



Review of the Management Agreement with Halo Leisure Trust

Report by the Scrutiny Review Group April 2008

**For presentation to the Community
Services Scrutiny Committee on
17 July 2008**

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Community Services Scrutiny Committee

Review of Management Agreement with Halo Leisure Trust

1. Introduction

- 1.1 At its meeting on 20th December 2006, the Community Services Scrutiny committee resolved to add a review of the Management Agreement with the Halo Leisure Trust to its work programme.
- 1.2 A scoping statement for the Scrutiny Review (Appendix 1), including terms of reference was approved by the Community Services Scrutiny Committee at its meeting on 2nd July 2007. It was agreed that the Review Group would comprise of six Members: Councillor TM James (Chairman); Councillor P Cutter; Councillor K Guthrie; Councillor C Bartrum; Councillor D Benjamin; and Councillor D Greenow.
- 1.3 The Review took place between 13th September 2007 and 13th March 2008. This report summarises its findings concluding with its recommendations to the Community Services Scrutiny Committee and Cabinet.
- 1.4 The Review Group would like to express its thanks to the officers who presented verbal and written evidence to the Review Group and to those other Organisations that assisted in making their facilities available to Members for visits which helped to inform the process. Finally, thanks should also be expressed to Sandwell Borough Council for providing Officer and written representation in the capacity of critical friend.

2. Method of Gathering Information

- 2.1 The Review Group collected their information from the following sources and meetings: -
 - 2.1.1 Meeting of Thursday 13th September 2007
Information provided:
 - i) Scoping statement for the Review
 - ii) Audit Commission Inspection Report of Cultural Services
 - iii) Draft Action Plan in response to Audit Commission Inspection
 - iv) Management Agreement between the Council and Halo Leisure Trust

This was supplemented by introductions from the Lead Officer for the Review Mr G Cole and the Service Manager Mr A Featherstone on the background to the establishment of the Trust in 2002.
 - 2.1.2 Meeting of Friday 5th October 2007
This meeting consisted of a number of site visits which included the following facilities:
 - i) Ledbury Leisure Centre
 - ii) Ledbury Swimming Pool
 - iii) Ledbury Rugby Club (not under Halo management)
 - iv) Ross-on-Wye Swimming Pool
 - v) Ross-on-Wye Sports Centre
 - vi) Hereford Leisure Pool
 - vii) Hereford Leisure Centre
 - 2.1.3 Meeting of Tuesday 16th October 2007
This meeting consisted of a number of further site visits which included the following facilities: -
 - i) Lady Hawkins Community Leisure Centre (not under Halo management)
 - ii) Mortimer Leisure Centre (not under Halo management)
 - iii) Bridge Street Sports Park
 - iv) Leominster Leisure Centre
 - v) Bromyard Leisure Centre

- 2.1.4 Meeting of Tuesday 30th October 2007 at Leominster Leisure Centre
The Review Group received a presentation on the work of the Trust over its first 5 years by the chief Executive Officer of Halo, Mr J Argent.
- 2.1.5 Meeting of Monday 26th November 2007 at Brockington Offices
This meeting consisted of three formal presentations by Officers of the Council which outlined the key underpinning elements of the Agreement. These were: -
- i) The Background and Content of the Legal Agreement – Mr K O’Keefe, Legal Practice Manager
 - ii) The Financial Arrangement (to include the transfer position) – Mr G Evans, Management Accounting Manager
 - iii) Property Management Arrangements and Lease Provisions – Mr C Birks, Operational Property Manager
- 2.1.6 Meeting of Thursday 13th March 2008 at Plough Lane Offices
This meeting was dedicated to a presentation from Mr M McDonald, Commissioning Manager, Leisure Services, Sandwell Metropolitan Borough Council who advised the Review Group of Sandwell’s experience of setting up its Leisure Trust. The Sandwell Trust had been in operation for a broadly similar length of time to Herefordshire and held a comparable portfolio of built assets.

