

**Report To:** Regeneration Committee

**Date:** 1<sup>st</sup> September 2011

**Report By:** Corporate Director Education & Communities

**Report No:**  
**R219/11/AH/MM**

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**Subject:** Community Facilities Legal Agreements

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## 1.0 PURPOSE

- 1.1 To inform Committee of progress in reviewing and concluding legal documentation arising from the transfer of community facilities to Inverclyde Leisure.

## 2.0 SUMMARY

- 2.1 Community facilities were transferred to Inverclyde Leisure in April 2010. At the time of transfer a Transfer Agreement, Licence to Occupy and Moveable Asset Licence were entered into with Inverclyde Leisure. The Licence to Occupy regulates Inverclyde Leisure's occupation of the various facilities which include Greenock and Port Glasgow Town Halls, the Gamble Halls, the three existing Community Hubs and a number of more minor halls.
- 2.2 Due to the scale of the transfer and the timescales involved in transferring the facilities to Inverclyde Leisure by 1 April 2010 some documents were not available at completion. It was therefore agreed with Inverclyde Leisure that in terms of the Transfer Agreement a Funding Agreement with an associated Service Specification which regulates the provision of services by Inverclyde Leisure to the Council would be entered into. This remains outstanding and this report provides an update to Committee on the position.
- 2.3 At the time of transfer some staff were transferred to Inverclyde Leisure under a TUPE transfer. Other staff, including those in the Community Hubs were seconded to Inverclyde Leisure but remain employees of Inverclyde Council.
- 2.4 Since the transfer took place there have been a number of developments which have affected the relationship between Inverclyde Council and Inverclyde Leisure. These included the most recent Council reorganisation which transferred responsibility for the relationship to Safer & Inclusive Communities, and the more recent commissioning process which changed the basis on which the Community Hubs were run.
- 2.5 At the end of 2010 there was an internal audit of the transfer of community facilities, one of the key findings of which was that the key documentation including the funding agreement and service specification required to be finalised. Some progress has been made on this with the intention of producing an interim agreement reflecting the changes since transfer whilst leaving scope for a more detailed review and production of a detailed Service Level Agreement over the next 12 months.

### **3.0 RECOMMENDATIONS**

3.1 That Committee notes the progress on this matter thus far and

- Agrees the development of an Interim Service Level Agreement/Service Specification by 30 September 2011 for a 12 month period
- Agrees the development of a longer term SLA following a full review of the transfer and issues arising since transfer, including the forthcoming completion of the pitch strategy.

**Albert Henderson**  
**Corporate Director Education & Communities**

## **4.0 BACKGROUND**

- 4.1 Community facilities were transferred to Inverclyde Leisure in April 2010. At the time of transfer a Transfer Agreement, Licence to Occupy and Moveable Asset Licence were entered into with Inverclyde Leisure. The Licence to Occupy regulates Inverclyde Leisure's occupation of the various facilities which include Greenock and Port Glasgow Town Halls, the Gamble Halls, the three existing Community Hubs and a number of more minor halls. The Transfer Agreement documents the transfer of certain assets and obligations associated with the provision, management and administration of the community facilities. The Moveable Assets Licence documents the licensing of all fixtures, fittings, equipment and furniture connected with the facilities. The main aim of the transfer was to make a saving on the payment of rates on the facilities.
- 4.2 At the time of transfer some staff were transferred to Inverclyde Leisure under a TUPE transfer. Other staff, including those in the Community Hubs were seconded to Inverclyde Leisure but remain employees of Inverclyde Council. The status of the latter staff has had implications for developments since transfer.
- 4.3 Co-incidentally with the transfer, responsibility for the relationship with Inverclyde Leisure including responsibility as the client for the community facilities was moved to Safer & Inclusive Communities. No staff were transferred who had dealt with the relationship and this was one of a number of responsibilities inherited by the service. As a result of this it was necessary to take a pragmatic approach to the relationship initially as there were a number of outstanding operational and financial issues which required to be dealt with on a case by case basis. These have generally been resolved satisfactorily owing to the development of a good working relationship between staff in Safer & Inclusive Communities and Inverclyde Leisure. The co-operation of former Inverclyde Council employees now with Inverclyde Leisure has been invaluable in this as they have had the knowledge and experience of running these facilities over a number of years.
- 4.4 Subsequent developments have lead to a closer working relationship. The management of the Community Hubs; Auchmountain, Clune Park, Paton Street and the facilities at the Wellpark Centre were put out to tender in February 2011 as part of Inverclyde Council's Commissioning Process.
- 4.5 As the staff of the hubs were not transferred to Inverclyde Leisure but seconded instead it was necessary to make a joint bid to operate these facilities between Safer & Inclusive Communities and Inverclyde Leisure. Although this was not ideal it has lead to a streamlining of the financial arrangements between the Council and Inverclyde Leisure in the case of the hubs over the arrangements in effect when they were funded by the Fairer Scotland Fund and the succeeding arrangements. The bid secured funding for the hubs for 2011/12 with an anticipated extension beyond that period. Obviously this has materially changed the legal relationship between Inverclyde Council and Inverclyde Leisure from that pertaining at the time of the transfer of facilities.
- 4.6 An audit of the transfer was carried out between October 2010 and January 2011. One of the key findings of the audit was the lack of a finalised Funding Agreement and associated Service Specification as set out in the Transfer Agreement. It was recognised that the pragmatic approach taken by officers of both organisations had served to minimise risks however this does require to be taken forward.

## **5.0 PROPOSAL**

- 5.1 That an interim Funding Agreement and associated Service Specification taking into account the developments since the transfer of Community Facilities is produced in order to mitigate the risks identified by the audit by 30 September 2011. This to cover a period of 12 months from the date of agreement.

5.2 That a full review of the transfer and issues arising from it be carried out following this with the intention of producing a longer term Service Specification for the management of community facilities which will take account of provision, access, letting and performance measures which will give a more effective basis for the transfer going forward. This Service Specification will combine the facilities with the management of pitches and sports facilities in one document.

## **6.0 IMPLICATIONS**

### **6.1 Strategic**

The agreement will take account of the Council's Single Outcome Agreement and the Community and Corporate Plans.

### **6.2 Financial**

Financial aspects of the agreements will be consulted fully with finance.

### **6.3 Legal**

The agreements will be produced in full consultation with Legal and Democratic Services.

### **6.4 Equalities**

When planning and delivering services to our customers, full cognisance is taken of equality and diversity processes and procedures.

## **7.0 LIST OF BACKGROUND PAPERS**

- 7.1
- Internal Audit Report: Transfer of Community Facilities March 2011