East Hertfordshire

UNISON

Leisure Trust Failure

Alternative Option for East Hertfordshire District Council

European Services Strategy Unit

(Continuing the work of the Centre for Public Services)

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The **European Services Strategy Unit** is committed to social justice, through the provision of good quality public services by democratically accountable public bodies, implementing best practice management, employment, equal opportunity and sustainable development policies. The Unit continues the work of the Centre for Public Services which began in 1973.

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East Hertfordshire's Leisure Services contract with Enfield Leisure Centres Ltd (Aspire Trust) has a major financial crisis. It is £500,000 in the red in the first year of a five-year contract. Resignations of senior staff and the possible liquidation of the Enfield Trust add to the scale of the crisis – a crisis in the making during the evaluation of the market testing bids in 2005.

Following the financial crisis in the East Herts Leisure contract and the proposed recovery plan and changes to terms and conditions, East Hertfordshire UNISON commissioned the European Services Strategy Unit to undertake a detailed assessment of the Trust and options for the Council.

East Herts District Council operates five pools and gyms. Three are joint use facilities managed with Hertfordshire County Council – the Ware Freeman pool, Leventhorpe and Fanshawe pools. Each of the five towns in the district has a swimming pool and four of those sites also have a gym.

The Council decided to market test leisure services in 2003 and invited five organisations to bid but received two external bids, one from a private contractor and another from Enfield leisure Trust. An in-house bid was prepared and submitted but 'was withdrawn' and was not evaluated.

Despite the Enfield (Aspire) bid forecasting increased income of £150,000 per annum yet had reduced the staffing budget by £180,000, it was awarded the contract. East Herts Council claimed savings of £980,000 over five years.

Leisure centre managers have stated that at the time the contract was awarded they forecast that the contract would last 18 months before there was a financial meltdown. These forecasts have proved to be over-generous because the crisis came much earlier.

A grave misjudgment was made in awarding the contract to Aspire. It appears that the lure of £975,000 savings over five years had greater priority over the concerns about financial and staffing risks. Whether the Council (officers and/or Councillors) decided to outsource leisure services in the almost certain knowledge that Aspire would be changing the terms and conditions of staff within months is important politically and financially.

By May 2006 the Head of Leisure reported the Aspire Board's decision to *"improve the efficiency of the contract"* and referred to the higher than expected loss in the first year of the contract. It reported Aspire's plans for a management restructure, review of the terms and conditions of casual staff and postponement of the 2006/07 pay award without comment. The Council only expressed concern about service quality and continuity. The Council had no budget for variations such as Aspire's claim for staff payroll costs incurred prior to transfer and compensation for loss of income from the temporary closure of the Leventhorpe Pool.

Aspire produced a Recovery Plan on 30 June 2006 to address a shortfall now predicted to be £500,000, an increase of £221,525 in a five month period. The Plan included a management restructure, revised company structure, changes to services, reducing the pay of casual staff and changes to terms and conditions estimated to reduce costs by £363,000. But this still left further cuts of £137,000 to be identified.

UNISON is firmly opposed to the proposals and members voted overwhelmingly to take industrial action.

The Leisure service contract with Aspire Leisure Trust/Enfield Leisure Centre Limited should be terminated immediately. An alternative strategy consists of three parts – the return of the service to in-house provision, preparation of s Service Improvement Plan with service users and staff, and drawing up a medium term asset management plan.

Staff should be transferred back to the Council under TUPE but at the original terms and conditions applicable to staff at the point of transfer in July 2005 plus application of the 2006/07 pay award from April 2006.

In conclusion, the overall financial situation will change dramatically. From attempting to achieve a saving of £975,000 over five years the Council saved a little over £50,000 in the first year. It is now faced with an additional estimated cost of £903,560 over five years based on the 2005/06 budget.

Having made the decision to market test in the first place, the Council will now be required to retender the contract. It may negotiate a takeover by an alternative provider for a limited period but procurement regulations require retendering of the contract shortly thereafter.

UNISON makes the following recommendations to East Herts District Council:

1. Terminate the contract with Aspire Leisure Trust.
2. Return the service to in-house delivery.
3. Transfer staff back to Council employment on the terms and conditions applying in July 2005 at the original point of transfer plus application of the 2006/07 pay award from April 2006.
4. Prepare a Service Improvement Plan with service users and staff/trade union representatives.
5. Prepare a Medium Term Asset Management Strategy to prepare a strategy to maximise use of the facilities and plan major repair and planned maintenance.
6. Develop the long-term strategy for new/replacement facilities.

Recommendation to the District Auditor:

The District Auditor should investigate:

- The disappearance of the in-house bid in the procurement process in 2005.
- The substantial and material changes in the contract negotiated by Aspire and the Council in the six-month period after the contract was commenced.
- Identify the full financial cost of the procurement process and contract with Aspire and ensure that the retendering of the leisure contract adopts best practice policies and procedures.

Part 1
Introduction and context

Trust in crisis

With only a year into a five-year contract, East Hertfordshire's Leisure Services contract with Enfield Leisure Centres Ltd (Aspire Trust) is clearly in crisis:

- It has a projected shortfall of £278,475 in the first year of the contract (which commenced July 2005) with a further £240,500 projected for the second year.
- It was forced to propose a Recovery Plan and changes to terms and conditions less than a year into the contract.
- The Managing Director of Enfield Leisure Trust, Simon Parkinson, resigned in July 2006, apparently following a disagreement with the Leader of Enfield Council.
- The Contract Manager, Michelle Davies, has also resigned.
- A UNISON ballot won 43/2 approval for industrial action in response to the proposed changes in terms and conditions.

All of this undermines the East Herts Leisure Trust mission statement:

> *"East Herts Leisure Trust is an innovative and dynamic Trust aiming to provide high quality customer focused services, that can be accessed by all sections of the community"*

Following the financial crisis in the East Herts Leisure contract and the proposed recovery plan and changes to terms and conditions, East Hertfordshire UNISON commissioned the European Services Strategy Unit to undertake a detailed assessment of the Trust and options for the Council.

Objectives

The study has three objectives:

- To identify the lessons to be learnt from the process of outsourcing leisure services and from the operational performance of the Trust.
- To improve the security and quality of jobs, terms and conditions of leisure services staff in East Herts.
- To identify an alternative option for East Herts District Council to ensure the continued provision of leisure services.

Methodology

The study has involved discussion with UNISON regional and branch officers and a detailed examination of East Herts DC leisure services documentation from 2003 including reports to the Executive on the market testing process and recent reports to Performance Scrutiny Committee. It also included examining the Trust's Recovery Plan and Review of Pay Enhancements, researching press reports and interviewing key officers and Members.

