

Community Leisure Services post-2019

Cabinet Members: Cllr David Hall, Cabinet Member for Economic Development, Planning and Community Infrastructure

Division and Local Members: Please refer to list below

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	Seen by:	Name	Date																
	County Solicitor	Honor Clarke	01/11/18																
	Monitoring Officer	Scott Wooldridge	05/11/18																
	Corporate Finance	Peter Lewis	01/11/18																
	Human Resources	Chris Squire	01/11/18																
	Property/Procurement/ICT	Simon Clifford	05/11/18																
	Senior Managers including Commissioning	Paula Hewitt & Michèle Cusack	01/11/18																
	Local Members	<table border="0"> <tr> <td>Cllr Mike Best</td> <td>Cllr Mike Lewis</td> </tr> <tr> <td>Cllr Neil Bloomfield</td> <td>Cllr Liz Leyshon</td> </tr> <tr> <td>Cllr Mandy Chilcott</td> <td>Cllr Jane Lock</td> </tr> <tr> <td>Cllr Simon Coles</td> <td>Cllr Tony Lock</td> </tr> <tr> <td>Cllr Giuseppe Frascini</td> <td>Cllr Faye Purbrick</td> </tr> <tr> <td>Cllr John Hunt</td> <td>Cllr Hazel Prior-Sankey</td> </tr> <tr> <td>Cllr Andy Kendall</td> <td>Cllr Terry Napper</td> </tr> <tr> <td></td> <td>Cllr John Woodman</td> </tr> </table>	Cllr Mike Best	Cllr Mike Lewis	Cllr Neil Bloomfield	Cllr Liz Leyshon	Cllr Mandy Chilcott	Cllr Jane Lock	Cllr Simon Coles	Cllr Tony Lock	Cllr Giuseppe Frascini	Cllr Faye Purbrick	Cllr John Hunt	Cllr Hazel Prior-Sankey	Cllr Andy Kendall	Cllr Terry Napper		Cllr John Woodman	
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	Cabinet Members	Cllr Mandy Chilcott, Cabinet Member for Resources Cllr David Hall, Cabinet Member for Economic Development, Planning and Community Infrastructure Cllr Christine Lawrence, Cabinet Member for Public Health and Well-Being Cllr Frances Nicholson, Cabinet Member for Children & Families																	
	Opposition Spokesperson	Cllr Simon Coles, Opposition Spokesman for Economic Development, Planning and Community Infrastructure																	
	Relevant Scrutiny Chairman	Cllr Anna Groskop for Scrutiny Policies and Place																	
Forward Plan Ref	FP/18/03/06																		

<p>Summary</p>	<p>In August 2009, the County Council entered into an agreement with Somerset Leisure Limited (now known as '1610 Limited') to provide community leisure services at dual-use centres on a number of secondary school sites across the county. The contract is due to expire at the end of the 2018/19 financial year.</p> <p>In January 2017, the Cabinet Member for Business, Inward Investment and Policy authorised officers to proceed with a project to review the County Council's future involvement in community leisure provision. This decision paper sets out the recommended course of action for decommissioning community leisure provision. One of the sites, Cresta in Chard, has recently been subject to a separate decision on 29 August 2018 (which can be viewed on the Council's website at http://democracy.somerset.gov.uk/mglIssueHistoryHome.aspx?Ild=3898&PlanId=175).</p>
<p>Recommendations:</p>	<p>That the Cabinet Member for Economic Development, Planning and Community Infrastructure:</p> <p>1. authorises the Council to cease commissioning community leisure services at the following sites upon expiry of the existing contract with 1610 Limited on 31 March 2019 (or, for individual sites, at an earlier date if the asset transfers referred to in recommendation 2 below are concluded sooner):</p> <ul style="list-style-type: none"> • Mendip – Glastonbury (St. Dunstan's Academy); • Sedgemoor - Highbridge (The King Alfred School); • South Somerset - Castle Cary (Caryford at Ansford Academy), Crewkerne (Wadham School), Stoke-sub-Hamdon (Stanchester Academy) and Yeovil (Preston School Academy); • Taunton Deane - Taunton (The Castle School); • West Somerset - Minehead (West Somerset College). <p>2. authorises the Lead Director for Economic & Community Infrastructure and Director of Commissioning to negotiate the transfer to the relevant Academy Trusts of the County Council's residual leisure assets at Castle Academy, St. Dunstan's Academy and West Somerset College (being those sites where transfer of the leisure assets has not already taken place through academisation).</p> <p>3. authorises the Lead Director for Economic & Community Infrastructure, the Director of Commissioning, the Director of Finance and the Head of Corporate Property to negotiate the most appropriate disposal of the building and land that housed the recently decommissioned Cresta swimming pool at Zembard Lane in Chard.</p> <p>4. agrees the case for applying the exempt information provision as set out in the Local Government Act 1972, Schedule 12A and therefore to treat the attached confidential appendix (number 20) in confidence, as it contains commercially sensitive information, and as the case for the public interest in maintaining the exemption outweighs the public interest in disclosing that information.</p>

