either of the above options it is important for NBC to ensure that it continues to monitor the condition of its assets and that component elements of facilities are maintained and repaired to the highest possible standard. In general the main areas of dispute arise where it is perceived that the requirement to replace key items of plant and machinery or fixtures and fittings is a direct result of a lack of maintenance. This highlights the importance of detailed condition, suitability and sufficiency surveys and the need for an open, transparent relationship between the Council and partner with regard to the repair, maintenance and replacement of plant and machinery, fixtures and fittings.

Regardless of the type of lease, it is good practice for Council and the trust/operator to set out respective maintenance and improvement strategies on a five yearly and annual basis. This underpins development (and continuance) of a transparent relationship and provides a basis for both to monitor the extent to which they do what they say they are going to do and to assess the impact of not taking specific actions. It provides a solid foundation for ongoing monitoring and evaluation of the assets and enables key issues to be identified at the earliest possible stage. Furthermore, it enables the impact of emergency repairs to be assessed within the context of ongoing maintenance.

### *Governance*

As identified above, 'standard' trust arrangements, often attract concern with regard to trust independence from the local authority and the desire/requirement of elected members to have a place on the board 'to protect the authority's position'. It is important to note that a trustee should not be hamstrung by external interests or influences when performing his/her duties as a trustee. The principles of good corporate governance and the highest standards of probity should be employed at all times. This can affect the ability of NBC members to participate equitably in key trust and/or Council decisions. The guiding principle is that all relevant interests in specific matters should be declared and where appropriate, and if necessary, trustees/members should step aside when key decisions are made.

It is also important for a trust to ensure that board recruitment is based on the skills and expertise needed (and appropriate) to manage the company's affairs. A clear matrix should be developed which highlights such requirements at board level. Recruitment should be undertaken on this basis rather than the need to ensure representation of particular organisations. KKP has worked with a range of trusts with varying degrees of expertise at board level. The following represent the types of skill and expertise we would recommend that a board seeks to acquire (see also the examples table overleaf):

- ◀ Legal.
- ◀ Financial.
- ◀ 'Business'.
- ◀ Human resources.
- ◀ Marketing.
- ◀ Sector knowledge (e.g. health, inclusion, education).
- ◀ Political/local government.

The other key governance aspect; one that there is a tendency to overlook, is the relationship between the council and the trust. Some local authorities consider having an elected member on the board sufficient to ensure that full governance requirements are met. However, the communication and reporting function between the trust and NBC must be considered. A key consideration is that the trust/operator is not just 'left to it' and that there continues to be an advocate within the local authority. The "partnership" role/function within the Council is critical. Furthermore, the CEO of the Trust must have ongoing access to key senior NBC officers to ensure that communication channels are maintained. Evidence suggests that the absence of, or limitations to, this continued dialogue and advocacy role is the 'achilles heel' of many underperforming trust/ council relationships.



## NORTHAMPTON BOROUGH COUNCIL OPTIONS APPRAISAL

*Examples: Trusts recruiting key people into board director positions*

Core skills	Trustee experience
Legal	Salford Trust has a lawyer on its board from a specialist mental health law firm; he also has an active interest in hockey and cricket.
Financial	Tameside Trust has a board member who is a prior head of finance from a neighbouring Greater Manchester authority
Business acumen	Trafford, Salford and Tameside trusts have attracted a range of trustees who either manage a small business or who have experience within larger companies (e.g. Proctor and Gamble, Kelloggs).
Human resources	Tameside Trust has the previous head of human resources at the Council as one of its nominated representatives.
Sector knowledge	Salford Trust has co-opted a senior regional development officer from Sport England onto its Board. Edinburgh Leisure has a well-known researcher in leisure as its chair. Trafford has the Chief Executive of Lancashire County Cricket club on its Board as well as the head teacher of a local specialist sports college.
Political/local government	All trusts have a range of elected members on the Board, but many keep this to a minimum to demonstrate independence

### *Transferring staff*

The Transfer of Undertakings (Protection of Employment) Regulations 1981 and the Acquired Rights Directive 77/187 ensure that staff wholly (i.e. 100%) or mainly (i.e. over 50%) employed by the service are transferred to the trust (or private sector partner) with all employment rights intact. Therefore, changes to terms and conditions of employment should be related to economic, technical or organisational issues and not for reasons relating to the transfer of staff from one organisation to another.

This then presents a challenge for both local authorities and trusts/private contractors where there is an expectation to reduce staffing costs in the initial years of the externalisation process. In Northampton there is a perception that staff salary costs are high and that there may be scope to reduce these. This may, however, contravene the TUPE legislation.

### *Pensions*

Pension provisions are not covered by the TUPE transfer process. Continuity of pension provision is a key concern of staff when they transfer from one organisation to another. A trust can either set up its own stakeholder scheme or apply to become an admitted body to the Local Government Pension Scheme. The key challenge for any trust or private sector contract is the decision on whether to have an open or closed scheme. This is determined by what the Council is prepared to fund and whether or not it perceives that it will contribute to a two-tier workforce for the host organisation.