Organisational structure

East Herts Leisure Trust is a subsidiary company of Enfield Leisure Centres Limited (ELCL) which was founded in 1999 and is a "Not for Profit" Leisure Trust managing the leisure facilities in the London Borough of Enfield.

East Herts Leisure Trust is structured as a Company Limited by Guarantee and is the trading name of Aspire Leisure Trust.

ELCL is an Industrial Provident Society whose society objectives are to promote any charitable purpose predominantly for the benefit of the general public in the London Borough of Enfield.

East Herts leisure services

East Herts District Council operates five pools and gyms. Three are joint use facilities managed with Hertfordshire County Council – the Ware Freeman pool, Leventhorpe and Fanshawe pools and gyms. Each of the five towns in the district has a swimming pool and four of those sites also have a gym.

The Council has a good track record in providing facilities accessible for people with disabilities. Seventy two per cent of council buildings met DDA requirements by March 2004. The swimming pools and gyms are accessible with disabled parking, automatic doors, disabled changing facilities and toilets and poolside hoists.

The five pools and gyms, two of which are owned by the council, were opened in the 1970s and are now ageing and require a comprehensive programme of maintenance and refurbishment. In 2003 it was estimated that maintenance expenditure for the facilities over the next 15 years to be £5.8 million.

The pools are restricted because there are no dry sports facilities on site and facilities for support services such as catering and crèches are limited. However, user satisfaction with swimming pool provision is relatively high at 74% according to the 2003 East Hertfordshire residents survey.

The Council is working in partnership with the primary care trusts (PCT), medical centres and GPs to deliver an exercise referral scheme and cardiac rehabilitation scheme in Fanshawe and Hartham.

East Herts is a rural district with five towns – Bishops Stortford, Hertford, Sawbridgeworth, Buntingford and Ware with a population of 131,000. Nearly seven percent of the population are from minority ethnic communities. New housing development in Bishops Stortford and the expansion of Stansted Airport could lead to further development and demographic change.

Audit Commission inspection

The most recent Audit Commission inspection of Leisure and Recreation Services was undertaken in February 2005 with the report published in May 2005. The inspection covered the five pools plus Castle Hall performance venue, equipped outdoor play space, play schemes, health and physical activity, tourism, countryside access, sports development, arts development, museum development, and local plan policies for sports, recreation and open spaces. It concluded that East Herts was providing a 'fair', one-star service that has promising prospects for improvement.

The inspection considered the service was fair because:

- *"local people can see improvements made to services and facilities;*
- *services and facilities are accessible and specific services and activities are provided for people with special needs;*

- *local people and partners are involved in developing services through forums, youth council and consultation and feedback; and*
- *the service contributes to council ambitions"* (Audit Commission, 2005).

The inspection raised a number of points:

- *"the level of satisfaction among residents and users of the council's leisure and recreation services presents a mixed picture, with satisfaction levels amongst residents poor;*
- *leisure and recreation facilities are of mixed quality and are now ageing and require a comprehensive programme of maintenance and refurbishment;*
- *sports facilities present limited opportunities with no ancillary facilities such as dry side sports, cafes and crèches;*
- *the council does not measure the impact of some of the work on the quality of life for local people; and*
- *there is no overarching plan for the service"* (ibid).

The 'promising prospects for improvement' assessment was based on a number of advantages:

- *"there is strong councillor and senior management support for the service;*
- *there have been improvements in leisure and recreation services since the last Best Value inspection in 2001 for example museums outreach and work with young people;*
- *the council works well in partnership to provide leisure and recreation opportunities;*
- *priority areas such as play for young teenagers are being funded to enable improvements;*
- *the council is taking decisions aimed at improving the value for money of key services such as the pools and gyms; and*
- *the council is learning from its previous experiences, such as the fraud at Hartham Pool and Gym, and is taking steps to address areas of weakness"* (ibid).

The inspectors did find some shortcomings such as:

- *"the council has not clearly communicated its approach to the development of leisure and recreation services so that some community partners are not clear about the direction it is taking;*
- *there is some inconsistency in the way performance management is applied across the services particularly in the setting of challenging targets; and*
- *cross service working is largely down to the initiative of individual staff which means that opportunities to develop new initiatives may be missed"* (ibid).

The Audit Commission recommended the Council to establish a strategic plan and decision-making timetable on the future of facilities. It also recommended setting clear, challenging, outcome focused targets and managing performance against them and more cross service working to develop new initiatives.

Setting out in full the Audit Commission's summary of findings demonstrates the strengths of the service in 2005.

Part 2
The decision to outsource leisure services

Background and rationale

The Council established an Executive Action Group (EAG) in 2002/03 to develop a long term strategy for the five pools which were 25 years old and required modernisation and/or replacement. Members were also concerned that the cost of the service was continuing to increase with a predicted budget deficit of about £1.7m. An Audit Commission inspection in 2001 deemed them 'fit for purpose' but found that there was no medium/long term investment strategy to modernise the facilities. The inspection also made reference to the low usage of pools compared to other authorities, the lack of a strategy to increase usage and the high cost of the service.

In the lead up to market testing a report to the Executive in July 2003 had recommended that officers prepare a report for September 2003 proposing *"alterations to the existing terms and conditions for staff working at the five pools and leisure centres in order to reflect the more flexible work culture within sport and fitness industry and to respond to changing market conditions"* (East Herts, 2003). It also agreed to set up a new consultative body with UNISON, the Head of HR and a DSO manager to "discuss all aspects of staffing terms and conditions. A review of the management and supervision of the service would also be undertaken.

> *"In the medium to long term staff consultation and involvement will also be essential to the market testing of these services. The implications of that action range from those set out above to the potential transfer of staff from this authority to a private sector provider"* (ibid).

The same report also recommended that officers seek tenders for the five pools as soon as possible *"to determine whether the five facilities could be operated more effectively and efficiently than the District Council can achieve"* (ibid). It also required officers to engage consultants to assist in the market testing process. The lowest tender from Torkildsen Barclay was accepted and were appointed leisure consultants in February 2004 at a cost of £12,045 (East Herts, 2004a).

The minutes of the meeting reported that the Council's consultancy budget was already overspent by £30,000. Future consultancy fees would have to be funded from within the relevant service. It also stated that:

> *"Management and staff at all levels within swimming pools had made a concerted effort to increase income and reduce expenditure during 2003/04. This effort had resulted in a real saving of approximately £114,000 in employee costs, when comparing the original Estimate for 2003/04 against the expenditure to date up to December 2003."* (ibid)

Consultants report on process and criteria

In response to UNISON's demand that the contract should be based on TUPE Plus, the consultants advised the Council that:

> *"The Executive could if it so wished offer this further protection to any potentially transferring staff or staff newly engaged on the contract. However it is recommended that the existing legislative framework and the tender evaluation*

> *which will be undertaken on tenders received is sufficient to offer the necessary protections"* (Torkildsen Barclay, 2004).