<p>Reasons for Recommendations:</p>	<p>The County Council does not have a statutory duty to provide community leisure services. The Council's budget is under significant pressure and there is a need for the organisation to live within its means focusing on its statutory services, in particular those delivered to vulnerable people.</p> <p>The accompanying confidential Appendix 20 contains commercially sensitive information relating to the contract and the Council's financial and business affairs. Officers recommend that this is treated as exempt information. "Exempt information" is defined by Section 100 of the Local Government Act 1972, by Schedule 12A to that Act.</p>
<p>Links to Priorities and Impact on Service Plans:</p>	<p>This decision will support the County Council's Medium Term Financial Plan that forecasts and monitors both revenue expenditure (day-to-day running costs of providing services) and capital expenditure (long-term investment in infrastructure) and the more pressing Financial Imperative work in the current financial year.</p> <p>It is acknowledged that this decision may have a negative impact on the County Council's vision of the County Plan and the Health and Wellbeing Strategy for Somerset (2013 – 2018). However, market availability of leisure services has been considered as part of this report.</p>
<p>Consultations and co-production undertaken:</p>	<p>The County Council has consulted a number of key stakeholders and partners in recent months:</p> <p><u>(1) 1610 Limited</u></p> <p>The County Council has held talks with 1610 Limited who was provided an open invitation to submit proposals for developing long-term provision at the current sites. At the same time, officers from the County Council and 1610 Limited have worked collaboratively on an exit strategy.</p> <p><u>(2) Host Schools</u></p> <p>The County Council has been in contact with representatives of the host schools and have met with school business managers, PE staff and principals. A workshop has been held with schools to help them decide whether they wished to provide community leisure facilities themselves. The Council will continue to work with the provider and the schools (which may include meetings with governing bodies and/or academy trusts) until the end of the contract.</p>

Background

Many of the community leisure facilities were originally funded through successful National Lottery awards: Sport England invested over £16m in new sports facilities in Somerset in the late 1990s, including the sites on which 1610 currently operate. Many of the funding agreements are now time-expired.

Current Management Fee

The County Council currently pays an annual management fee to 1610 Limited to provide community leisure services at the various sites.

The current management fee for the 2018/19 financial year is £927.1k. Of this, £766.5k is funded by revenue-based budget in the Economic and Community Infrastructure Service and a contribution of £155.6k is received from the Central School Services Block combined budget within the Dedicated Schools' Grant.

The County Council receives no other contributions towards the cost of the management fee.

Although it is possible that some residual costs will need to be met in financial year 2019/2020, the savings realised from not commissioning community leisure services in the future will contribute to bridging the County Council's identified budget shortfall.

Management Fee Changes since 2009

The calculation of the management fee is based on a number of costs that change from year to year, such as the national non-domestic rates for each leisure centre and fluctuations in the average earnings rate and retail price index.

The management fee has reduced to reflect the occasions when 1610 Limited has vacated leisure sites (please refer to 1.3 below) or where jointly-agreed savings and efficiencies have been achieved with 1610 Limited's management.

The management fee payments since the beginning of the contract are set out in the following table. Please note that the first year of operation began in August 2009 and was not represent a full financial year.