## NORTHAMPTON BOROUGH COUNCIL OPTIONS APPRAISAL

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### ***Key advantages and disadvantages***

The following table summarises the key advantages and disadvantages of establishing a trust to manage NBC's sports facilities and sports development

<b>Advantages</b>	<b>Disadvantages</b>
VAT benefits	Loss of NBC control. The relationship is one of influence.
Up to 85% NNDR relief	Dependency upon NBC for reinvestment in assets.
Capital expenditure (ability to borrow/ secure capital outside of local authority regimes)	Success depends on attracting and retaining quality trustees - skills and expertise.
Fits with Best Value, CPA and CAA	Trusts need support services infrastructure – cost.
Opportunity to engage the local community on the management board	Potential impact on central services personnel
	Difficult for NBC to make savings from support services

### **PARTNERSHIP WITH AN EXISTING TRUST**

A growing number of existing trusts are looking to expand their operational management domains outside and beyond the local authority in which they were originally established. At first this process was relatively unusual, however it is similar to how private sector leisure companies in this field developed and expanded.

The rationale for a trust expanding into NBC's territory needs to be tested as there is no financial benefit to trustees (unlike the dividend paid to shareholders). Therefore, the key question to resolve is which organisation benefits from such an arrangement, the host or the new partner organisation. The motives of the 'predatory' trust need to be considered carefully. Is it about growing a business in a bid to improve service delivery through efficient operational and organisational practices (e.g. support services) or is it empire building for trustees and chief executives?

Varying degrees of trust partnership arrangements can apply ranging from one trust supplying support services to another, to a concession contract won in competition. Examples of trust partnerships include:

- ✦ Wigan Leisure and Culture Trust – it has recently won a contract to manage Abbey and Tadcaster Leisure Centres and Selby Park on behalf of Selby District Council.
- ✦ Carlisle Leisure – which operates facilities on behalf of Allerdale Borough Council.
- ✦ North Country Leisure Ltd - having started life in Tynedale, it now operates contracts in Alnwick and Copeland.
- ✦ Fusion Leisure Ltd – which was originally established in the London Borough of Southwark and now operates facilities on behalf of a range of local authorities including Oxford City Council, the London boroughs of Lambeth, Croydon, and Hillingdon and Mole Valley District Council.
- ✦ Greenwich Leisure – perhaps the best known 'predatory trust'; it now operates facilities on behalf of seventeen London boroughs and is also involved in partnership-based management arrangements outside the capital;
- ✦ South Oxfordshire Leisure Limited – which also operates facilities on behalf of Daventry District Council

### **Representation on the board**

It should be borne in mind that the decision on the type of board structure to be employed when partnering with a neighbouring trust, lies with the trust itself; NBC will only be able to influence this through negotiation. NBC will have to identify its ideal model and evaluate whether the partnering trust can achieve this. This will be one of many evaluation scores within an open procurement process. Where local authorities have previously partnered with a neighbouring trust a range of different relationship structures have developed including:

- ✦ The authority's facilities being subsumed within the Trust; this tends to occur where the local authority in question is happy for this to happen.
- ✦ The development of a local consultation board for the contract, either with or without representation on the main ('central') trust board.
- ✦ The development of a local board (comprising trustees and local representatives) with an equal representation of trustees on the main board. However, this tends to get progressively less sustainable as more contracts are won.

## NORTHAMPTON BOROUGH COUNCIL OPTIONS APPRAISAL

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### ***Key advantages and disadvantages***

The following table summarises the key advantages and disadvantages of partnering with an existing trust to manage NBC's sports facilities and sports development

<b>Advantages</b>	<b>Disadvantages</b>
An existing trust already has its legal framework established.	The Board is already established so the Council would need to identify if it can either: <ul style="list-style-type: none"> <li>• Gain representation on existing Board</li> <li>• Establish a local Board</li> </ul>
It can achieve VAT and NNDR benefits	Potential for conflict of interests between the original and "new" Boards.
An existing Trust has support services in place, so there should be economies of scale.	Potential for cross subsidy of Council grant funding.
The option exists to test partner's performance - KPIs, partnerships, relationships	Loss of Council control. The relationship is one of contract management.
The Council can enter into a contractual relationship rather than a grant Agreement	Partner trust would expect a contribution to its overall reserves.
Fits with Best Value, CPA and CAA	Will involve a procurement process; which has a cost.
	Need to test the track record of managing full range of services (i.e. sports development).

### PRIVATE SECTOR PARTNERSHIPS

The original private sector partnership was normally a straight concession based contract for usually 10 to 15 years, where the operator sometimes (particularly in the earlier contracts set up) invested funds in the facility. Within such contracts there were no VAT or NNDR benefits and the key driver was that the Council did not wish to directly provide the service. Such arrangements were normally underpinned by a belief that the private sector could do it more efficiently and cost effectively. A number still exist, although some have been renegotiated or re-tendered in such a way as to achieve improved VAT and NNDR benefits.

Within the Northampton context, a concession based private sector contract is not considered to be worth progressing further as it is considered unlikely to achieve the financial savings that the Council wishes to achieve from the externalisation process.

#### ***Hybrid private sector partnerships***

In an attempt to counteract the financial advantages (and competitive edge) of the trust approach, private sector companies developed the concept of the 'hybrid', or as is sometimes referred to, the 'sham', trust. Under this arrangement parties agree to structure the private sector company, or the relationship between the company and the local authority in such a way as to qualify for mandatory and/or discretionary rate relief and in some cases VAT concessions.

This is done by using a not for profit company or subsidiary. Via this method, private operators can offer councils the benefit of tax savings, the ability to secure capital investment and a more 'commercial' approach.

