

PART II - NOT DELEGATED

1a. **WILLIAM PENN LEISURE CENTRE REFURBISHMENT -
PROGRESS REPORT**
(DCES)

This report is NOT FOR PUBLICATION because it deals with information relating to the financial or business affairs of any particular person (including the authority holding that information), and information in respect of which a claim to legal professional privilege could be maintained in legal proceedings (paragraphs 3 and 5 of Schedule 12A).

1. **Summary**

1.1 This report updates members on the refurbishment of William Penn Leisure Centre.

2. **Details**

a) Site progress & completion date

2.1 The refurbishment of William Penn Leisure Centre began in February 2007 and was originally scheduled for completion on 22 February 2008.

2.2 The main contractor (Gee Construction) and its subcontractors have recently completed groundworks and the concreting of slabs and tanks. Blocklaying and the construction of internal walls are nearly complete. Mechanical and Electrical subcontractors are proceeding with the first phase of their programmes.

2.3 In October 2007 officers reported to Leisure and Community Policy Panel and Executive Committee that Gee was expecting to complete in June 2008. Gee has subsequently revised its programme for the remainder of the project, and has committed to completing by 22 August 2008 (26 weeks late). This commitment was restated at a meeting with the Council's Chief Executive on 28 April 2008. Hertsmere Leisure will require two weeks following completion for commissioning of equipment and staff training, giving a projected opening date of 6 September 2008.

2.4 It is the view of the design team (Atkins) and of officers that Gee are unlikely to be able to achieve completion by the end of August 2008. An update on the expected completion date will be brought to the Policy & Scrutiny Committee meeting. Directors of Atkins and Gee have been invited to attend this meeting.

b) Causes and implications of delays

2.5 Members will recall that the early demolition phase of the project was delayed due to the discovery of unsurveyed utilities on site. Gee have recently informed Atkins of further items that have caused delays to the Contract. The causes of these delays are currently subject to review by Atkins and further substantiation of Gee's claim has been requested. Should the parties fail to agree a fair and reasonable settlement to Gee's further claims of delay then either party may consider that a dispute has occurred and formally commence adjudication proceedings. Officers will inform the Policy & Scrutiny Committee of any such developments through confidential (Part II) reports.

- 2.6 Gee are paid each month for work completed, plus allowances for running costs and overheads ('prelims') up to the contracted completion date. If delays occur that are outside of a contractor's control, then this date can be rescheduled by granting an Extension Of Time (EOT). The contractor is then permitted to claim for associated costs (prelims and subcontractors) which are directly attributable to this delay. Identifying the costs attributable to an EOT can be technically complex, involving protracted negotiations or adjudication to resolve questions of liability and criticality.
- 2.7 If final completion is later than the contracted date (as varied by any EOT), then not only will Gee stop receiving prelims each month, but they will also be liable to pay liquidated and ascertained damages (L&ADs), to compensate the Council for lost income due to late completion, which will come in the form of claims from Hertsmere Leisure through the management fee which they receive for operating the building on behalf of the Council.
- 2.8 To date, Gee have claimed for extensions of time totalling 27 weeks. The design team has granted an EOT of 9 weeks, principally due to the early delays referred to in 2.5 above. Gee are continuing to argue for further EOTs.
- 2.9 Extending the contracted completion date by granting an EOT does not affect the actual date of completion. However it does have financial implications, as the Council is then liable for attributable subcontractor costs and additional prelims. Gee have not yet submitted any evidence of costs associated with their EOT claims, largely because they are still disputing claims made against them by several of their subcontractors. Officers are therefore unable at this stage to report on the cost implications of the EOT; however these will be brought to the attention of Members as soon as they are available.

c) Other project costs

- 2.10 Due to the delayed completion date, the Council has asked fitness equipment suppliers to update the tender prices which they supplied in October 2007. A shortlist of firms has been interviewed and references are being taken up, with a view to appointing a preferred supplier shortly.

d) Quality assurance

- 2.11 The Executive Committee resolved on 4 February 2008 that the Council should "continue to aim to ensure that the project is completed as soon as is practicable, within the fixed project budget and the Council's quality requirements" (EX144/07 refers).
- 2.12 Officers have therefore instructed the design team and clerk of works to ensure that quality standards are maintained. Particular attention is being paid to high risk elements such as the water tightness of the pool tanks and the quality of the preparation of pool surfaces before tiling, since these have the potential to require punitively expensive remedial works in future if neglected at this stage. The clerk of works and the design team report that the majority of the construction work conducted by Gee's subcontractors to date is of a high standard, and that Gee have been required to replace any substandard work.

e) Dryside operation

2.13 The dry side of the building has remained open throughout the refurbishment. The closure of the dance studio (site of the new fitness suite) in January has put further pressure on existing customers and staff, as 36 of the 39 classes which met there each week have been rehoused, either in the sports hall or at Shepherd School (out of school hours).