3. Background to the formation of the Leisure Trust and the format of the Management Agreement

- 3.1 When formed in 1998, Herefordshire Council inherited a portfolio of built leisure facilities from each of the four outgoing District Councils. These were in varying states of repair and in the case of the Leominster Sydonia swimming pool the facility was beyond its useful life and unable to be economically repaired.
- 3.2 At the time the council was still subject to Compulsory Competitive Tendering (CCT) legislation in respect of its leisure facility management function. It did however receive an exemption from this process until 18 months after vestment of the new Council.
- 3.3 One of the first tasks facing the authority was to undertake a full condition survey of the centres ahead of the production of the tendering documents for eventual market testing. Early indications from the surveys quickly identified a maintenance backlog of many hundreds of thousands of pounds and that most facilities were non compliant with Disability discrimination legislation. It was quickly concluded that it was neither in the interest of the Authority or a commercial partner to continue with the exercise.
- 3.4 In order to comply with the CCT legislation, the Council sought a six month exemption from the legislation to formulate a plan to manage out its obligations. It also agreed with the then Department of the Environment to undertake a fundamental review of its leisure management function. This was carried out in late 1999 and reported in early 2000. By this time the CCT legislation had been repealed and replaced with a new duty of Best Value.
- 3.5 The fundamental review concluded that the only sustainable option for the retention and improvement of the Council’s leisure facilities was to transfer the management of the assets to a charitable Trust which was also a company limited by guarantee. This decision was arrived at following an exhaustive options appraisal which considered the Trust option alongside those of an improved in-house model and private sector partner. The Council’s decision making process in respect of this option was subsequently tested by both the District Audit and the Audit Commission

by means of a pilot Best Value Review, which concluded that it was a fair service with likely prospects of improvement. In 2001 a project team was appointed to oversee the transfer. The transfer to the Herefordshire Community Leisure Trust took place on 1st April 2002.

- 3.6 The Management Agreement that formed the principal transfer document set out a number of areas: the duration of the term, the objectives for the service, the sites to be included, the conditions of transfer, the monitoring and planning framework, the rights of the Trust in terms of assignment and subcontracting, the dispute mechanisms and the procedures in the event of termination.
- 3.7 In addition to the Management Agreement, the Trust entered into individual leases for each site occupied, a number of short term Service Level Agreements for service continuity of critical functions and signed a Memorandum of Agreement to cover a number of contingencies which were deemed to best sit outside the headline management (such issues included an indemnification for the Trust against potential losses incurred from the implementation of the Job Evaluation and Single Status exercise).
- 3.8 Other than an amendment for the outcome of the Job Evaluation and Single Status exercise, a realignment of responsibilities for grounds maintenance at sites, the addition of the Bridge Street Sports Centre to the portfolio and the redevelopment of the footprint of two centres, no material changes have taken place to the Agreement since its execution. This review takes place following the fifth anniversary of that Agreement.

4. Sites included in the Agreement

1. Hereford Leisure Pool
2. Hereford Leisure Centre
3. Ledbury Leisure Centre
4. Ledbury Swimming Pool
5. Ross Swimming Pool
6. Ross Sports Centre
7. Bromyard Centre
8. Leominster Leisure Centre (and Swimming Pool)
9. Bridge Street Sports Centre

5. Findings

- 5.1 Observations made from site visits
 - a) It was clear that since the formation of the Trust, the profile and quality of the leisure offer provided at the centres had significantly improved.
 - b) Although significant reinvestment had occurred in both front and back of house, there was a realisation that this investment needed to be better planned, incremental and more strategic in nature.
 - c) Where Joint Use arrangements with schools occurred, it was perceived that there were significant differences in the added value accruing from those relationships. Whereas the operation at the Minster College, Leominster was deemed to be working well, there were strong concerns regarding the long-term benefits of the arrangement at the John Masefield High School, Ledbury. Members also noted with interest the success achieved through local partnership working, which was observed at the Lady Hawkins Community Centre Kington, but were mindful that this scheme currently sat outside the Halo portfolio.

- d) In terms of sport specific facilities, the Members were interested in the major achievements that had been made by the voluntary management of the Ledbury Rugby Club at the John Masefield High School playing fields site at Ledbury. After viewing the facility, it was considered that this form of management vehicle might be better suited to that of the Ross Sports Centre at Wilton Ross-on-Wye which was currently being managed on an outreach basis by Halo from the Ross Swimming Pool.
- e) There was a growing awareness that what was considered to be the traditional leisure and sporting offer through public leisure facilities was changing. Increasingly it was noted that sport specific use and participation (excluding at specialist facilities e.g. indoor bowls, athletics and swimming) was now largely being picked up and developed by the voluntary sector. It was seen that in order for participants to realise their true sporting potential, a club structure offering high level coaching and competitive opportunities was essential. On the whole these were best delivered outside publicly controlled facilities. Alternatively, however, this change in market demand was creating an exponential rise in the interest to undertake activities of a health and fitness related nature. The upshot of this trend was the need to invest in commercial infrastructure and flexible use space to cater for changing market preferences. Some of the structural constraints of the existing buildings do not readily lend themselves to the optimisation of benefits from this movement in demand.