Each private sector partner has its own variation of the hybrid model, some able to achieve charitable status and others not. It is open to legal challenge and is in some circles viewed as a 'sham trust'. Until the Government clarifies the situation, it is for each council and its particular partner to assess the legality of each arrangement on its merit. NBC needs to be aware that it would have to deal with the impact of any future decision as and when it took place (e.g., possible back payment of NNDR and VAT savings).

Private sector partnerships have predominantly focused on the operation of sports facilities, few have successfully taken responsibility for the sports development function within an authority. This has been the normal approach from the outset and does not appear to have significantly as the sector matures.

## NORTHAMPTON BOROUGH COUNCIL OPTIONS APPRAISAL

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### ***Key advantages and disadvantages***

The following table summarises the key advantages and disadvantages of partnering with a private sector partner within a hybrid arrangement.

<b>Advantages</b>	<b>Disadvantages</b>
VAT and NNDR benefits	Each contractor has its own hybrid model so the Council gets what it is given.
Potential savings are comparable with trusts.	Complex legal, administrative & organisational structure associated with all hybrid models.
Business acumen (although in many instances this has solely centred on fitness).	Loss of council control. The relationship is one of contractual management.
Private sector can access capital - although this is more normally more costly than the rates at which the Council can borrow.	Council will have to deal with residual cost of support services and contractor will have its own structures in place.
Competitive tendering demonstrates that the best value (cheaper?) option is identified.	Potentially open to legal challenge.
Potential economies of scale (i.e. bulk purchasing)	Will involve a procurement process – which has a cost.
Fits with Best Value, CPA and CAA	No track record managing sports development

# NORTHAMPTON BOROUGH COUNCIL

## OPTIONS APPRAISAL

### MANAGEMENT OPTIONS APPRAISAL

The following table outlines the appraisal of each of the management options (i.e. NBC in-house operation, new trust, neighbouring trust and a hybrid private sector partnership) for the Council's sport and leisure facilities and sports development. The appraisal considers the following key criteria and identifies the potential implications of each:

- ✦ Quality.
- ✦ Need for capital.
- ✦ Revenue implications.
- ✦ Risk assessment.
- ✦ Human resources.
- ✦ Property and maintenance.
- ✦ Council influence.
- ✦ Legal issues.

Criteria	Option	Comment
<b>Quality</b>	<b>In-house</b>	<p>The in-house service has achieved high standards of quality with very positive scores in its APSE performance results. It has also achieved very high levels of throughput from the free swimming initiative and is the highest performing authority in the county and in the top quartile in the East Midlands.</p> <p>The Council has a good team delivering its service; it has generated high levels of use and income from key activity areas (e.g. fitness), although the quality of some facilities has hindered its ability to operate them as efficiently and effectively as desired.</p>
	<b>New trust</b>	<p>The current in-house team would be delivering the service as a new trust; therefore, the Council could expect the same high standards and levels of success as is currently delivered. Furthermore, greater flexibility and speed of decision making could result in improved quality as the service will be in a position to respond to residents' needs a lot quicker and more effectively.</p>
	<b>Existing trust</b>	<p>Cultural Community Partnership is the only neighbouring trust in Northants (i.e. East Northants) which may be interested in partnering with the Council to operate its services. In addition to this there are a range of existing trusts in the wider area (e.g. SOLL, Nexus – formerly Wycombe Leisure Ltd) which have won contracts outside of their original local authority host boundary.</p> <p>The quality of trusts facilities and services is varied. This would need to be tested via a competitive tendering process. NBC would need to scrutinise the quality of trusts' facilities and sources of investment. Comparisons will need to be made with regard to external funding etc. There are no guarantees that the quality of service will improve.</p>
	<b>Private sector hybrid</b>	<p>Each of the main private sector leisure operators has a presence in the wider area (i.e. Northants, Bucks, Leicestershire).</p> <p>Quality of private sector provision and services is as varied as that of trusts. These would also need to be tested via a competitive process.</p> <p>The private sector does not appear to have as good a track record securing external funding; this may be linked to a lack of experience delivering sports development services.</p> <p>There are no guarantees that service quality will improve</p>

# NORTHAMPTON BOROUGH COUNCIL

## OPTIONS APPRAISAL

Criteria	Option	Comment
Need for capital	In-house	Irrespective of the management option put into place NBC will need to identify the funds to invest in its facility stock. It will continue to own the assets regardless of which type of organisation manages them.
	New trust	A new trust can access capital, but this is either underwritten by the Council or often achieved by capitalising NNDR savings, assuming that they are ring-fenced for investment not taken as savings for NBC.
	Existing trust	It is unlikely that an existing trust will be able to raise significant funds to invest in NBC facilities; they have their own challenges to deal with.
	Private sector hybrid	<p>The private sector could invest capital in the facility stock although this would be costly compared to NBC prudential borrowing. This would be tied into the term of the contract and may result in higher ongoing revenue costs.</p> <p>In recent years the private sector has invested lower levels of capital in public sector facilities due to better rates achieved via prudential borrowing. Given the current economic climate the private sector has found it more difficult to secure major investment in its facility stock.</p>
Revenue implications	In-house	<p>NBC is unable to source VAT/NNDR benefits that other management models achieve. However, it is clear that the service currently punches above its weight with respect to its fitness offer at facilities.</p> <p>Given the Council's drive for efficiency savings it is clear that continuing with the in-house operation is not financially beneficial.</p>
	New trust	<p>A new trust will save NBC at least £79k per annum. This is a worst case scenario and assumes that it provides its own support services. This situation could be drastically improved assuming that NBC works with the Trust to achieve additional savings. This could increase annual savings to approximately £250k.</p> <p>Key savings areas for NBC will be in provision of support services. This is currently costing the service over £1 million per year.</p>
	Existing trust	<p>A neighbouring trust may achieve similar savings comparable to those of a new trust (circa £72k); however this may also impact on wider NBC savings to be achieved (i.e. an existing trust may not wish to receive support staff through the TUPE transfer process). The key challenge in this respect is the existing trust's financial performance, especially with respect to health and fitness where the current team excels.</p> <p>Service revenue cost should be tested via a procurement process.</p>
	Private sector hybrid	<p>A hybrid private sector partner will achieve circa £54k per annum saving to the Council from the current cost (i.e. worst case scenario). This is based on an assumption that it will take profit from the service at 6% of turnover (which is lower range).</p> <p>This situation could be improved dependent upon the need for a contract manager, the cost of support services and the level of profit taken by the contractor. However, a key challenge will be maintaining high current income levels from the fitness operation. The private sector tends to excel where the prior fitness income is low; this is traditionally where it invests in order to achieve higher income levels. The current income achieved by the in-house team may make this contract unattractive to the private sector.</p> <p>Service revenue cost should be tested via a procurement process.</p>