2.14 Uncertainty over the likely completion date is also causing planning difficulties for Hertsmere Leisure, which requires a lead-in period for marketing and member recruitment programmes.

3. Options/Reasons for Recommendation

3.1 To update members on the refurbishment of William Penn Leisure Centre.

4. Policy/Budget Reference and Implications

4.1 The recommendations in this report are within the Council's agreed policy and budgets. The relevant policies were agreed as part of the 2008-11 Strategic Plan on 19 February 2008, and are entitled:

2.1.5 To improve and facilitate access to leisure and recreational activities

3.2.1.1 We will ensure our services provide value for money

5. Financial Implications

5.1 There are no changes to approved budgets resulting from this report's recommendations.

5.2 The extension of time already agreed will have cost implications for the project. However it is not possible to project the scale of these costs until detailed claims are received from the main contractor and negotiated (see 2.9 above). Officers will report to members on any further developments.

5.3 The main construction contract represents 76% of the total project budget, with the remainder being committed to cover design fees, enabling works, equipment, fitting out costs and other project overheads. Any cost overruns in the main contract will therefore be highly significant and difficult to recover elsewhere.

6. Legal, Equal Opportunities, Staffing, Environmental, Community Safety, Customer Services Centre, Communications and Website Implications

6.1 None specific to this report.

7. Equal Opportunities Implications

7.1 Relevance Test

Has a relevance test been completed for Equality Impact?	No
A relevance test is not appropriate for this recommendation	

8. Risk Management Implications

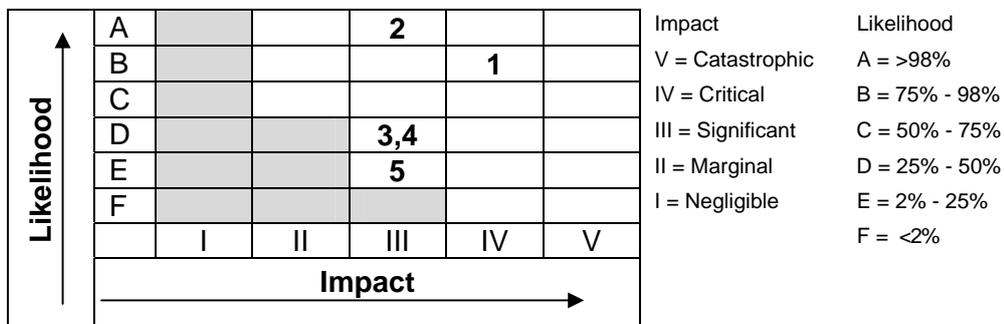
8.1 The Council has agreed its risk management strategy which can be found on the website at <http://www.threerivers.gov.uk>. In addition, the risks of the proposals in the report have also been assessed against the Council's duties under Health and Safety legislation relating to employees, visitors and persons affected by our operations. The risk management implications of this report are detailed below.

8.2 The subject of this report is covered by the Leisure service plan. Any risks resulting from this report are included in the risk register and managed within this plan.

8.3 The following table gives the risks already identified for this project, together with a scored assessment of their impact and likelihood.

Description of Risk		Impact	Likelihood
1	Project over-runs budget	IV	B
2	Project is delivered late	III	A
3	Loss of key project personnel	III	D
4	Project does not deliver the required outputs	III	D
5	Contractor fails	III	E

8.4 The above risks are plotted on the matrix below depending on the scored assessments of impact and likelihood, detailed definitions of which are included in the risk management strategy. The Council has determined its aversion to risk and is prepared to tolerate risks where the combination of impact and likelihood are plotted in the shaded area of the matrix. The remaining risks require a treatment plan.



8.5 In the officers' opinion none of the risks above, were they to come about, would seriously prejudice the achievement of the Strategic Plan and are therefore operational risks. The effectiveness of treatment plans are reviewed by the Audit Committee annually.

9. **Recommendations**

9.1 That the Leisure and Community Safety Policy and Scrutiny Committee recommends to the Executive Committee that:

- a) Officers continue to aim to ensure that the project is completed as soon as is practicable, within the fixed project budget and the Council's quality requirements
- b) Officers report to members on any cost implications associated with delays to the project, as soon as these are available.

9.2 That public access to the report be denied until the issue is resolved.

9.3 That public access to the report's recommendations be immediate.

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Background Papers

William Penn Leisure Centre Refurbishment files

The recommendations contained in this report DO NOT constitute a KEY DECISION.

APPENDICES / ATTACHMENTS

None