



**LEISURE AND CULTURAL
SERVICES MANAGEMENT
AGREEMENT**

EXIT MANAGEMENT PLAN

**NOVEMBER 2024
VERSION 1**

1. Parties

- A. The Borough Council of King's Lynn and West Norfolk of Chapel Street, Kings Court, King's Lynn, Norfolk PE30 1EX (the **Authority**);
- B. Alive West Norfolk incorporated and registered in England and Wales with company number 11802914 whose registered office is at Borough Council of King's Lynn and West Norfolk, Chapel Street, King's Court, King's Lynn, Norfolk PE30 1EX (the **Supplier**)

together the **Parties**.

2. Introduction

- 2.1. The Parties entered a contract for the provision by the Supplier to the Authority of leisure and cultural services (the **Services**) via a Management Agreement which commenced in 2019.
- 2.2. The Supplier is a local authority-controlled company, limited by guarantee. The Authority is the sole guarantor of the Supplier.
- 2.3. The Authority decided on 30 July 2024 to return the Services to an in-house provision, and the Supplier was made aware of this at the time. Formal notice confirming the decision was provided by letter to the Supplier dated 18 October 2024.
- 2.4. The Management Agreement provides that where the Management Agreement is terminated, the parties will agree the terms of an Exit Management Plan and the Supplier shall co-operate fully with the Authority to ensure an orderly migration of the Services to the Authority. Schedule 6 of the Management Agreement is entitled 'Exit Management Plan' and is attached as Appendix 1.
- 2.5. The Supplier will continue to exist as a corporate entity after the transfer of the Services, with a serving board of directors. The Authority, in its capacity as guarantor of the Supplier, will engage with the Supplier outside the terms of this Exit Management Plan on the necessary actions to determine the future of the Supplier as a corporate entity.
- 2.6. The Parties acknowledge that the Supplier has already provided the information and data set out at paragraph 2.1 of Schedule 6 of the Management Agreement.

3. Purpose

- 3.1. The purpose of this Exit Management Plan is to set out the agreement between the Parties on how the transfer of the Services to the Authority (the Transfer) will happen.
- 3.2. It is intended that this Exit Management Plan will serve as the pre-cursor to the development of the heads of terms for a Transfer Agreement.
- 3.3. The Exit Management Plan will continue to operate until all post-Transfer actions are complete.
- 3.4. The Parties intend that this Exit Management Plan will be a live, agile and flexible agreement between them, capable of variation as required, save in respect of section 6. Any variation agreed by the Parties will be incorporated into a revised Exit Management Plan that is dated on the front page with the relevant 'version' number.

4. Objectives

- 4.1. The key objectives of the Exit Management Plan are:
 - 4.1.1. Successful transfer of the Services back to the Authority; ensuring continuity of the Services;
 - 4.1.2. Minimising any impact and disruption for service users and staff;
 - 4.1.3. Compliance with all legal, regulatory, and financial obligations;
 - 4.1.4. Protection of staff employment rights;
 - 4.1.5. Secure transfer of data and intellectual property;
 - 4.1.6. Smooth transition of contracts and leases;
 - 4.1.7. Handover of assets and equipment.
- 4.2. In addition, the Exit Management Plan will comply with Schedule 6 of the Management Agreement attached as Appendix 1.

5. Principles

- 5.1. The Parties agree that the following principles will apply to the Transfer:
 - 5.1.1. Achieving the best outcomes in the public interest;
 - 5.1.2. Collaboration and commitment to a smooth Transfer;
 - 5.1.3. Transparency of the process;
 - 5.1.4. Good governance to evidence how the Transfer was implemented.
- 5.2. The Parties recognise that the Authority is the sole guarantor of the Supplier and ultimately the cost of the Transfer is borne by the public purse.

6. Termination of Management Agreement

- 6.1. The Parties agree that the Management Agreement terminates on 31 March 2025.
- 6.2. The Parties will use all reasonable endeavours to agree the heads of terms for a Transfer Agreement by 31 January 2025.
- 6.3. The Parties agree to use all reasonable endeavours to enter a Transfer Agreement which will take effect at midnight on 1 April 2025.