## NORTHAMPTON BOROUGH COUNCIL OPTIONS APPRAISAL

Criteria	Option	Comment
<b>Risk assessment</b>	<b>In-house</b>	The key risk associated with retaining the service in-house is the potential increase in costs (e.g. staffing, pensions, etc) and the need to implement service reductions to remain within budget.
	<b>New trust</b>	<p>The key risk associated with a new trust is that of failure as a result of not setting it up properly. Some key reasons for trusts failing have been ascribed to a combination of the following:</p> <ul style="list-style-type: none"> <li>• Insufficient funds to deliver the service (i.e. the Council retained all of the VAT and NNDR savings).</li> <li>• Lack of ongoing investment in key facilities.</li> <li>• Breakdown in relationship between trust and local authority.</li> <li>• Lack of clear focus for the trust (i.e. leading on both strategy and operational delivery)</li> </ul> <p>The above risks might, potentially, result in NBC taking the service back in house or seeking an alternative arrangement.</p>
	<b>Existing trust</b>	<p>The key risks associated with partnerships with existing trusts include:</p> <ul style="list-style-type: none"> <li>• Poor service performance; although this is governed by the contract.</li> <li>• A change in the operating philosophy; new CEO or if board members change.</li> <li>• Lack of performance within one of the contracts puts significant pressure on a core of senior managers, with limited back-up. This could impact on other contracts</li> <li>• The company not achieving the targets stated in the procurement process.</li> </ul> <p>The above risks would potentially result in the Council taking the service back in house or needing to find an alternative arrangement.</p>
	<b>Private sector hybrid</b>	<p>The key risks associated with a contract with a private sector partner with a hybrid arrangement include:</p> <ul style="list-style-type: none"> <li>• Poor performance of the service although this is governed by the contract.</li> <li>• A change in the operating philosophy – new CEO or a merger with another company.</li> <li>• A change in contract manager; or as some authorities have experienced, continual change in contract managers.</li> <li>• The company not achieving the targets stated in the procurement process.</li> <li>• The Government closes the loophole associated with hybrid trust arrangements.</li> <li>• Risks associated with poor performance will be determined within the contract, therefore NBC has some element of protection.</li> </ul> <p>The above risks could result in the Council having to take the service back in house or finding an alternative contractual arrangement.</p>



## NORTHAMPTON BOROUGH COUNCIL OPTIONS APPRAISAL

Criteria	Option	Comment
Human resource	In-house	There would be no HR issues as staff will stay with the Council.
	New trust	Staff would transfer to the new trust under TUPE. NBC would be left to deal with residual support services staff and it is likely that redundancies, redeployment or restructuring of departments would be required. NBC and the new trust could seek to minimise this by transferring appropriately skilled support services staff to the Trust, or by the Council contracting to provide a range of support services to the Trust (the trust would need to set the SLA for this arrangement).
	Existing trust	Staff would need to transfer to an existing trust under TUPE. An existing trust will already have support services in place and is unlikely to need services or staff from the Council. NBC would have to deal with residual support services staff and redundancies, redeployment or restructuring would be necessary.
	Private sector hybrid	Staff would need to transfer to a private partner under TUPE. It normally has support services in place: NBC would need to deal with residual staff via redundancies, redeployment or restructuring.
Property & main-tenance	In-house	NBC would be liable for the cost of all repairs and maintenance.
	New trust	The split in property and maintenance responsibilities will be set out in the facilities lease. NBC and a Shadow Board will agree a budget for facilities operation in line with these responsibilities. The Shadow Board will need to undertake due diligence on the property and maintenance budget to ensure that requirements can be met. (There have been a number of instances where the trust has had insufficient funds to enable it to honour maintenance responsibilities).
	Existing trust	NBC tender documents will outline what it expects the existing trust to deliver. The Trust will then identify the anticipated cost of meeting its requirements under the lease. This is done via a tendering process.
	Private sector hybrid	Tender documents will outline what it expects the operator to deliver. The private partner will then identify the anticipated cost of meeting its requirements under the lease. This is done via the tendering process. There are instances of private contractors increasing maintenance costs as not doing so would impact negatively on service quality.
Council influence	In-house	The Council will then have complete control over the service.
	New trust	The Council can have involvement in the Board of the Trust; up to 20% of the Board make up. The Council is able to influence the trust by way of the Grant. However, the Council should be cautious in using this too often as it can compromise the relationship between the organisations. Furthermore, it is important that the trust's funding is linked into the Council's medium term financial plan.
	Existing trust	NBC will determine the relationship with an existing trust by means of the contract. It is important to ensure the contract is "tight but flexible". Governance arrangements with the existing trust will have to be resolved (i.e. part of main board or local board).
	Private sector hybrid	NBC will determine the relationship with a private partner by means of the contract. It is important to ensure the contract is "tight but flexible". Local "board/trust" arrangements will be determined by the type of hybrid structure the successful partner has established.