UNISON demanded that the contract should stipulate that the contractor could not change terms and conditions of employment without the agreement of the trade union. However, the report to the Executive in June 2004 stated:

> *"…..this is not a requirement of the Code of Practice and it is not proposed to include this in the contract documentation"*

The Executive also accepted the recommendations of the consultants with regard to:

- A single contract for all five pools;
- A 70:30 price/quality weighting;
- A five-year contract with review option to extend the contract in year 4;
- A deficit/surplus based contract;
- Proposals for additional investment;
- Council retain responsibility for the building fabric and major plant;
- Council retain control of core prices (East Herts, 2004b)

The consultants recommended that the quality element of the evaluation process be assessed using only four criteria:

- Ability/proposals to manage the contract (10%)
- Delivery of Service Outcomes (10%)
- Understanding of Best Value and continuous improvement (5%)
- Relevant experience and successful performance within similar contracts (5%)

There were no specific criteria for the quality of employment, recruitment and retention, equalities, training and workforce development.

The tendering process

The Council shortlisted five contractors following the Contract Notice and receipt of expressions of interest received:

DC Leisure Management Ltd

Enfield Leisure Centres Ltd (Trust)

Leisure Connections

Sport and Leisure Management Ltd

Stevenage Leisure Ltd (Trust)

Tenders submitted but in-house bid disappears

Only two contractors submitted tenders, one from a private contractor and the second from a trust (Enfield).

We understand from various sources that an in-house bid was prepared and submitted on time. We are also informed that this was a comprehensive and detailed priced bid. However, following some clarification questions this bid disappeared. It was not assessed by the evaluation team and there is no reference to consideration or rejection of the bid in Council minutes.

This raises important questions for the District Auditor. The treatment of the in-house bid questions the Council's management of the procurement process and also calls into question the basis of the contract award. A more effective and cost-effective bid may have been competitive with the Aspire bid, although the Council may not have achieved the desired level of savings. If the in-house bid was priced too highly then why was it not considered and rejected alongside the bid from the private contractor?

This also meant that a valid comparison of external and in-house bids could not be undertaken and ensured that a future privately delivered service would be compared only with the historic costs of public provision. At the time UNISON did not know that an in-house bid had been submitted and therefore could not press for the bid to be evaluated.

Evaluation of bids

The Executive considered two reports on the evaluation of the bids on 18 January and 15 February 2005. The evaluation of bids was undertaken by East Herts Council officers together with the consultants Torkildsen Barclay. Price WaterhouseCoopers advised the second tenderer.

The first report recommended that the first tender be rejected because it would add £211,234 to the estimated cost leisure services in 2005/06. In contrast the second tender was costed at £786,910 for 2005/06 compared to the Council's draft revenue estimate of £982,092 (East Herts, 2005a). Thus the second tender would provide savings.

Trust status was a key advantage to the second tenderer. There are two main advantages. Firstly, as a non-profit organisation it is not required to charge VAT on most of its income. Secondly, it is entitled to 80% mandatory relief on NNDR. Despite a lot of propaganda to the contrary, the prime advantage of leisure trusts is financial via government approved tax avoidance.

The staffing provision in the second tender "appeared to assume lower staff levels to achieve the same programme" in contrast to the first tender which "more closely resembled the current position" (ibid). Both tenders provided written assurance to accept the Code of Practice on Workforce Matters.

The price/quality evaluation showed a substantial advantage to the second tender and the first bid was excluded (see Table 1). Interviews were held with only the second tenderer after the first was rejected.

Table 1: **Price/Quality evaluation**

Tenderer	Price %	Quality %*	Total %
First	46.2	18.4	64.6
Second	70	17.3	87.3

Source: East Herts, 2005a.

*Out of a maximum score of 25% with the remaining 5% of the 30% allocated to quality relating to site visits and references and applicable only if the combined price/quality scores are within 5 percentage points of each other.

Further consideration of the second tender concluded that:

- The estimated income for all five centres was £2.03m (compared to £2.04m for first tender) and the Council estimate of £1.88m, an increase of £150,000 per annum or 8%.
- The staffing budget was £1.67m pa with no increase allowed for grade progression over five years (compared to £1.85 pa and £1.86m pa for the first tender and Council estimate respectively). This was a difference of £180,000 or 10% of the staffing budget.

"As the second tenderer is a small and inexperienced company and may not be in a position to be involved in a long term capacity with any large development project or a partner in any of these facilities. It would be known to them early on in the contract term that their long term future would not be with that facility(ies) and

there is a risk they could not maintain commitment for that aspect of the service" (ibid).

The risk assessment identified three potential risks. Firstly, the underestimating of staff costs produces a potential risk of about £180,000 per annum. Secondly, the non-achievement of the full benefit of NNDR relief, assumed by the tenderer, could be about £61,687 per annum. Thirdly, the higher level of usage at all sites was a risk.

It noted that the second tenderer "would be unlikely to have access to any source of income to balance any deficit in their bid other than fee increases, cost reductions or requests for additional funding from this Council" (ibid).

However, the potential saving to the Council was £975,910 over the five year contract.

The report also included a statement from UNISON that *"the case for demonstrating a considerable saving to Council Tax payers with no detriment to the standard of service delivery or that service delivery is going to be drastically improved has not been proven"* (ibid).

The January 2005 meeting of the Executive requested further investigation of the risks involved with the second tenderer. A further evaluation report was discussed at the February 2005 Executive meeting which decided to award a contract to the second tenderer to commence on the 4 July 2005. However, this report contained some important comments, particularly in the context of the current crisis.

The report concluded that:

> *"There are substantial financial benefits to the Council in outsourcing the management of the leisure centres to the second tenderer, equating to a minimum of £976,000 over the life of the contract, and potentially up to £1,250,000. In addition there will be further added value in respect of new gymnasium equipment, potential of a Young Persons Gym and benefits from the profit share."*
>
> *Based on references, site visits, interviews and Method Statements, there is no reason to assume that the second tenderer will provide a substandard or poor service if they were awarded the contract, and indeed there are indications that the service would improve, not least through investment in new equipment and ongoing centres maintenance.*
>
> *There are elements of the second tenderer's bid where there are still reservations, particularly in relation to the level of staffing budgets. However, the second tenderer has been given plenty of opportunity to review these figures as a result of the evaluation process, and they still stand by their estimate. In practice, there is a healthy level of contingency within their budgets generally, plus the potential fall back position of accessing the Company's wider reserves.*
>
> *……..It is the consultant's and officers' opinion, therefore, that whilst there may be some element of risk in entering a contract for the management of the Council's leisure centres with the second tenderer, the overall – and not insignificant - benefit outweighs this risk, and it would be difficult to justify non award of the contract to the second tenderer"* (East Herts, 2005b).