Financial Year	Management Fee	Difference from Preceding Year
2009/10	£784,742	
2010/11	£1,558,500	+£773,758
2011/12	£1,572,150	+£13,650
2012/13	£1,559,930	-£12,220
2013/14	£1,481,396	-£78,534
2014/15	£1,419,126	-£62,269
2015/16	£1,192,663	-£226,463
2016/17	£1,132,065	-£60,598
2017/18	£918,740	-£213,325
2018/19	£927,152	+£8,412
Total	£12,546,464	

Financial Implications:

Operational Income

The County Council does not receive any operational income from the contract. 1610 Limited retain all monies taken at the leisure centre from monthly memberships and casual users for the running of the centres and is able to determine the amount of re-investment into the centres.

Repairs and Maintenance Costs

Each of the sites is subject to a 'shared use agreement' that sets out the repairs and maintenance responsibilities. 1610 Limited, the County Council and the schools on which the centres are located each contribute accordingly.

Market Values

The Department for Education has previously stated its expectation that all Local Authority-owned land and facilities used for educational purposes (such as school halls and outdoor playing areas) should be made available to academies.

By mutual agreement with the governing bodies, the leisure facilities at Castle Academy, St. Dunstan's Academy and West Somerset College were not included in the original academisation leases.

However, the leisure facilities form part of the school campus on each of the sites and are integral to the running of the three schools. As the Local Authority would not only be obliged to ensure curriculum use to be made available to the schools, it would also need to continue to ensure the safeguarding of school pupils was of paramount importance.

Therefore, the only body to whom the County Council would consider leasing or selling the three sites would be the respective academy trusts. Consequently, the land and buildings have no appreciable or definable commercial value to the County Council.

It is likely that the governing bodies of the three academies would now wish to agree to lease the buildings and land currently used for community leisure services from the County Council. Separate agreements will be drawn up that will run concurrently with the main academy leases. There will be no income to the County Council derived from the leases apart from an annual peppercorn rental.

Academies are unable to sell or change the use of publicly-funded school land without government approval.

1610 Limited

1610 Limited hold a number of other contracts in Somerset and neighbouring counties. The County Council's current management fee represents approximately 12% of 1610 Limited's annual turnover based on their published year end accounts at 31 March 2017.

Legal Implications:

Statutory duties

The Council does not have a statutory duty to provide community leisure services.

The Council has a duty under section 2B of the National Health Service Act 2006 to take "*such steps as it considers appropriate for improving the health of the people in its area*", however this duty is a 'target duty' and will be met if the local authority is taking all reasonable steps to meet the duty within the available budget.

A decision to cease providing community leisure services due to the Council's financial position will not amount to a breach of the section 2B duty.

In taking the decision to cease to commission community leisure services, the needs of users who have protected characteristics must be considered: section 149 of the Equality Act 2010 imposes a duty on the County Council to have due regard to the impact of the decision on those with protected characteristics.

The Public Sector Equality Duty.

Due regard is the regard that is appropriate in all the circumstances, and decision makers must take reasonable steps to inquire into the issues and understand the impact, or likely impact, of the decision on those of the listed equality needs affected by the decision.

Accordingly, the impact assessments accompanying this report are based on thorough information and must be properly analysed. If the decision maker fails to comply with the Public Sector Equality Duty, this could lead to a judicial review challenge being brought by a user of the leisure facilities.

There is no statutory duty to publicly consult on the proposal to cease providing community leisure services and the view of the Legal Services department is that there is no common law duty to consult in this case.

Expiry of contract with 1610 Limited

The contract with 1610 Limited will automatically expire on 31 March 2019. There is no requirement for the Council to give notice of termination under the contract.

Under the contract, the Council has a continuing obligation to indemnify 1610 Limited for employment costs arising because of a transfer of staff under TUPE following expiry of the contract.

This liability will only arise if an academy continues to provide community leisure services once the facilities have been transferred to it as this is likely to constitute a business transfer under Regulation 3(1)(a) of TUPE.

The Council will seek to obtain a 'back-to-back' indemnity from transferee academies to ensure that it is compensated for any liability to 1610 Limited.

If there is no TUPE transfer, all redundancy and pension costs arising from expiry of the contract will be the responsibility of 1610 Limited.