## NORTHAMPTON BOROUGH COUNCIL OPTIONS APPRAISAL

Criteria	Option	Comment
<b>Legal issues</b>	<b>In-house</b>	No legal issues are anticipated with this option given that the service remains with the Council.
	<b>New trust</b>	Legal issues associated with establishing a new trust include: <ul style="list-style-type: none"> <li>• The drafting of leases.</li> <li>• The drafting of the grant agreement.</li> <li>• TUPE and pensions issues associated with transferring to a new trust.</li> <li>• Legal advice for the Shadow Board prior to creating the company and transferring services.</li> <li>• NBC's approach to dealing with residual support services staff.</li> </ul>
	<b>Existing trust</b>	Legal issues will be determined by the procurement process if NBC decides that it wishes to secure a new partner to deliver its services. Likely issues include: <ul style="list-style-type: none"> <li>• The drafting of leases.</li> <li>• The drafting of contract documents for a procurement process.</li> <li>• TUPE and pensions issues associated with transferring to a new partner.</li> <li>• .NBC's approach to dealing with residual support services staff.</li> </ul>
	<b>Private sector hybrid</b>	Legal issues determined by the procurement process if NBC decides that it wants to secure a new partner to deliver its services. Likely issues include: <ul style="list-style-type: none"> <li>• The drafting of new leases</li> <li>• The drafting of contract documents for a procurement process.</li> <li>• TUPE and redundancy issues associated with transferring to a private partner.</li> <li>• .NBC's approach to dealing with residual support services staff.</li> </ul>

### FINANCIAL APPRAISAL

The financial appraisal of the options identifies a range of savings which can be achieved from service externalisation. These are based on four fundamental assumptions about the options:

- ✦ The NNDR savings that can be achieved by implementing the management model.
- ✦ The VAT savings that can be achieved by implementing the management model.
- ✦ The ability of the management model to increase income from the facilities.
- ✦ The ability of the management model to run the facilities more efficiently and economically.

Given the Council's drive to have a more economically efficient service we have excluded a standard private sector partnership as it does not achieve the VAT and NNDR benefits of the other management models.

The financial model is used to evaluate each of the management options against the current in-house operation. A number of assumptions are used to differentiate the various models. These are based on the known financial advantages and disadvantages of the various models; they take into account any likely improvement in trading from the current operation. In summary the key assumptions for each model are as follows:

#### ***New Trust:***

- ✦ Some improvement in key income areas such as fitness, pool and hall hires and instructed activities; but nothing significant given current performance.
- ✦ VAT advantages on key income activities such as fitness, room hires, general sports use.
- ✦ National non-domestic rate relief of 85%.
- ✦ Increased insurance costs; as it will be a new company with no track record.
- ✦ VAT on expenditure.

#### ***Existing trust:***

- ✦ Some improvement in key income areas similar to a new trust.
- ✦ VAT advantages on key income activities such as fitness, room hires, general sports use.
- ✦ National non-domestic rate relief of 85%.
- ✦ Increased insurance costs; but slightly less than a new trust.
- ✦ VAT on expenditure.

#### ***Hybrid private sector:***

- ✦ Some improvement in key income areas similar to a new trust.
- ✦ VAT advantages on key income activities such as fitness, room hires, general sports use.
- ✦ National non-domestic rate relief of 85%.
- ✦ Increased insurance costs; similar to an existing trust. This is based on the fact that some companies have group insurance which includes a wider range of services (e.g. prisons, hospitals, MOD installations, etc).
- ✦ VAT on expenditure.

## NORTHAMPTON BOROUGH COUNCIL OPTIONS APPRAISAL

It should be noted that the above assumptions can only be tested through a procurement process, but that they are built on experience of evaluating tenders.

The outcome of the financial appraisal is as follows:

Description	2008/9 outturn	New trust	Hybrid private	Existing trust
Total employees	2,621,268	2,621,268	2,497,828	2,621,268
Total premises	849,645	745,138	782,576	745,138
Total transport	13,922	15,731	15,731	15,731
Total supplies & services	702,667	805,319	810,437	801,551
Total support services*	1,309,132	1,339,091	1,339,091	1,339,091
Total capital charges	84,240	84,240	84,240	84,240
Total income	-2,827,125	-3,150,918	-3,169,603	-3,154,087
Total VAT payable/receivable	-52,453	-52,453	-52,453	-52,453
<b>Total subsidy</b>	<b>2,701,294</b>	<b>2,407,416</b>	<b>2,307,847</b>	<b>2,400,478</b>
<b>Variance from 2008/9 actual</b>		<b>-293,878</b>	<b>-393,447</b>	<b>-300,816</b>

(\* It is assumed that the cost of support services charges will remain the same as it will be the responsibility of NBC to achieve such savings – rather than the management models).