Staffing concerns

> *"……The main area of concern in relation to the second tenderer's expenditure budgets relates to staffing provision. In comparison with both the Council's own budgets and those provided by the first tenderer,* ***the second tenderer's staffing budgets are some £150,000 to £200,000 per annum lower.*** *An evaluation of the staff provision by the Council's officers has confirmed that the second tenderer has incorporated all the staff that they were notified of as being*

transferable under TUPE at the time of the tendering exercise.

*However in comparative terms the second tenderer appears to have made lower levels of provision in total staff hours when compared with the first tenderer and the Council's own budgets. **The second tenderer has indicated that they believe they can achieve various efficiencies as a result of reviewing the staffing structure in the context of the high number of existing staff vacancies. They have confirmed that they believe its overall provision in the contract for staffing is sufficient based on the information that has been supplied.***

*It must be stressed, however, that there is no certainty that savings would not be possible on the first tenderer's or the Council's budget, only that, in comparison with these budgets the **second tenderer's provision looks light.***

*These concerns have been raised a number of times with the second tenderer and they have been given a number of opportunities to review their tendered staffing provision. **Following these reviews the second tenderer has confirmed that, on the basis that the TUPE information they have been provided with is correct, they firmly believe that they have made adequate provision within their staffing budgets to deliver the service required under the contract.***

In the event that the second tenderer was awarded the contract and they then experienced an adverse trading market or achieved negative variances on their budgeted expenditure, the evaluation panel requested they explain what contingency provision they had available. Their response was:

They believe they have surplus provision in utility and maintenance budgets. However, in relation to utility costs it is not recommended that such surpluses should be considered as a contingency option in light of the volatility of energy prices.

*…… **The second tenderer has reserves currently and anticipates that these would increase. In the event of under-performance of the East Herts contract access to these reserves may be achievable although the main Board decision would be required to release the funds."*** (ibid – our emphasis).

The report also noted that the second tenderers market research was "limited" and officers will have to work with the company to develop mutually agreed mechanisms to assess performance. A number of other issues including branding and media management, the maintenance of facilities, senior staff and organisational capacity, capital investment, TUPE and central establishment charges were resolved satisfactorily. A new monitoring function would have to be established in leisure management.

Audit Commission endorsement

The Audit Commission's 2005 inspection report also endorsed the outsourcing of leisure services:

"The council has undertaken a major value for money exercise through the market testing of its pools and gyms. The successful tender shows the expectation of substantial savings over the course of the contract with improvements in basic service quality. The contract is due to start in the summer of 2005. The evaluation process undertaken has encouraged officer and councillor debate on cost effectiveness and helped to build understanding regarding value for money of services" (Audit Commission, 2005).

Clearly, the Audit Commission could not have examined the outsourcing documentation and merely endorsed the District Council's decision as the 'right' decision because it fell within the prevailing ideology permeating the Commission.

The claimed savings

East Herts DC expect to 'save' £1m over five years. Aspire expected to make a loss in the first year because of higher initial costs and to make a surplus in the remaining four years of the contract. This in effect means that Aspire's surplus in the latter period would be substantially greater in the last four years in order to eliminate the planned loss in year one.

The Council's press release announcing the start of the contract stated that running the five facilities "had been likely to cost East Herts around £980,000 in 2005/06 but East Herts Leisure Trust will charge the council around £200,000 less each year" (East Herts DC Press Release 2005/80). See Part 7 for further analysis of the so-called savings.

But the saving was false because there was no budget provision for:

- exceptional items such as the £47,500 claim from Aspire for staffing costs related to the transfer.
- variations in the contract – a fundamental and standard part of the contracting system.

Furthermore, none of the market testing reports to the Executive contain a breakdown of the claimed savings. It has not been possible to verify the £980,000 figure to ensure that it does not include double counting or the inflation of savings.

Changes in the Contract

The contract documentation included a Leisure Centres Management Contract (. This was not agreed by Aspire Leisure Trust and East Herts Council until December 2005. Substantial changes were made in the contract which included:

Over 40 clauses cut from the original contract.

- A clause requiring the contractor not to make changes to staffing arrangements without the prior approval of the client was removed as were clauses on staff competence and skills and staff supervision.
- All the categories of penalty points and defaults were cut so that contract no longer specifies rectification timetable nor the level of liquidated damages incurred for poor or non-performance of the contract.
- Restrictions imposed on unplanned monitoring visits and a minimum 7 days notice for planned visits.

Conclusions

Having made the decision to commence the procurement process, the Council's room for flexibility was minimal given that it received only two bids, one of which was significantly higher than the current cost of leisure services. The 70/30 price/quality evaluation enabled the higher cost tender to be summarily rejected.

There were clearly major reservations about the sole remaining tender. The evidence from the available documentation suggests that the evaluation process was less than comprehensive. Whilst two evaluation reports were submitted to the Executive before the contract was awarded illustrates a level of uncertainty about the second tenderer and concern about a number of risks, particularly on staffing levels. It does not, however, reflect the level of rigor adopted by the evaluation team. It is not within the scope of this report to assess this.

Financial risk: the Council assumed that they were transferring financial risk to the contractor for any changes in income from users and the contractor would have to bare the consequences of success or failure regarding their ability to manage the staffing, financial, operational and performance requirements.

Staffing risk: the Council, consciously or unconsciously, transferred the bulk of the contract risks to the staff. The Council had refused to make TUPE Plus a requirement of the contract and they knew that the second tenderers bid was either under-financed or assumed unachievable productivity and/or changes to working practices in order to fit within their predicted staffing levels. Either way, the consequences for staff would be the same – cuts in terms and conditions. The Council had wanted to change terms and conditions prior to the start of the procurement process but did not progress this.

Another factor is that the two reports to the Executive did not provide a breakdown of the claimed £975,000 savings over five years. There is thus no way of assessing the validity of this figure and whether it included all the costs to the Council such as the cost of:

- consultants and the procurement process.
- establishing a leisure monitoring function
- variation orders and compensation for the closure of facilities for installation of new equipment or major structural repairs (there was no budget for this expenditure)

Leisure centre managers have stated that at the time the contract was awarded they forecast that the contract would last 18 months before there was a financial meltdown. These forecasts have proved to be over-generous because the crisis came much earlier.

A grave misjudgment was made in awarding the contract to Aspire. It appears that the lure of £975,000 savings over five years had greater priority over the concerns about financial and staffing risks. Whether the Council (officers and/or Councillors) decided to outsource leisure services in the almost certain knowledge that Aspire would be changing the terms and conditions of staff within months is important politically and financially. As Part 8 demonstrates, the council is paying a high price for the decision to outsource.