	<p><u>Transfer of community leisure facilities to academies</u></p> <p>The Council has a general responsibility for education, including a duty to contribute towards physical development (s. 13 of the Education Act 1996).</p> <p>The Council is also under a pivotal duty in s.14 of the 1996 Act to ensure that primary and secondary school places are sufficient in number, character and equipment to provide for appropriate education for all pupils; this includes physical education.</p> <p>The proposed transfer of the leisure assets to the academies will ensure that the Council continues to meet its education duties by providing the facilities necessary to deliver curriculum physical education for pupils.</p> <p>Legal Services will negotiate appropriate legal documentation to transfer the assets to the academies.</p>																		
<p>HR Implications:</p>	<p>As noted in the legal implications section above, depending on the nature of future provision at different sites, staff currently employed by 1610 Limited at the leisure facilities may be entitled to transfer under TUPE.</p> <p>If TUPE applies, employees would transfer to the employ of the relevant academy trust or, if the school is community of voluntary-controlled, the staff would transfer to the County Council.</p> <p>Beyond the considerations above, responsibility for Human Resources lies with the provider.</p>																		
<p>Risk Implications:</p>	<p>Risk: Lack of availability of community leisure facilities to the community if sites are to close, impacting on the health and wellbeing of local residents.</p> <p>Mitigations: (i) Ensure effective signposting and ongoing support with the schools to assist them if they wish to take on the provision themselves. (ii) EIA to take into account the potential impact.</p> <table border="1" data-bbox="496 1447 1536 1485"> <tr> <td>Likelihood</td> <td>3</td> <td>Impact</td> <td>2</td> <td>Risk Score</td> <td>6</td> </tr> </table> <p>Risk: The Education and Skills Funding Agency (ESFA) do not give permission for academies to take on additional liabilities relating to community leisure assets / provision.</p> <p>Mitigation: Legal colleagues to work with the ESFA.</p> <table border="1" data-bbox="496 1715 1536 1753"> <tr> <td>Likelihood</td> <td>2</td> <td>Impact</td> <td>3</td> <td>Risk Score</td> <td>6</td> </tr> </table> <p>Risk: Transfers of assets are not concluded in time for the end of contract, resulting in additional cost to the County Council.</p> <p>Mitigation: Leisure Strategy Board to monitor progress and delivery of the end-of-contract project.</p> <table border="1" data-bbox="496 1984 1536 2022"> <tr> <td>Likelihood</td> <td>2</td> <td>Impact</td> <td>2</td> <td>Risk Score</td> <td>4</td> </tr> </table>	Likelihood	3	Impact	2	Risk Score	6	Likelihood	2	Impact	3	Risk Score	6	Likelihood	2	Impact	2	Risk Score	4
Likelihood	3	Impact	2	Risk Score	6														
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Likelihood	2	Impact	2	Risk Score	4														

Risk: Castle Academy, St. Dunstan's Academy and West Somerset College decline to lease the leisure facilities from the County Council.

Mitigation: (i) Liaise with the relevant Academy Trusts to endeavour to resolve any issues which may deter the Academy Trusts from entering into the said leases. (ii) Legal colleagues to seek direction from the ESFA in the absence of agreement from the Academy Trusts to enter into the said leases.

Likelihood	1	Impact	5	Risk Score	5
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Equalities Implications

A number of equalities impact assessments have been undertaken and are included with this report. They seek to identify the people currently using the community leisure services and how they would be affected were services to cease or reduce in the future, particularly people with protected characteristics.

The paper acknowledges that some people, including the elderly and those with disabilities, may find it more difficult to access alternative provision although attempts have been made to offer some mitigation – such as identifying nearest alternatives and where alternative provision is not within a reasonable distance, details of public transport to the nearest alternative leisure provision.

Community Safety Implications

It is acknowledged that sport and community leisure can play a part in reducing young people's anti-social behaviour.

It will be important for any future provider to consider the safeguarding of pupils at school sites and leisure centres in conjunction with future dual-use arrangements.

By ceasing to commission community leisure provision, it means the County Council is more able to focus on services that provide care and support to vulnerable people across Somerset.

Sustainability Implications

The divestment of assets to schools helps to ensure the sustainability of providing curriculum leisure facilities.

Any future reduction of services to the local community could lead to increased car use as people travel to alternative community leisure providers.

Health and Safety Implications

Before their exit from the sites, 1610 Limited will continue to ensure the premises and any community leisure equipment remain safe to use and qualified staff are available to provide assistance.