7. Key workstreams for Exit Management Plan

- 7.1. Key workstreams required to complete the Transfer are:
 - 7.1.1. **Staff** – including TUPE, payroll, pensions, staff T&Cs and staff communications (including briefing sessions)
 - 7.1.2. **Finance** – including transfer of back-office finance functions and determining fees and charges for 2025/2026
 - 7.1.3. **Data & Information Security** – data transfer and the security of the data transfer
 - 7.1.4. **Assets, Leases & Contracts** – termination of leases and asset transfer, including intellectual property and contract novation
 - 7.1.5. **Communications & Stakeholder Engagement** – internal and external communications

8. Reporting

- 8.1. The Authority will provide weekly written updates to the Supplier on the progress against the Exit Management Plan.
- 8.2. Monthly meetings will be scheduled between the Authority and Supplier to report against projected compliance with the Exit Management Plan and determine any changes or additions that need to be made to the Exit Management Plan.

9. Timeline and Key Milestones

- 9.1. Actions to facilitate the transfer will be completed by 31 March 2025, with full implementation from 1 April 2025.

9.1.1. November 2024 – December 2024

- 9.1.1.1. Identified workstreams to be progressed.
- 9.1.1.2. By 30 November 2024, Authority to provide draft heads of terms for Transfer Agreement to Supplier (**Heads of Terms**).
- 9.1.1.3. Supplier to carry out modelling of fees and charges for 2025/26 and provide recommendations on increases to the Authority.

9.1.2. January 2025 – February 2025

- 9.1.2.1. Supplier to be provided with the Authority's preferred model for fees and charges, and thereafter the Supplier's Board of directors to determine the fees and charges for 2025/2026
- 9.1.2.2. Supplier to take appropriate actions to implement the increases in fees and charges
- 9.1.2.3. By 6 January 2025, Supplier to provide comments on draft Heads of Terms
- 9.1.2.4. By 31 January 2025, Heads of Terms to be agreed.
- 9.1.2.5. By 28 February 2025, Parties to enter Transfer Agreement with commencement date of 1 April 2025.
- 9.1.2.6. Staff briefings
- 9.1.2.7. TUPE processes initiated
- 9.1.2.8. Work to transfer Supplier staff to Authority HR and Payroll systems
- 9.1.2.9. Contract novation processes initiated
- 9.1.2.10. Supplier to formally write to their customers to notify them of the transfer, change of direct debit details, data controller and provide an updated privacy notice.
- 9.1.2.11. Other identified workstreams to be progressed

9.1.3. February 2025 – March 2025

- 9.1.3.1. Additional staff briefings if required
- 9.1.3.2. TUPE processes to continue
- 9.1.3.3. Other workstream actions to be progressed
- 9.1.3.4. Work to finalise integration of systems and back-office functions.

9.1.4. March 2025 – April 2025

- 9.1.4.1. Additional staff briefings if required
- 9.1.4.2. TUPE processes continue
- 9.1.4.3. Termination of the Management Agreement
- 9.1.4.4. Termination of leases, in line with the termination of the Management Agreement
- 9.1.4.5. From 1 April 2025, Transition implemented.

9.1.5. 1 April 2025 onwards - Post-transition

- 9.1.5.1. Welcome and integration of Supplier staff
- 9.1.5.2. TUPE processes continue – communications to staff to immediately following the Transfer
- 9.1.5.3. Plan for Supplier close-down will be generated
- 9.1.5.4. Post transfer project review

10. Workstream 1 – Staff Transfer Arrangements (Including TUPE)

10.1. All of the Supplier’s staff will transfer to the Authority. This includes all permanent, fixed term and casual workers.

10.2. In accordance with the arrangements put in place when the Supplier was created, the Supplier’s staff have continued to be employed on the same terms and conditions of employment as Authority staff. This means that there are no implications that need to be addressed with regards to conditions of service in preparation for the transfer taking effect. However, the Transfer of Undertakings (Protection of Employment) Regulations (**TUPE**) still apply to this transfer. Key actions to ensure this include:

10.2.1. **Staff Communication and Consultation:** The Communication Plan (draft copy to follow) will be implemented. This covers:

10.2.1.1. Communication with staff at key points in the process, using a range of channels. This has included informing staff about the transfer and the TUPE process and giving named contacts to approach if they have queries or concerns. Particular attention will be given to communicating with Supplier employees who were not part of previous transfers who may be unfamiliar with the process.

10.2.1.2. Engaging with Unison at an early stage and ensuring Unison representatives are fully involved in supporting employees throughout the process.