5.2 Observations from officer interviews

a) Finance

Whereas members broadly understood the basis for the management fee, they were less clear as to what specific service they were receiving for their annual investment. There was also some lack of clarity as to where the benefit of the National Non Domestic Rate (NNDR) savings lay.

b) Property

Whereas it was understood that the interim Service Level Agreement over property and facility management services had now ceased, some members remained unclear as to what the delegated emergency repairs and servicing budget actually covered and to how it was being effectively monitored and measured. They were generally in favour of an enhanced and more robust monitoring regime for this delegated function. It was also noted that there were significant benefits appearing as a result of shared involvement in the design, planning and implementation of capital investment facilities.

c) Legal

The Legal Practice Manager took the review group through the framework of the Partnership Management Agreement. He made members aware of the limitations of Local Authority control over a charitable body and explained that in practice, operational management responsibility sat wholly with the Trust. The Council's Officer and Member role was to inform strategic direction and ensure that local priorities were featured in the service planning objectives of the Trust. When asked what he felt needed changing in the present agreement, the Legal Practice Manager advised that he still considered it highly relevant and fit for purpose and that it continued to offer the Council (and Halo) maximum flexibility in determining the future direction of the service. This view was largely accepted by the Review Group.

d) Halo

The Members accepted that the Halo Trust was marginally funded and that there was little room for manoeuvre in respect of its operating finances. Whereas it had always been accepted that Halo would be a vehicle to facilitate further capital investment in the facility stock, the economic climate of late had significantly curtailed their ability to deliver this in the medium term. Members

understood the significant impact of rising utility costs, interest rate rises and increased competition on the viability of the business and recognised the need to secure long term planned investment to offset these risks. It was accepted that Section 106 monies might be a means of supporting this investment.

Halo's success in continually improving its scores on the UK quality standard for sports and leisure management was also noted. Members congratulated the Trust on its status of attaining results that placed it in the top 14% of operators in the UK.

e) Sandwell experience

Members welcomed the offer of Sandwell to share with Herefordshire their experience of a similar operating model with broadly similar portfolio of facilities. On the whole, the Management Agreement was found to be broadly similar to that of Herefordshire. Notable exceptions were that in Sandwell, no Joint Use sites were included in the agreement and that provision for inclusion of the Sport Development Service was made. It was advised however that the Sports Development Service in the Sandwell Borough was very different from Herefordshire in that it was hands-on operational as opposed to strategic and enabling in the context of this County. The other major consideration was that this Council's level of financial support to the Trust was just over £1m pa compared to £4.2m in Sandwell.

6. Consideration

- 6.1 Whereas it was recognised that Halo had managed to secure very significant increases in both income and usage at all of its managed centres, it was also noted that the physical capacity to continue this growth was being exhausted. Any dramatic improvements would only be secured by increasing capacity in terms of acquiring new facilities or partnering with third parties with mutual objectives e.g. schools and the PCT.
- 6.2 To this end, Halo had begun to support some High Schools in the delivery of both the extended schools and alternative vocation curriculums. Although resource intensive at inception, this work was now starting to bear fruit, and was proving to be a very strong model to role out with other educational partners. Based upon the partnerships forged at Kingstone, Wyebridge and John Kyrle, it is suggested that this arrangement should be supported where possible but that it sits outside of the headline management agreement. Any proposals which may seek to provide Halo with any security of tenure in relation to Council owned school sites should be subject to the formal approval of the Head of Asset Management & Property Services and relevant Executive Members.
- 6.3 In respect of the specific technical expertise and competence within Halo, it is suggested that, in view of their impressive work on project management of capital schemes, consideration should be given to further partnership ventures with the Council's Property Department to secure mutual gains. Energy management through the Salix Grant Scheme is a particular example. Engagement in providing solutions to the future delivery of school swimming programmes across LEA provision and Halo managed sites is a further example of cross organisational sharing of professional expertise.
- 6.4 The future of Halo as a high quality service provider held up at national level as a best practice model will depend on its ability to develop beyond a marginal enterprise. It must always be remembered that its viability will continue to remain tenuous as long as its income barely covers its expenditure. At current levels of trading, it is unlikely that further gains can be afforded without a fundamental rethink of purpose. The ability to absorb real term cuts to funding against rising costs is unsustainable. One opportunity for greater efficiencies may be in the formation of a wider Trust vehicle for the delivery of other cultural or Council services e.g. other Council owned leisure centres at Kington and Wigmore that are not currently

managed by Halo. The potential for increased sharing of support and technical services may then be realised.