As can be seen from the above summary, the hybrid private sector option appears to be the most financially efficient model when compared to the current operation; with a new and existing trust options very similar. However the above model has not taken into account the additional costs associated with the various options. The following table takes into account the extra costs that each management option is likely to incur. Again, this is based on current support structures and lessons learnt from other trusts throughout the country and from the evaluation of tenders to manage leisure services on behalf of other local authorities.

*Additional costs	New Trust	Hybrid private	Existing trust
Support services	180,000 (assumed 100% direct saving from transfer)	75,000 (assumed 0% direct saving from transfer)	90,000 (assumed 50% direct saving from transfer)
Trust CEO/Contract Manager	0	50,000	20,000
Audit	9,500	9,500	9,500
Systems (e.g. financial)	10,000	0	0
Profit	0	190,176	94,623
Office accommodation	15,000	15,000	15,000
<b>Total</b>	<b>214,500</b>	<b>339,676</b>	<b>229,123</b>
<b>Variance from 2008/9 actual</b>	<b>-180,000</b>	<b>-53,770</b>	<b>-45,000</b>
<b>Variance from 2008/9 actual</b>	<b>-259,378</b>	<b>-53,770</b>	<b>-116,693</b>

## NORTHAMPTON BOROUGH COUNCIL OPTIONS APPRAISAL

The key assumptions on the additional costs to be applied to each management option can be identified as follows:

### ***New Trust:***

- The breakdown of support services costs for a new trust have been based on the following staff structure and salary costs (including on-costs), along with other professional support that will be required:

Designation	Total £
Finance Manager	40,950
Payroll Manager	24,570
Finance Assistant	24,570
Cashier	15,210
Sales and Purchase Ledger Clerk	15,210
Finance Admin	14,040
HR Assistant	18,720
<b>Total staff cost</b>	<b>153,270</b>
<b>Professional support costs</b>	
HR Adviser	15,000
Legal Adviser	12,000
<b>Total support costs</b>	<b>180,270</b>

- In addition to the above support services costs a new trust will also require office accommodation for these staff, an external audit of its accounts and funds to ensure it has the right financial and HR system/software to manage its business.

### ***Existing trust:***

- Although an existing trust would have some of its support services in place (e.g. Finance Manager) it will require additional support to deal with the volume of financial administration and additional staff. It is also likely to incur increased professional costs.
- Although the trust will have a chief executive in place there may be a need to promote one or two key staff within the existing structure to take lead roles; it should also be noted that NBC would be likely to have to pay any additional salary costs associated with the chief executive's improved package.
- In addition to the above, an existing trust will also require office accommodation for its staff and an external audit of its accounts; however, it is anticipated that it would have its own financial and HR system/software in place.
- The existing trust is unlikely to take on the contract 'for nothing'; therefore, it is assumed that it would be seeking a modest contribution to its central reserves of approximately 3% of income.

### ***Hybrid private sector:***

- ◀ It is assumed that the hybrid private sector company would have support services in place, however from experience it is likely to identify circa £75,000 support services costs as a contribution to increased central costs within the organisation.
- ◀ The organisation is unlikely to employ a new contract manager as this would be a TUPE transfer and the officer would come under the leadership of its national and regional structure.
- ◀ In addition to the above, a hybrid private sector company will also require office accommodation for its staff and an external audit of its accounts; however, it will have its own financial and HR system/software in place.
- ◀ It has been assumed that the hybrid private sector company would wish to build in a profit margin of approximately 6% of income; this would equate to £190,000. It should be noted that this is considered to be at the lower end of the spectrum.

Based on the above financial appraisal it is clear that there is very little difference between the savings to be achieved from each model, but that the establishment of a new trust is the most financially viable. In comparison to other authorities which have gone through this exercise the level of savings to be achieved at NBC are, in our view, considerably lower. This is a direct result of the level of income currently being achieved from the fitness offer at NBC's three sites. Therefore, there are comparably small improvements in income to be achieved from the service compared to other authorities, so there is greater emphasis on what savings the model achieves and what additional savings can be gained from the Council's support services.

### ***Potential for additional savings***

When assessing each of the options for potential additional savings the key area under consideration is the existing support services costs. The current support services equate to circa 20% of the service's total expenditure or 38% of its total income.

As identified previously, NBC will be the organisation which drives the savings from support services; however some management models are more appropriate than others in assisting this. As identified above, the different models require differing levels of support services given that one will be starting afresh, whereas it is presumed that others already have the majority of support services in place. Therefore, if managed correctly the creation of a new trust provides the Council with the greatest opportunity to achieve savings from its support services. As an example, if the new trust's support services can be recruited from appropriate staff within the Council's support services then circa £180,000 additional savings can be achieved. Added to the £79k saving that the trust option achieves, the potential total saving from the externalisation process would be circa £260,000.

### ***Cultural trusts***

There has been a recent trend towards the creation of cultural trusts, however this has not been considered within the scope of this report as there has been a clear indication that NBC may consider developing its cultural offer via an alternative arrangement. Northampton Theatre Trust manages the Royal and Derngate Theatre within the town and this may be a more appropriate model to consider for the management of the Borough's wider cultural offer. Furthermore, it can be difficult to find appropriately skilled

and experienced trustees who wish to engage in the management of a wide ranging cultural trust.