The transfer of leisure assets to the schools / academies will ensure that safeguarding of young people remains of paramount importance.

Other Implications (including due regard implications):

Privacy Implications

All applicable laws and regulations, including the General Data Protection Regulation, relating to processing of personal data and privacy, will be adhered to.

Health and Wellbeing Implications

It is medically proven that people who do regular physical activity have a:

- 35% lower risk of coronary heart disease and stroke
- 50% lower risk of type 2 diabetes
- 50% lower risk of colon cancer
- 20% lower risk of breast cancer
- 30% lower risk of early death
- 83% lower risk of osteoarthritis
- 68% lower risk of hip fracture
- 30% lower risk of falls (among older adults)
- 30% lower risk of depression
- 30% lower risk of dementia

[Source: Zing website]

Scrutiny comments / recommendation (if any):

N/A

1. Background

(1.1) Many of the community leisure facilities were originally funded through successful National Lottery awards: Sport England invested over £16m in new sports facilities in Somerset in the late 1990s, including the 1610 sites.

(1.2) The history of the leisure trust is as follows:

October 2007	The Executive Board of the County Council approves a report on the proposed externalisation of its then in-house community leisure services to a new trust operation.
November 2008	The County Council forms 'Somerset Leisure Limited', an independent company limited by guarantee.
June 2009	The trust secures charitable status.
July 2009	The County Council enters into a number of agreements with Somerset Leisure Limited, including the principal 'Funding And Service Levels' contract for the delivery of leisure centre services and physical education activities for a period of ten years. The contract expiry date is 31 March 2019.
August 2009	The community leisure services, including the members of staff, transfer to the trust.
October 2011	Somerset Leisure rebrands as '1610 Limited' (1610 being the number of square miles in the county)

(1.3) The leisure centres are located on school sites in the areas shown below. The centres are integral to the educational premises, rather than operating as stand-alone facilities.

- Mendip – Glastonbury (St. Dunstan's);
- Sedgemoor - Highbridge (King Alfred's);
- South Somerset - Castle Cary (Caryford at Ansford), Crewkerne (Wadham), Stoke-sub-Hamdon (Stanchester) and Yeovil (Preston);
- Taunton Deane - Taunton (Castle);
- West Somerset - Minehead (West Somerset College).

(1.4) Four additional sites at Chilton Trinity & East Bridgwater in Bridgwater; Whitstone at Shepton Mallet and 'Cresta' at Holyrood in Chard were originally included in the contract. The leisure provider vacated these establishments at various points throughout the contract term either due to changes in lease arrangements or, more recently in the case of Cresta, through negotiation (see 1.15 below).

(1.5) The externalisation of the community leisure services enabled 1610 Limited to retain the responsibility for the operational management of the sites as well as the strategic development of the leisure and sporting activities. Each of the centres were intended to fulfil a dual function in meeting the statutory requirements for PE curriculum space and encouraging access to leisure facilities to members of the local communities who are able to access the sports halls, artificial pitches, squash courts and fitness suites when not in use by pupils.

(1.6) The range of facilities on offer, the condition of the buildings, and the performance, usage and profitability of each leisure centre varies from site to site. The site ownership and legal arrangements at each facility are complex, particularly since the change in the relationship between the County Council and schools under the school academisation programme which afforded greater freedoms to converted schools than had been previously available under local authority control. A table summarising the current position is shown below.

Name of School	Type of School	Current Arrangements	Future Arrangements
<p>Ansford Academy Maggs Lane Castle Cary Somerset BA7 7JJ</p>	<ul style="list-style-type: none"> • Secondary School without sixth form (11-16) • Academy Converter • Single Academy Trust 	<p>The Academy Trust owns the land and buildings</p>	<p>The Academy Trust will continue to hold the freehold for the leisure buildings and determine whether it would wish to continue any community leisure services.</p> <p>No legal documentation is required as a result of this decision.</p>
<p>Preston School Academy Monks Dale Yeovil Somerset BA21 3JD</p>	<ul style="list-style-type: none"> • Secondary without sixth form (11-16) • Academy Converter • Single Academy Trust 	<p>The County Council leases the whole site to the Academy Trust.</p> <p>There is a separate underlease of the leisure facilities by the Academy to 1610.</p>	<p>The Academy Trust will determine whether it would wish to continue any community leisure services.</p> <p>No additional legal documentation is required as a result of this decision.</p>
<p>St Dunstan's School Wells Road Glastonbury Somerset BA6 9BY</p>	<ul style="list-style-type: none"> • Secondary School without sixth form (11-16) • Academy Converter • Supported by a Multi Academy Trust (Midsomer Norton Schools Partnership) 	<p>The County Council leased the School site to the Academy Trust upon its academisation It did not include the leisure facilities.</p> <p>There is a lease of the leisure facilities between the County Council and 1610 Ltd dated 29 October 2010 ("the 2010 Lease").</p>	<p>The County Council will lease the leisure facilities to the Academy Trust for a term of years expiring on 31 July 2136 being co-terminus with the academisation lease.</p> <p>Upon termination of the 2010 Lease the Academy Trust will determine whether it would wish to continue any community leisure services.</p>