Part 3
Crisis in year one of the contract

Contract performance

The five-year contract commenced on 4 July 2005 although the contractual agreement was not signed until December 2005 because a number of negotiated changes.

A report to Performance Scrutiny Committee in October 2005 stated that client monitoring, based on a minimum of two reviews in any one month period, would cover:

- Service delivery
- Marketing
- Health and safety
- Water Quality Indicators
- Throughputs (casual swimming)
- Direct Debit Income

  (East Herts, 2005)

However, "it was felt inappropriate to report on what is essentially a snapshot of trading within Aspire's first financial quarter" which would instead be reported to the December Performance Scrutiny meeting. The report also referred to the plan to install new gym equipment in December/January 2005/06 (completed) and a new IT system in the same period (which became operational in February 2006). Discussions were reported on introducing a young person's gym at Hartham Pool.

The same report "asked Members to note" that Direct Debit income had declined 7.24% and 3.33% at the Hartham and Fanshawe Pool respectively in the three month period since July 2005. The report concluded:

> *"It is considered reasonable to assume that the remaining five months of Aspire's financial year may prove challenging in respect of attaining the throughput targets originally set in their tender submission for gym income."*

It also emerged that there was no budget provision for additional contract expenditure to compensate the contractor for loss of earnings caused by client instigated works such as the replacement of boilers at pools. Nor was there any budget provision if the client required the contractor to provide additional or enhanced services not specified in the contract.

The December 2005 Performance Scrutiny Committee reported average first quarter performance of 92.5% (service delivery 93.09%, marketing 90.68% and health and safety 93.73%). There had been a 18% decline in casual swimming compared to same period in the previous year. Swimming lesson income had increased. The contract had still not been signed.

The Leisure client reported that the decline in attendances in casual swimming and gyms *"did not necessarily reflect a problem for Aspire"* because their over-all business performance was affected by many other issues. "They remain confident about the over-all financial position in the first year of the contract" (East Herts, 2005).

The next report to Performance Scrutiny in February 2006 noted a 1.85% overall improvement in the second quarter performance. However, the decline in attendances continued although swimming lesson attendance remained *"broadly stable in the second quarter".* There had been an *"ongoing decline in gym membership/attendances over an extended period"* primarily as a result of increased private sector competition and the lack of targeted marketing.

The February report commented on the difficult trading situation for Aspire Leisure Trust in the first six months of the contract.

> *"Aspire Leisure Trust has previously planned to make a loss in the first year for the reasons outlined above; but is now forecasting a greater than envisaged loss by the end of the first year of the contract. A number of measures have been put in place to control expenditure; but the key issue for Aspire Leisure Trust is the degree to which income performance can improve in the second six month period of the first year, which will not only improve the current year's trading performance but also result in the Trust making the surplus that is forecast in the second year (and beyond). Taking account of the January figures, the initial signs are that attendances and income levels have improved considerably as a result of the gym investments that have been made. Providing the same rate of improvement can be made in the next few months, Aspire Leisure Trust remain confident about the underlying position and their ability to make a planned surplus in the second year"* (East Herts, 2006).

Both the December 2005 and February 2006 performance reports indicated that were "*no specific risk management implications identified at this stage"* (East Herts, 2005 and 2006a)

By May 2006 overall performance had increased by 2.15% on the previous quarter. Casual swimming attendances were down 12% compared to the same quarter in 2005, although the rate of decline had slowed and gym membership/attendances had increased following refurbishment and new equipment.

The May report by the Head of Leisure reported the Aspire Board's decision to *"improve the efficiency of the contract"* and referred to the higher than expected loss in the first year of the contract. It reported Aspire's plans for a management restructure, review of the terms and conditions of casual staff and postponement of the 2006/07 pay award without comment. The Council only expressed concern about service quality and continuity. There was still no budget to finance Aspire's claim for £47,500 for staff payroll costs incurred prior to transfer (this was finally settled at £32,150 (East Herts, May 2006b) and compensation for loss of income from the temporary closure of the Leventhorpe Pool for boiler replacement.

The risk management implications had changed:

> *"The current financial deficit position that the leisure contractor faces, and the process of implementing a recovery plan entail risks to the quality and continuity of the service. The Council has sought and received assurances from Aspire that they are committed to the contract, and that they are confident that service standards can be maintained throughout the recovery period" (East Herts, 2006).*

Elected Members expressed concern about the marketing of facilities, the reasons for the downturn in attendances and "why funds were not set aside in relation to costs which were anticipated to be incurred prior to the management transfer" (East Herts, 2006).

A report by the Director of Corporate Governance to the same Performance Scrutiny Committee in May stated that the leisure contract was expected to be in 'control' at the end of the 4^{th} quarter "but is in fact 'Critical' to reflect the serious financial downturn experienced by Aspire and the need to keep the position under review" (East Herts, 2006).

At the Annual Meeting of the Council on 17 May 2006 Councillor Graham asked the Leader of the Council "*whether he would give the Council a categorical assurance that he had 100% confidence in Aspire's credibility to provide the quality of service under the terms of the leisure contract"* (East Herts, 2006)

The Leader replied:

> *"…he was confident that Aspire could deliver the services under the terms of the contract. He stated that the Council was working with Aspire on an operational and strategic level and that in recent months, the Council had been acting as critical friend to ensure that services matched demand"* (ibid).

Conclusion

It is important to identify the causes of the financial crisis.

Did the trust knowingly submit a bid which required significant reduction in staffing costs, and hence cuts in terms and conditions?

Did the council know that the bid was financial structured so that it was highly likely to require cuts to terms and conditions but the council proceeded with a TUPE transfer anyway?

Was the financial crisis anticipated by Aspire or was it surprised by the rapid deterioration in its financial position? What were the relative impacts of the faster than anticipated decline in attendances and thus income, the higher rate of inflation in non-staffing costs such as utilities and the failure to launch marketing and promotion at the beginning of the contract in mid summer?

Part 4
The Recovery Plan

Aspire's Recovery Plan

The Recovery Plan in June 2006 consisted of six elements which are estimated to save £363,000 per annum, leaving further cuts of £137,000 to be found (Aspire Trust, 2006b).

Table 2: **Proposed Recovery Plan**

Proposed changes	Planned annual savings £
Management restructure	90,000
Revised company structure	30,000
Change casual staff pay to flat hourly rates	70,000
Changes to services	100,000
Increased fuel cost claim from East Herts Council	50,000
NNDR relief – Council granted full relief from business rates	23,000
Total	**363,000**

Source: Review of Pay Enhancements, Enfield Leisure Trust, 30 June 2006.