### COMMERCIAL SECTOR APPROACH

As part of this study KKP was asked by the NBC Chief Executive to test and soft market test a much more radical approach to local authority leisure provision with the commercial health and fitness sector. The key focus of this aspect of the study was to ensure that

- ▶ Participation levels and the frequency of participation in sport and physical activity in the borough rises over the next few years.
- ▶ ...but to test whether this can be delivered through an innovative relationship with a commercial fitness provider.

Therefore, the scope of service which the Borough Council should consider providing was streamlined and focused on 'exercise' linked in to addressing the health inequalities across the Borough. As such, the concept taken to the market was that NBC would provide:

- ▶ Access to **swimming** and **fitness** (only) at a range of core facilities throughout the Borough.
- ▶ Access to a range of school sports halls and synthetic pitches to deliver its sports development service.

This in effect, is a much more formula driven approach than is currently provided and would necessitate provision of four strategically located facilities across Northampton. These would all have an identical facility mix consisting of:

- ▶ Swimming pool - 6 lane 25m pool, with a small teaching pool
- ▶ Fitness suite x 100 stations
- ▶ Group fitness studios x 2
- ▶ Ancillary facilities to service these activity areas; including café, and vending.
- ▶ Car parking for approximately 150 cars.

In order to address the requirement to increase levels and frequency of participation in sport and physical activity (especially among the most disadvantaged communities) this approach would provide high quality, accessible fitness for the whole community. However, there is an assumed requirement that the operator would focus upon the most disadvantaged communities in Northampton.

Approximately 62,000 Northampton residents reside within the top 30% most deprived communities in the country. The current service reaches 5.2% of these residents. Therefore, an innovative approach for NBC would be to ensure that the subsidy for the service is focused on usage by these residents rather than on the bricks and mortar of the service (as is the case at present). The rationale for this is that the operator would have sufficient quality facilities to attract a wide range of users, while having an incentive to attract some of the most disadvantaged residents in the Borough. However, this approach ties the subsidy for the service into one which is 'means tested' which may not be palatable to elected members, existing leisure centre members or some residents.



The approach assumes that NBC would not be required to fund the total cost of disadvantaged residents' access to facilities. There would be a requirement for the resident to commit to being a member of the facility and pay a monthly membership fee.

It is envisaged that there would be two key stages in the commercial operator's approach to providing services on behalf of the Council:

- ◀ Increase the proportion of members at the facility from the most deprived communities in Northampton.
- ◀ Increased participation frequency; raising the proportion of these members who are undertaking 3 x 30 minutes of physical activity per week.

This would require the Council to incentivise the operator for increasing membership and then to provide a supplementary incentive based on the achievement of 3 x 30 minutes. However, it should be noted that the incentive for increasing members from the most deprived communities needs to have at least the same financial reward as can be achieved from non-subsidised members. If this were not to be the case, the greater the proportion of subsidised members, the less income the operator can generate from the facilities.

Similarly, when providing additional incentives for 3 x 30 minutes, it is anticipated that there would have to be a reduction in subsidy for those that are just members, but a real incentive for their conversion into regular users.

### ***Risks associated with this approach***

There are a number of risks and challenges associated with this approach including:

- ◀ The degree of comfort within the Council at being so specific about its target market for sport and physical activity, as it requires a clear line to be drawn about who is subsidised and why:
  - ◀ Means tested provision.
  - ◀ Targeting the most deprived and the least likely to vote.
  - ◀ Potentially alienating the wider community.
- ◀ The need to develop new facilities to achieve this arrangement.
- ◀ The ability of NBC to monitor the scheme effectively as there is a real capacity for operator abuse of the arrangement.
- ◀ There need for effective, detailed, accurate management information and potential "physical activity tracking" of members.
- ◀ The clear financial risk to NBC if the commercial partner over achieves in attracting members from the most deprived communities (i.e. it could lead to an 'earned increase' in the level of subsidy).
- ◀ If the commercial partner under-achieves there is a political risk of the Council entering a contract which purely subsidises membership to a private health club.
- ◀ Existing customers and those having to pay more may vote with their feet or potentially use their political vote 'against' the Council.
- ◀ There is the potential that deprivation definitions and indicators may change which may expand the scope (and thus the cost) of any means testing regime.
- ◀ There is considerable uncertainty within the commercial sector given the number of actual and potential mergers and acquisitions taking place.



- ◀ There is the potential that the existing health and fitness market within the town may react against a single operator being given a subsidised foothold in the area.
- ◀ It is unlikely that the commercial operator would wish to take on existing NBC staff; this may result in significant redundancy costs.

### ***The commercial sector's response***

The initial response from the commercial sector to this approach can be summarised as follows:

The level of interest in taking on a contract of this type has been rather cool as a result of the following:

- ◀ The sector does not measure (and is, in all honesty, not particularly interested in) participation frequency; its key driver is membership numbers.
- ◀ There may be issues with regard to the quality of specific brands; at both a local and national level.
- ◀ The commercial sector views the mixing disadvantaged members with those that can afford to pay as an issue. As a result, adoption of this type of experimental approach would need to be heavily incentivised.
- ◀ The commercial sector will be reluctant to take on NBC's existing facilities and would ideally prefer new ones; in the right location with the right mix of facilities and services.
- ◀ There would be a need to build in funding for refurbishment and improvement every 8 to 10 years.
- ◀ There would be a need to develop a minimum guarantee figures for operating the service in order to minimise the level of risk to shareholders.