<p>Stanchester Academy Stoke Sub Hamdon Somerset TA14 6UG</p>	<ul style="list-style-type: none"> • Secondary school without sixth form (11-16) • Academy Converter • Single Academy Trust 	<p>The County Council leased the whole site including the leisure facilities to the Academy Trust upon its academisation and the academisation lease was granted subject to the lease between the County Council and 1610 Ltd dated 29 October 2010 (“the 2010 Lease”)</p>	<p>Upon the termination of the 2010 Lease the leased leisure facilities will become subsumed into the academisation lease.</p> <p>Upon the termination of the 2010 Lease the Academy Trust will determine whether it would wish to continue any community leisure services.</p>
<p>The Castle School Wellington Road Taunton Somerset TA1 5AU</p>	<ul style="list-style-type: none"> • Secondary School with Sixth Form (11-19) • Academy Converter • Supported by a Multi Academy Trust (The Castle Partnership Trust) 	<p>As an interim measure to facilitate its conversion to Academy status the County Council granted a Tenancy at Will of the School site to the Academy Trust upon its academisation</p> <p>The leisure facilities were not included in the Tenancy at Will. There is a lease of the leisure facilities between the County Council and 1610 Ltd dated 29 October 2010 (“the 2010 Lease”)</p>	<p>The County Council is intending to grant an academisation lease of the whole School site, including the leisure facilities, to the Academy Trust for a period of years expiring on 30 June 2136.</p> <p>This is in accordance with the Key Decision relating to the Creation of new Academies in Somerset taken by the Cabinet Member for Children and Young People dated 18 May 2011.</p> <p>Upon the termination of the 2010 Lease the Academy Trust will determine whether it would wish to continue any community leisure services.</p>
<p>The King Alfred School - An Academy 185 Burnham Road Highbridge Somerset TA9 3EE</p>	<ul style="list-style-type: none"> • Secondary School with sixth form (11-18) • Academy sponsored • Supported by a Multi Academy Trust (The Priory Learning Trust) 	<p>The County Council leased the whole site including the leisure facilities to the Academy Trust upon its academisation and the academisation lease was granted subject to the lease between the County Council and 1610 Ltd dated 8 March 2016 (“the 2016 Lease”).</p> <p>There is a User Agreement relating to the leisure facilities between the County Council (1) The Governing Body of King Alfred’s (2) and 1610 Ltd dated 8 March 2016 (“the User Agreement”).</p>	<p>The County Council will, if called upon to do so, enter into a deed of novation of the User Agreement to the Academy Trust.</p> <p>Upon the termination of the 2016 Lease the leased leisure facilities will become subsumed into the academisation lease.</p> <p>Upon termination of the 2016 Lease, the Academy Trust will determine whether it would wish to continue any community leisure services.</p>