The source of the planned savings were:

- Aspire Trust internal management and administration - £120,000
- Changes to services for users – about £40,000
- Staff terms and conditions - £70,000 cuts in wages for casual workers (plus the staffing element of the changes to services (about £65,000) and Aspire's internal management and administration changes (about £60,000), a total of £205,000)
- East Herts Council - £73,000

In practice staff bore the brunt of impact of the Recovery Plan.

The Recovery Plan raises a number of important issues:

Firstly, the Plan is only two thirds complete and is not sufficient to achieve "the viable service" stated in the letter to staff. It is only a partial plan because there is no indication of how the remaining £137,000 shortfall will be addressed. So why produce a plan which is incomplete?

Secondly, it might indicate that the requirement for £500,000 of savings is not accurate but the figure has been inflated to try to pressurise staff and East Herts Council into making concessions to 'save services and jobs'.

Thirdly, it could indicate that the requirement for £500,000 savings is real but the means by which Aspire plan to achieve the additional £137,000 annual savings is politically and economically unacceptable to staff and the Council. Aspire could be relying on a further deepening of the crisis before announcing the source of these savings.

Finally, the Recovery Plan did not contain proposals for promoting and marketing the service or any other new approaches. There was no forward thinking in the plan which had all the hallmarks of a negative financial situation which was to be addressed by financial cuts.

Financial data

The financial summary in Appendix A of the Recovery Plan is based on the seven month expenditure data between July 2005 and January 2006 and shows that:

- Total Income was down by £137,322 compared to the 2005/06 Budget.
- Total Expenditure was up by £80,170 compared to the 2005/06 Budget.
- Total shortfall £218,032 plus the £60,600 net deficit Aspire had financed for in its tender giving an overall shortfall of £278,475 (Aspire, 2006). Given that the deficit was planned as part of the five-year financial plan submitted as part of the tender, it should not be included in the financial base of the Recovery Plan. Aspire had clearly intended to make a surplus in the remaining four years of the contract which would have mitigated the loss in the first year.

We do not have financial data for the remaining five months of the year but the Recovery Plan issued by Aspire on the 30 June 2006 showed that the deficit had soared to £500,000, an increase of £221,525 in a five-month period. This reveals a rapid financial deterioration in the Trust.

No evidence is available which identifies the reasons for the £221,525 increase in the deficit.

Enfield Leisure Trust crisis

We understand that there is a possibility that a motion will be made at the September meeting of shareholders of Enfield Leisure Centres Ltd that the company be put into voluntary liquidation. The London Borough of Enfield will then have to find alternative means of providing leisure services.

Since East Herts Leisure Trust (trading as Aspire Leisure) is a subsidiary of Enfield Leisure Centres Ltd it is unclear whether this action would have a knock-on effect resulting in the liquidation of the East Herts Trust.

It is also unclear whether the two companies are operationally separate and whether the financial crisis in the East Herts Trust has been exacerbated by financial problems in the Enfield Trusts or vice versa.

Part 5
Impact on services and staff

In February 2005 East Herts Leisure Services had an establishment of 137 posts of which 113 are filled. Some of the 24 vacant posts were being filled by some of the 70 casual staff.

Market analysis of wage rates within months of signing the contract

Appendix 2 of the Recovery Plan includes the Review of Pay Enhancements. The Trust undertook a *"detailed review of market salaries in Hertfordshire and the Outer Fringe of London"* (Aspire, 2006b). The market analysis is claimed to show that *"there are no pay enhancements to the basic salary (other than on Bank Holidays) and an additional hours would be paid at a flat hourly rate"* (ibid). Aspire had already introduced a flat hourly rate for casual workers. The 'market analysis' has not been published.

So the contractor, having made written and verbal commitments to TUPE and the Code of Practice on Workforce Matters (which is a condition of the contract), is, within months of signing the contract, carrying out a market analysis of terms and conditions with the intent of making major reductions. It makes a mockery of the contract and the tender evaluation process.

The two evaluation reports to the Executive clearly indicated that the contractor had underfunded staffing costs by £180,000 per annum and this was identified as one three major risks by the council. This underfunding, coupled with the fact that Aspire's staffing costs made no allowance for changes in grades (staff promotions) over the five year contract, would seem to indicate that the market analysis of terms and conditions was planned long before the financial crisis emerged.

It is also transparent that East Herts Council awarded a leisure services contract to a contractor which they knew was almost certainly to have to reduce jobs and/or terms and conditions within the first year of the contract. This situation could only have been avoided if there had been a very substantial increase in attendances at the five pools. The 'market analysis' of leisure services indicated that this was unlikely to happen on the scale required to offset the reduced staffing budget in the Trust's budget.

Failure to recognise the 200607 pay award

In late February 2006, only nine months after starting the contract, the Aspire Board decided not to implement the 2006/07 pay award *"until financial performance improves and an award is affordable."* It went on to state:

> *"the financial situation will be monitored on an on-going basis, to determine whether the pay award can be afforded, including whether or not it can be back dated to 1st April 2006. It is hoped that the pay award can be made at some future point in time, but I need to stress that no guarantees can be made and such a decision is entirely dependent on the financial position improving.* (Aspire, 2006a).

The letter stated that Aspire's projected loss was larger than anticipated and likely to be between £200,000 and £300,000 in the first year. The reasons given were:

(i) *"Aspire inherited a service that had not been developed or marketed for a period of time prior to transfer;*

(ii) *Increased competition in the East Herts area;*

(iii) *The new developments (principally the gyms) have taken longer than originally envisaged to get off the ground, linked to the late contract start date;*

(iv) *Utility costs (particularly gas) have risen significantly;*

(v) *A general downturn in casual swimming*" (ibid).

The letter admitted that "some of Aspire's income targets for the first year had proved over ambitious" but the reason for the greater than expected loss because Aspire had made larger than expected expenditure savings.

Financial crisis worsens

By late June 2006 losses had doubled. The Trust was clearly in financial meltdown. *"…the Trust must make cost savings of £500k per annum (full year) on its current expenditure in order to remain a viable service"* (Aspire Leisure Trust, Letter to staff from Simon Parkinson, Managing Director, 30 June 2006).

Aspire had been forced to produce a Recovery Plan which included a Review of Pay Enhancements.

Review of pay enhancements

Aspire's proposed changes to terms and conditions has four elements:

1) A review of basic salaries.
2) A new grading structure and spinal point system.
3) Elimination of weekend, shift and local award payments.
4) Implementation of the 2006/07 pay award postponed in April 2006 but dependent on acceptance of the above changes.