- 6.5 It is becoming increasingly the case that leisure management vehicles such as Halo are being used by Local Authorities and their strategic partners to deliver major longitudinal programmes aimed at improving the health and wellbeing of the area's residents. One notable example of this is in Rochdale. Although there has been a longstanding partnership over the LIFT Scheme, other initiatives have been slow to be established and none receive substantial funding across the partnership. Given Herefordshire's unique relationship with its PCT, it is suggested that the opportunities for joint working be further explored bearing in mind the benefits that have been seen to accrue elsewhere in the UK. Such an initiative could help to broaden the client base of the Leisure Trust and hence its long term viability.

7. Conclusions

- 7.1 The current Management Agreement is 5 years old. Given the achievements that have accrued over that time, it can be deemed to have been largely fit for purpose. It is now recognised however that the content needs to be updated to reflect very rapidly changing commercial and public sector environments. Whereas the framework has facilitated greater investment in ailing facilities and continuous improvement in the attainment of quality scores, it is now seen as less than adequate as a commissioning tool for the procurement and performance management of the service.
- 7.2 The setting up of The Herefordshire Community Leisure Trust (Halo) is to be viewed as a long term strategic commitment by the Authority to ensure the betterment of its leisure facilities and services for residents and visitors. In order for this commitment to be fulfilled, a much more strategic approach to service planning needs to be established. Under such an approach both asset management and service direction need to be agreed by senior management and elected members of both organisations and endorsed by a wider stakeholder community.

8. Next Steps

- 8.1 The Review Group anticipate that, if approved by the Community Services Scrutiny Committee, this report will be presented to Cabinet for consideration.
- 8.2 The Review Group anticipates that if the report is approved, the Council and Visit Herefordshire would act in concert upon the recommendations and suggestions made in the report.
- 8.3 The Review Group would also expect the Cabinet to report back to the Community Services Scrutiny Committee in six months time with a detailed action plan reporting on activity taken upon the Review Group's recommendations.

9. Recommendations

The following recommendations have been proposed to respond to the Terms of Reference in the original scoping document.

- 9.1 *Address recommendations and comments of the Cultural Services Inspection specifically in terms of establishing a new agreement with performance indicators, transfer of risk, and long term planning.*

That a) a rolling 3 year, annually reviewable Commissioning Agreement, similar to that currently used in respect of The Courtyard by formulated. This would supplement the existing Management Agreement and Leases and would cover those detailed aspects of service delivery and performance

management that are not appropriate to be included in the more general aforementioned headline agreements.

- b) That any transfer of risk proposals shall be via a detailed report to the Joint Halo/Council Vision Group (to meet bi monthly). If agreed these shall be subject to formal cost/benefit scrutiny by both professional Officers and Members and that where deemed necessary, specialist independent advice should be sought. Depending on the extent of the proposal, a view of the District Auditor may also be deemed prudent.
- c) That long term planning shall be the responsibility of the Joint Halo/Council Vision Group. This group should also be made aware of any papers (other than those of a confidential nature) that are being prepared for the Halo Board. In respect of any substantive decisions, it is recommended that certain appropriate reports be jointly authored by the Trust and the Council (such an example might be the decommissioning or modification of a facility).

9.2 *Assess financial position including cost per head of user and resident, cost per centre, income opportunities, pricing and efficiency savings.*

- That*
- d) the 'Value for money template' (attached as Appendix 2) be utilised for the purpose of reporting on these performance criteria.
 - e) although creating income opportunities and pricing considerations fall outside of the responsibility of the Council (these being largely operational issues), it is suggested that any substantive changes which may result in an impact on the Council's service delivery priorities should be discussed with the Council's Authorised Officer at programmed monthly meetings.

9.3 *Assess current monitoring and measuring arrangements, reporting mechanism and relationship.*

- That*
- f) the following arrangements be agreed: -
Strategic – Bimonthly Joint Halo/Council Vision Group
Membership: Halo Chair, Halo CEO, Council Director, Council Authorised Officer, Appropriate Cabinet Portfolio Holder, Council Elected Members who have seats on Halo Board.
Secretariat: Herefordshire Council.

Reporting mechanism: Bimonthly financial and performance reports.

Commissioning – CEO of Halo and/or appropriate Officer Representatives with Council Head of Service and/or Authorised Officer.

Reporting mechanism: Commissioning Agreement performance criteria.

Operational – CEO of Halo and Authorised Officers to attend as appropriate to consider issues such as financial property and service delivery.

Reporting mechanism: Action points noted at monthly meetings.

All other contact on operations issues to be as and when required.

9.4 *Assess long term buildings and capital programme for facilities*

- That*
- g) these issues form part of the stand and agenda of the Joint Halo/Council Vision Group. All proposals generated by this group shall be forwarded to the Council's Corporate Asset Strategy Group and its relevant sub groups

for initial consideration. Any decisions shall be subject to both Halo Board and Council Executive and Member Scrutiny.