<p>Wadham School Mount Pleasant Crewkerne Somerset TA18 7NT</p>	<ul style="list-style-type: none"> • Upper School with Sixth Form (13-18) • Voluntary Controlled School 	<p>The School site including the leisure facilities is held by the County Council via freehold and leasehold ownership.</p> <p>There is a Lease and Underlease of the leisure facilities between the County Council and 1610 Ltd both dated 29 October 2010 (“the 2010 Leases”).</p>	<p>Upon the termination of the 2010 Leases, the County Council will retain ownership of the site and will, in consultation with the School, determine whether it would wish to continue any community leisure services.</p> <p>No additional legal documentation is required as a result of this decision.</p>
<p>West Somerset College Bircham Road Alcombe Somerset TA24 6AY</p>	<ul style="list-style-type: none"> • Upper School with Sixth Form (13-19) • Academy Converter • Supported by the Bridgwater College Trust 	<p>The County Council leased the School site to the Academy Trust upon its academisation. It did not include the leisure facilities.</p> <p>There is a lease of the leisure facilities between the County Council and 1610 Ltd dated 29 October 2010 (“the 2010 Lease”)</p> <p>There is a separate deed on the West Somerset College leisure facilities between the County Council and the Squash Club Trustees that runs until July 2028 (“the squash deed”).</p>	<p>The County Council will lease the leisure facilities to the Academy Trust for a period expiring on 31 May 2136 being co-terminus with the academisation lease and novate the squash deed to the Academy Trust</p> <p>Upon the termination of the 2010 Lease, the Academy Trust will determine whether it would wish to continue any community leisure services.</p>

(1.7) Under the Funding and Service Levels Agreement, the County Council pays the leisure provider an annual fee to manage and run the facilities which is calculated from a base budget figure linked to inflation and the national non-domestic rates for each site. As a result of the increasing financial pressure on the County Council and the need to find savings, year-on-year management fee reductions have exceeded the 'efficiency savings' threshold contained within the Agreement.

(1.8) The Cabinet Member for Business, Inward Investment and Policy took a decision in January 2017 that authorised officers to proceed with a review of the County Council's future involvement in community leisure provision. The decision, which is available here, enabled officers to explore a range of options available ahead of the 1610 contract expiry date in 2019. The paper confirmed there would not be a 'one size fits all' solution and acknowledged the aspirations and commercial potential of each site would need to be considered on an individual basis.

(1.9) The County Council commenced an engagement exercise with the schools over their ambitions for the centres. Officers' considered view was that the host schools, as primary stakeholders, were likely to offer the best opportunity for long-term continuity and protection of PE curriculum space, as well as maximising safeguarding opportunities of pupils and supporting the Government's ambitions for schools to enjoy maximum autonomy.

(1.10) To assist schools in making a decision about taking on the community leisure facilities, a workshop was held in June 2017 in conjunction with the Somerset Activity and Sports Partnership to provide information and guidance on a range of issues, including Sport England's strategy, equipment procurement and legal agreements, along with an opportunity to hear from schools that currently already run their own community leisure provision.

(1.11) As indicated in the above table, two schools – Preston Academy in Yeovil and The King Alfred school in Highbridge - have signed 1610 Limited into longer term leases beyond 2019. Therefore, as services will be continuing beyond March 2019, there are no equality impact assessments included with this report for these sites. Ansford Academy is currently in talks with 1610 Limited over the ongoing management of the Caryford facility.

(1.12) Officers have been working with 1610 Limited on the development of a comprehensive exit strategy for each site in order to manage the expiration of the contract term effectively. The strategy covers the asset register for each site, the process to be followed leading up to transfer of responsibility of each site, the information 1610 Limited will need to supply and the practical arrangements for each site's hand-over. Discussion has also taken place around a staggered / phased transition that may be mutually beneficial to all parties.

(1.13) 1610 Limited was provided with an opportunity to state an interest and submit proposals for sites although this did not lead to a position where it was possible to commence any formal transfer of assets.

(1.14) As part of any conditions of transfer to schools or academies, the County Council will not impose a requirement for community leisure services to continue to be available and it is acknowledged that some community leisure services could cease in the future as a result of this decision. Work has been conducted to assess the impact of this scenario in each community, including collecting information about alternative facilities available.

(1.15) Due to urgent health and safety considerations, a separate decision was taken on 29 August 2018 that authorised the early cessation of leisure services at Cresta swimming pool with effect from Monday 3 September 2018 and to close the facilities

to members of the public from the same date. The swimming pool has since been drained and chemicals removed from the site. This decision paper provides officers with the necessary authorisation to dispose of the building and land in the most appropriate manner.

(1.16) Provision of community leisure is a non-statutory service, however the County Council is aware of the correlation between effective ill-health prevention now and reduced calls on health and social care services in the future. The Council's financial situation is well known and continued spend in this discretionary area is not considered the best use of the funds available, especially in light of pressure on statutory services. The demand on statutory services, notably care services, has continued to increase whereas local government funding has decreased.