### ***Summary***

In summary it is clear that the commercial health and fitness sector is not ready to consider an innovative approach to providing physical activity for the local authority market, especially one which focuses on exercise frequency for residents often in most need of exercise. Similarly there is a real challenge for local authorities and health partners in identifying who, and why certain residents receive a subsidy for their sport and physical activity.

This requires a radical approach but regardless of NBC's commitment to it, it is only likely to attract a commercial sector partner if the contract is written in such a way that it protects the commercial partner rather than the Council. Therefore, it is almost certainly not appropriate for NBC to consider progressing with this type of approach with the commercial sector.

However, this part of the study raised some significant questions around the current service and the need for any new approach to consider frequency of use as a KPI moving forward. This also requires the Council to engage with health partners in a more focused way and for all partners to adopt take-up and/or exercise frequency as a key measurement for all partners.

A key issue for the Council in developing a more focused approach to its partnership with the health sector is the degree to which joint initiatives are managed by the right service.

As an example the current health improvement officer in the Council does not sit within the Culture and Leisure team. There would, potentially, be greater synergy and impact if the post-holder was in a position to work with and influence the service to drive wider health improvement targets.

### CONCLUSION

There are a number of key conclusions that can be drawn from the evaluation of the management options appraisal for the sports facilities and sports development service at Northampton Borough Council. These include the following:

- ✦ The current in-house team is generating significant income from the health and fitness offer at the facilities and is, in our view, punching above its weight.
- ✦ The quality of the facilities impacts on the income generated from specific activity areas; this is specifically relevant in relation to swimming income at Lings Forum.
- ✦ The private sector does not have a track record in managing sports development services, which is a key component of Northampton's portfolio of services.
- ✦ Although the subsidy for the service in 2008/9 equated to £2.7 million; £1.08 million is support services recharges. This is a key area where the majority of savings can be achieved.
- ✦ The private sector market has traditionally won contracts on the basis of being able to generate increased income from health and fitness. It is clear that there will be limited or no opportunity to make such gains within Northampton. In fact the level of health and fitness income presently being achieved, may be a deterrent to the private sector bidding for a contract with the Council.
- ✦ The financial evaluation of the various options identifies that, in general, the minimum potential saving is relatively low compared to other authorities. This is on the basis that there is minimal additional income to be generated (on a sustained basis) from the service.
- ✦ The financial evaluation identifies that in general the difference between each of the options is minimal (varying from circa £50k to £80k) with the creation of a new trust the most economically advantageous option.
- ✦ The hybrid private sector and existing trust options would expect a financial return (profit and contribution to reserves) from operating the service.
- ✦ In addition, the creation of a new trust enables the Council to work with the shadow trust to transfer appropriate and key support services staff into the trust, thus enabling it to generate additional savings (up to £180k).
- ✦ None of the options brings any guaranteed access to capital (not even the private sector within the current economic climate). The most efficient method of securing capital will be prudential borrowing.
- ✦ TUPE would apply to all staff transfers.
- ✦ The Council will need to resolve its position on pensions provisions for the service moving forward and whether or not it will require the new operator to become an admitted body to the LGPS.
- ✦ Regardless of which option is progressed it is likely that the Council will require additional specialist support to achieve its preferred management model.
- ✦ It would appear that the more radical option of entering into a contract with a commercial health and fitness provider to provide sport and physical activity services to residents would be a high risk option for the Council. Furthermore, it is almost certainly not attractive to the private sector and it is unlikely that commercial operators would wish to be judged (and more importantly be remunerated on the basis of) frequency of use, as it does not currently measure (and value) this element of performance.

### RECOMMENDATIONS

Given the above detail within the report, the following recommendations should be implemented by NBC:

- ◀ Create a new leisure trust to operate its facilities and sports development service on behalf of the Council. The rationale for this is that:
  - ◀ It provides the most economically advantageous option for the Council.
  - ◀ It provides greater opportunities for the Council to achieve savings from its support services.
  - ◀ It retains any surplus income from the service within the service rather than it being lost to profit or redirected into another trust contract facilities.
  - ◀ It builds on the successful operation built up by the current in-house team.
- ◀ Not to progress with either of the hybrid private sector, existing trust or commercial health and fitness options as these will not, in our view, provide the most economically advantageous or effective options for the Council.
- ◀ To ensure that key health related KPI's (e.g. 3 x 30 minutes) are built into the performance measures for the new trust and that the PCT and health practitioners are fully engaged as stakeholders in this.
- ◀ To agree the Council's approach for pension provisions for the new trust (i.e. admitted body to the LGPS or money purchase scheme).
- ◀ Identify funding (circa £100k) to buy in the appropriate specialist advice to establish the trust with the objective of transferring the service on 1<sup>st</sup> April 2011.
- ◀ To consider the extent to which the new trust will be responsible for the repair and maintenance of the facilities.
- ◀ To consider the degree to which the Council would want to be involved in the management of the new trust (i.e. up to 20% membership on the Board of trustees).
- ◀ To consider the type of trust the Council would want to create
  - ◀ Industrial and Provident Society (IPS).
  - ◀ Company Limited by Guarantee.
  - ◀ Charitable Incorporated Organisation
- ◀ To consider, in principle, the proportion of savings that will be ring-fenced in the short, medium and longer term to be invested in improving the quality of facilities and services for residents; and to ensure the service continues to generate optimum levels of income (especially from fitness).