9.5 *Links with other leisure facilities not operated by Halo*

All leisure facilities not currently operated by Halo are subject to formal legal framework agreements which predate the formation of Halo. The Council is only one party of many to these agreements.

That h) it is recommended that wherever possible Halo should be encouraged to enter into dialogue with these organisations to investigate opportunities for joint working, improved efficiency through the promotion of shared services and cross organisational learning. Only where there is mutual agreement between both Halo and the relevant third parties should merger be considered. A rigorous cost benefit analysis of any such merger both in qualitative and quantitative terms should always be undertaken.

9.6 *Assess the potential of Halo contributing to the corporate priorities of the Authority, especially services for older people and people with learning disabilities*

That i) these issues shall be subject to ongoing review as part of the development of the commissioning agreement. It is recommended that Halo be regularly appraised of the emerging Local Area Agreement and Comprehensive Area Agreement discussions and that they should be encouraged to engage in the long term visioning around emerging priority setting.

REVIEW:	Review of Agreement with Halo Leisure Trust	
Committee:	Community Services Scrutiny Committee	Chair: Cllr TM James
Lead support officer:	Geoff Cole	

SCOPING

Terms of Reference

This review will cover:

- Address recommendations and comments of the Cultural Services Inspection specifically in terms of establishing a new agreement with performance indicators, transfer of risk, and long term planning;
- Assess financial position including cost per head of user and resident, cost per centre, income opportunities, pricing and efficiency savings;
- Assess current monitoring and measuring arrangements, reporting mechanism and relationship;
- Assess the long term buildings and capital programme for facilities;
- Links with other leisure facilities not operated by Halo;
- Assessment the potential of Halo contributing to the corporate priorities of the authority, specially services for older people and people with learning disabilities.

Desired outcomes

- Establish new agreement with Halo Leisure Trust, with outcomes and timescales
- Assessment of future life of the facilities linked to customer trends
- Assessment of financial arrangements, needs and efficiencies of Halo
- Create a system of benchmarking financial and no-financial performance indicators
- Understand potentials for increase community based activity and activity for target groups

Key questions

- What are the customer trends effecting the delivery of leisure, and local opportunities and threats?
- What should be included in a new agreement?
- What are the costs for delivering the service, broken down by centre?
- What are the results of value for money comparisons when benchmarked with other methods of service delivery in other areas?
- What are the current performance measures and is there scope for additional measurements?
- What is the potential of increasing the market to people with learning disabilities and older people?
- What are the key pressure points around the leisure facilities operated by Halo and other public sector parties?
- What is the potential to linking with other services and facilities?

Corporate Plan Priorities

Economic Development, community well being and enterprise, thriving communities

Timetable (some of the facilities are only open seasonally and will influence the time table)	
<i>Activity</i>	<i>Timescale</i>
Agree approach, programme of consultation/ research/provisional witnesses/dates	September 07
Collect current available data	September / October 07
Analysis of data	October 07
Final confirmation of interviews of witnesses	October 07
Carry out programme of interviews	November and December 07
Final analysis of data and witness evidence	January 08
Prepare options/recommendations	February 08
Present Final report to Community Services Scrutiny Committee	March 08
Present options/recommendations to Cabinet	April 08
Cabinet response	May 08
Implementation of agreed recommendations	July 08 onwards

Members	Support Officers
Cllr TM James (Chair of Review)	Geoff Cole (Lead Officer for Review)
Cllr CM Bartrum	Tony Featherstone, Parks, Countryside and Leisure Development Manager
Cllr DJ Benjamin	Jenny Goldsbury, Directorate Services Manager
Cllr PGH Cutter	Democratic Services (Tim Brown)
Cllr DW Greenow	
Cllr KS Guthrie	Colin Birks, Property Services Manager

VALUE FOR MONEY BENCHMARKING DATA

HALO CENTRES

	2002/2003	2003/2004	2004/2005	2005/2006	2006/2007	2007/2008
Management Fee	£1,033,500.00	£1,035,000.00	£1,000,000.00	£1,061,974.00	£1,085,000.00	£1,085,000.00
Attendance	1,122,002	1,088,551	1,177,926	1,342,368	1,456,685	1,486,453
Per User	£0.92	£0.95	£0.85	£0.79	£0.74	£0.73
Resident Pop Estimate	175,300	176,100	176,800	177,300	177,800	177,800
Subsidy per Resident	£5.90	£5.88	£5.66	£5.99	£6.10	£6.10