2. Options considered and reasons for rejecting them

Arrange Contract Extension on Existing Terms

(2.1) The contract with 1610 Limited provides for a contract extension on existing terms. The County Council would need to provide 1610 Limited with six months' notice of its intention to extend the contract and it would have to be for a single period of ten years.

(2.2) In this situation, the County Council would be bound by the current contract and its terms, which no longer reflect the requirements of the Council. It would require the continuation of an annual management fee along with ongoing cost of repairs and maintenance of sites. This option was rejected on the grounds of affordability.

Terminate the Contract with 1610 Limited before 2019

(2.3) The County Council could serve notice on 1610 Limited to terminate the contract before the agreed expiry date although it could be placing itself at risk of a claim by the provider that the Council had committed a 'repudiatory breach' of the Funding and Service Levels Agreement resulting in an accompanying claim for damages.

(2.4) Without a planned exit strategy in place, it would be difficult to ensure adherence to the stipulations of previously-secured grant conditions, placing the County Council at risk from claw-back. In the event of early termination, the County Council may also be responsible for certain redundancy and pension costs. As such, the financial and legal issues associated with this option mean it is ruled out as not appropriate.

Look for an Alternative Provider in the Leisure Market

(2.5) The Council could invite organisations interested in running its leisure centres to submit formal proposals. There is a mature market place with several national organisations and many smaller trusts / companies available.

(2.6) Leisure providers may be hesitant to invest in sites which have inevitable commercial restrictions associated with school-based provision such as the limitation of their hours of operation and the potential safeguarding issues.

(2.7) This option was rejected on the grounds of affordability. However, host schools may decide to look for their own providers once the assets are in their control.

Contract on Reduced Terms – i.e. less sites / reduced management fee

(2.8) The County Council could negotiate a reduction in the management fee paid to a contracted provider. This is likely to lead to a reduced service such as shortened

opening hours, less classes / facilities, or a closure of the least profitable / loss-making sites.

(2.9) This option has been discounted given leisure is a non-statutory service and, in the current financial climate, it is important for the County Council to focus its resources on statutory services.

3. Background Papers

(3.1) Review of Leisure Provision non-key decision by the Deputy Leader of the Council and Cabinet Member for Business, Inward Investment & Policy dated 27 January 2017. A copy of the decision is available here.

(3.2) Closure of Cresta Swimming Pool in Chard by the Cabinet Member for Economic Development, Planning and Community Infrastructure dated 29 August 2018. A copy of the decision is available here.

(3.3) Twenty appendices to the report should be read in conjunction with the decision report.

General:

Appendix 1 – Map showing the location of the 1610 sites

Equality Impact Assessments:

Appendix 2 – Heatmap relating to the Ansford / Caryford site

Appendix 3 – Catchment profile relating to the Ansford / Caryford site

Appendix 4 – Equality Impact Assessment relating to the Ansford / Caryford site

Appendix 5 – Heatmap relating to the Castle site

Appendix 6 – Catchment profile relating to the Castle site

Appendix 7 – Equality Impact Assessment relating to the Castle site

Appendix 8 – Heatmap relating to the St. Dunstan's site

Appendix 9 – Catchment profile relating to the St. Dunstan's site

Appendix 10 – Equality Impact Assessment relating to the St. Dunstan's site

Appendix 11 – Heatmap relating to the Stanchester site

Appendix 12 – Catchment profile relating to the Stanchester site

Appendix 13 – Equality Impact Assessment relating to the Stanchester site

Appendix 14 – Heatmap relating to the Wadham site

Appendix 15 – Catchment profile relating to the Wadham site

Appendix 16 - Equality Impact Assessment relating to the Wadham site

Appendix 17 – Heatmap relating to the West Somerset site

Appendix 18 – Catchment profile relating to the West Somerset site

Appendix 19 – Equality Impact Assessment relating to the West Somerset site

[Note: as mentioned in (1.11), there are no equality impact assessments for the Preston Academy and King Alfred sites as provision will be continuing at these sites].

Confidential:

Appendix 20 – Interim Finance Director's Accompanying Notes