Changes to salaries

Aspire proposes to incorporate the Attendance Allowance into the basic salary and to have a basic starting salary of £13,965 for recreation attendants and receptionists. This is based on the market analysis of lower, upper and average salary rates. The salary of gym instructors would be frozen from 1st September until their pay rate comes *"into line with the pay rate indicated at the higher end of the market rate"* but no timetable was indicated (Aspire, 2006).

Implementation of the 2006/07 pay award postponed in April 2006, is estimated to cost £40,000 per annum and is included in the total required savings. So staff are financing their pay award from cuts made in other terms and conditions.

New grading structure

A new grading structure is also proposed by Aspire based on their market analysis – see Table 3. The main effect is to significantly reduce the length of each spinal column.

Table 3: **Proposed new grading structure**

Post Title	Existing Grade		Proposed Grade	
	Grade	**Spinal Column Point**	**Grade**	**Spinal Column Point**
Recreation Attendant	1/2	6-17	2	11-13
Receptionist	1/2	6-17	2	11-13
Grade 3	3	14-21	3	14-16
Gym Instructors	4/5	17-28	4	17-20
Grade 5	5	21-28	5	21-23
Supervisors Grade 6	6	24-31	6	24-28
Grade 7	7	28-35	7	29-33

Source: Review of Pay Enhancements, Enfield Leisure Trust, 30 June 2006.

Analysis of the impact of Aspire's review of terms and conditions

Substantial changes are proposed to terms and conditions such as weekend enhancements, overtime, shift allowance and the local award which are summarised in Table 4 together with the financial impact on staff.

Table 4: **Proposed changes to terms and conditions**

Post Element	Description and Proposal	Cost per Annum (£) (including on-costs)
Local Award	5% Local Award paid to management staff after 3 years service: *Proposal to remove this payment - 13 staff lose average of £1,540 per annum. Save £20,000 pa.*	20,000
Attendance Allowance	50p per hour worked dependent upon attendance. Maximum earnings £20 per week.	27,000
Weekend Enhancement	Saturday and Sunday rate. Payable to all staff excluding Teachers. *Proposal to remove this payment. Save £118,000 pa.*	118,000
Shift Allowance	Payable to some full time staff not in receipt of 5% Local Award: *Proposal to remove this payment - 12 staff lose an average of £1,333 per annum. Save £16,000 pa.*	16,000
Overtime	Time and a half and double time payments payable to all staff excluding teachers. *Proposal to remove enhanced overtime payments and pay overtime based on staff's individual hourly rate. Save £20,000 pa.*	54,000
Bank Holiday	Double time payments payable to all staff excluding Teachers. *Proposal to retain payment*	4,000
Total cost of Enhancements		**239,000**
Shortfall to be funded Cost of actioning 2006/07 pay award. **Total savings required from Enhancements**		137,000 40,000 **177,000**

Source: Review of Pay Enhancements, Enfield Leisure Trust, 30 June 2006.

Aspire later made a minor amendment to the above proposals following consultation with staff after opposition to the loss of weekend enhancements:

> *"Pay award would not be initiated immediately, would await improvement in financial performance. Weekend enhancement would remain but at 1.25 & .1.50 for Saturday and Sunday. All other enhancements would be removed. New pay scales and grades would be implemented as originally circulated."* (Aspire letter to staff, July 2006).

A ballot of UNISON members in July 2006 voted 43/2 to support industrial action in support of their campaign to prevent the employer changing terms and conditions.

No redundancies claim

The Recovery Plan assured staff that:

> *"We can, however, confirm that no compulsory redundancies will result from any of the service proposals that the Trust have put forward to the Council"*

The reorganisation of management led to a reduction in the number of centre managers. Aspire is operating with two managers and five assistant managers for the five leisure centres. One manager took early retirement. Another manager has been suspended following being interviewed for one of the managers' posts. This manager has a long service with East Herts Council and is thus entitled to a substantial redundancy package. However, there is evidence that the disciplinary action is being taken by Aspire to try to avoid the larger redundancy obligations.

Part 6
The alternative strategy

Clarity is required between the short, medium and long strategies for leisure services in East Herts. In essence the short term strategy must focus on the management of leisure services and ending the current financial crisis. The medium term strategy must address how the Council will maximise the use of the facilities it has available to meet community needs. The long term strategy must address how new/replacement facilities can be obtained through capital investment.

This report addresses the short term strategy. Irrespective of the medium and long term strategies, the Council must address the immediate issue of the management of existing leisure service provision.

An alternative strategy consists of three parts – the return of the service to in-house provision, preparation of s Service Improvement Plan with service users and staff, and drawing up a medium term asset management plan.

Return to in-house provision

The Leisure service contract with Aspire Leisure Trust/Enfield Leisure Centre Limited should be terminated immediately. The grounds for termination could include the contractor's financial mismanagement resulting in restructuring and detrimental changes in the provision of the service, the failure to adhere to the TUPE requirements and the premeditated action to change terms and conditions of staff within months of the start of the contract.

Staff should be transferred back to the Council under TUPE but at the original terms and conditions applicable to staff at the point of transfer in July 2005 plus application of the 2006/07 pay award from April 2006.

Insourcing is a new trend following a period of outsourcing in which public organisations and private companies have not been able to achieve their desired objectives. Nor will it be the first leisure trust contract to be terminated – Bristol City Council terminated its contract with Bristol Community Trust a few years ago.

This strategy will have financial implications for the Council. It will have to return to the position prior to outsourcing where it was directly employing staff and paying VAT on part on most of its leisure income. There is no viable alternative option. The Council was made aware of the risks in tender evaluation reports to the Executive, although officers should have attached a stronger risk warning.

Service Improvement Plan

A Service Improvement Plan (SIP) should be drawn to identify ways in which the service can be operated and improved over the next three years. Equally importantly, the plan must be drawn up in cooperation with service users, potential users, community organisations and with staff and UNISON reps. This will require genuine engagement in the process of identifying the timetabling of activities, how additional improvements might be implemented and so on. The best way of maximising use and income is to involve users and staff directly in the process. The Council can do this itself, in fact it needs to hear directly what users and staff think and to listen/act on their ideas for the service. It does not need to spend more money on consultants.

A scoping exercise should be carried out to identify the crèche/day care, café and other facilities (public and private) operating in the vicinity of the five pools to explore the possibility of marketing joint arrangements with other public, private or community providers. For example, providing a swim/gym and a crèche place and/or a swim/gym and refreshments.

Medium term asset management plan

A medium term asset management plan should identify how the Council can manage the five pools until new/replacement facilities are provided. It will need to work closely with the County Council and schools given that three facilities are joint use arrangements. A five-year plan should identify how usage can be maximised and repairs/planned maintenance undertaken when required.

Longer term strategy

A long term strategy is already being developed by the Council (East Herts, 2006).

The strategy should include ways in which Section 106 development agreements could be used to contribute towards to provision of leisure facilities, for example, introduction of a levy in Section 106 agreements in which developers and housebuilders are required to contribute a fee per new/refurbished dwelling towards cost of new leisure facilities. This money would be put into a specific leisure development fund.

The Building Schools for the Future programme could be used to obtain new leisure facilities at secondary schools. Hertfordshire County Council is in BSF Wave 4 - 6 will receive funding between 2008/9 and 2010/11 for schools in Stevenage. The BSF programme in the rest of Hertfordshire is shown in Table 5.

Table 5: **Building Schools for the Future Programme in Hertfordshire**

Hertfordshire BSF Programme		Wave
Stevenage	B	4 - 6
Extended Hemel Hempstead	C	7 - 9
Hertford, Hatfield, Ware and Potters Bar	C	7 - 9
Eastern Corridor	D	10 - 12
Extended St Albans	E	13 - 15
Extended Watford	E	13 - 15
North Herts excluding Stevenage	E	13 - 15

Source: Building Schools for the Future

East Herts Council must now take action to:

- Secure the continued provision of leisure services for users and schools.
- Rebuild goodwill with staff who feel demoralised and angry by recent events.
- Increase the Council's capability to deliver leisure services.
- Rebuild credibility to manage the Council's assets and services cost effectively.

It can most effectively achieve these goals by adopting the alternative strategy set out in the next chapter.

Part 7
Market testing costs the Council

It would appear that the Council awarded a contract to Enfield Leisure Trust Ltd with the prime motive of achieving savings. There is little evidence from the procurement process that other objectives were taken into account.

But the outsourcing of leisure services has been a very expensive mistake for East Herts Council. We have been unable to obtain an analysis of the savings figure claimed for the leisure services contract. Table 6 is a summary of the main costs estimated to have been incurred by East Herts Council in the market testing process, the first year of the contract and the estimated cost of termination and transfer to a private contractor or another leisure trust.

The first year claimed saving was in fact only £56,440 rather than the claimed £195,000 when market testing costs and the additional costs incurred through variations the contract which had not been budgeted.

The cost of termination is estimated to be a one off cost of £20,000 comprising officer time (leisure client, legal and human resources) plus a contingency sum for legal consultants and related costs. This sum assumes that Aspire Leisure Trust does not go into liquidation owing the council income and/or staff wages nor that it seeks compensation or other costs.

The additional cost of re-letting the contract to a another trust or to a private contractor is likely to be about £400,000 per annum including a proportion of the management fee. This takes into account lower income, increased managemet fee and the fact that a new providr will start with the 2005/06 budget as a base and not Aspire’s disastrous financial assumptions. The savings will evapourate and be replaced by additional costs (the £400,000 plus the termination/transfer cost spread over 4 years at £5,000 per annum minus £195,000 annual savings claimed = £200,000).

In addition, an annual budget will be required for contract variations at approximately £40,000 per annum, only about 2% of the budget.

In conclusion, the overall financial situation will change dramatically. From attempting to achieve a saving of £975,000 over five years the Council saved a little over £50,000 in the first year. It is now faced with an additional estimated cost of £903,560 over five years based on the 2005/06 budget.

Having made the decision to market test in the first place, the Council will now be required to retender the contract. It may negotiate a takeover by an alternative provider for a limited period but procurement regulations require retendering of the contract shortly thereafter. These costs would not have been incurred had the Council decided to retain the in-house service and not proceed with market testing in 2003.

This has set back the service by several years and led to low morale amongst staff who believe that they have made the scapegoat for misguided policy decisions by the Council compounded by mismanagement by Aspire Leisure Trust.

Threat of closures

There is a danger that the Council may have a knee-jerk reaction to the financial crisis and close one or more facilities. UNISON, leisure service users and community organisations will oppose any closure of facilities.

Table 6: **Savings and additional costs analysis**

Savings replaced by additional costs	
Part A: The 'savings' disappear	
Cost of procurement	**£**
Civil Service market testing costs were 6.2% of pre-test costs (Cabinet Office, 1996) and included preparing specifications, contract documents, advertising, evaluation and includes £12,000 of consultants. Use 5.5% to take account of changes with total cost of £1.8m for the service.	**-99,000**
Additional costs of non-budgeted items	
Additional cost related to transfer of staff = £32,150. Additional cost of compensation for Leventhorpe Pool = £7,500 (estimate) Total costs not taken into account in the savings claims = £39,650	**-39,560**
Total of costs not taken into account in the savings figure	**-138,560**
Actual first year saving Thus the first year claimed saving to the Council of £195,000 - £138,560 = £56,440.	**56,440**
Part B: The additional costs to the Council	
Cost of termination and transfer to another contractor (primarily office time but this is an opportunity cost because officers could be spending time on other service/income generating activities. Assume one–off client, human resources and legal costs of 3 officers full-time for 1 month at average salary/oncosts of £40,000 = £10,000 Other expected termination and transfer costs including legal advice contingency of a further £10,000. This assumes that Aspire Leisure Trust does not go into liquidation owing the council income and/or staff wages nor does it seek compensation or other costs.	**20,000**
Additional annual cost of service provided by new contractor (this will not be at the same price as Aspire and will include the contractors additional cost of providing the service taking account of lower income levels and may include a premium element because of the market situation). The additional annual cost plus the contractor's management fee is estimated to be £400,000.	**400,000**
Additional annual cost £400,000 plus the termination/transfer cost spread over 4 years at £5,000 per annum minus £195,000 = £200,000. Annual budget for contract variations = £40,000.	**+240,000**
Total additional cost East Herts Council as a result of the outsourcing of leisure services The savings claim disappears as the Council has to spend an additional £240,000 per annum over 4 years less the 'saving' of £56,440 from year 1 = £903,560	**+903,560**

Part 8
Recommendations

UNISON makes the following recommendations to East Herts District Council:

1) Terminate the contract with Aspire Leisure Trust.
2) Return the service to in-house delivery.
3) Transfer staff back to Council employment on the terms and conditions applying in July 2005 at the original point of transfer plus application of the 2006/07 pay award from April 2006.
4) Prepare a Service Improvement Plan with service users and staff/trade union representatives.
5) Prepare a Medium Term Asset Management Strategy to prepare a strategy to maximise use of the facilities and plan major repair and planned maintenance.
6) Develop the long-term strategy for new/replacement facilities.

Recommendation to the District Auditor:

The District Auditor should investigate:

- The disappearance of the in-house bid in the procurement process in 2005.
- The substantial and material changes in the contract negotiated by Aspire and the Council in the six-month period after the contract was commenced.
- Identify the full financial cost of the procurement process and contract with Aspire and ensure that the retendering of the leisure contract adopts best practice policies and procedures.

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