10.2.1.3. Formal consultation, which may be required with a small number of staff whose job roles are directly impacted by the transfer. These staff have been identified and will be consulted about any proposals which may impact upon them in accordance with the Authority’s agreed consultation procedures.

10.2.2. **Administration to support the Transfer:** A range of work must be completed by the Authority to support the Transfer on a practical level, to comply with TUPE requirements, ensure payroll arrangements are adjusted and that Supplier employees are assimilated into Authority processes.

- 10.2.3. **Pension Schemes**: Arrangements to review the current pension pooling arrangements put in place when the Supplier was established have been discussed with the Norfolk Pension Fund and will be actioned at the point the Transfer takes effect.
- 10.2.4. **Redundancy Risk**: All supplier staff will transfer to the Authority's employment as part of the TUPE process. The protection of rights under TUPE endures for the remainder of each member of staff's employment therefore the Authority will ensure that any redundancy process at any time is compliant with TUPE.

11. Workstream 2 – Finance

Financial Considerations

- 11.1. There are several key processes within finance which need to take place for the effective transfer of the Services back to the Authority. The finance team are aware that some of the processes identified will interlink and may include various smaller elements. A strict timetable will be adhered to, to ensure a smooth transition and ensure business continuity. An overview is as follows:
- 11.1.1. **Accounts Payable**: All suppliers of the Supplier will need to be written to in advance of the transfer to explain the change, and will need to be set up under the Authority and any issues, including CIS implications will need to be assessed. This ideally needs to take place at least 2 months before the transfer date to ensure continuation of service.
- 11.1.2. **Accounts Receivable**: All Supplier customers will need to be notified of the change and any direct debit mandates will need to be closed and a new mandate raised. Supplier customers will need to be migrated into the Authority's finance system and reconciled accordingly.
- 11.1.3. **Banking/systems**: Bank accounts/credit cards will need setting up under the Authority and the Supplier's accounts closed. Membership direct debits need to be transferred to the new bank account. Payment systems will need to be updated, including merchant IDs. The Authority's Finance and ICT teams will need to work with the Supplier to ensure a smooth transition and avoid disruption to the Services.
- 11.1.4. **Unit 4 Integration**: The Supplier's current structure will be integrated within the Authority's finance system. A review of cost centres, codes, customer/supplier accounts, authorisation levels will need to be undertaken.

Fees and charges process for 2025-26

- 11.2. The Management Agreement has a mechanism in place for determining fees and charges. However, having regard to the ongoing transfer of the Services which will result in the Authority taking on for the financial impact for any fees and charges set by the Supplier for 2025/2026, the Parties agree to vary the process for determining fees and charges for 2025/2026 as follows:
- 11.2.1. The Authority requests that the Supplier model increases to fees and charges based on the board of directors' professional view of what the increases should be, applying an underlying principle of CMI + 1,2,3,4,5%.
- 11.2.2. The Supplier provides a set of recommendations from the board of directors on increases to fees and charges plus the models to the Authority to consider

alongside their budget setting process.

- 11.2.3. The Authority will consider the recommendations and provide a position to the Supplier on the Authority's preferred model of increases.
- 11.2.4. The Supplier determines the fees and charges for 2025/2026 and carries out appropriate actions to implement the increases.
- 11.3. This Exit Management Plan does not fetter any rights the Authority has under the Supplier's Articles of Association.

12. Workstream 3 – Data and Information Security

- 12.1. Information and data governance in the project must ensure compliance with data protection regulations, including the General Data Protection Regulation (**UK GDPR**) and any other relevant laws.
- 12.2. It is anticipated there is no significant data migration required for the project as part of the Transfer, since the data for customers and staff are already held on the Authority's systems.
- 12.3. Customer data will see a change in data controller from the Supplier to the Authority.
- 12.4. Privacy notices will be updated to reflect the new data controller, informing individuals of their rights and any implications this change has on their data. A renewed privacy notice shall be sent to customers prior to the Transfer.
- 12.5. **Key Actions:** The Authority, together with the Supplier will:
 - 12.5.1. Map out all the data that needs to be transferred, including supplier contracts, policies and operational procedures, performance metrics, and details of all digital systems. All general records should also be covered off, e.g. claims/complaints, audit information etc.
 - 12.5.2. Identify all datasets affected by the controller change and privacy notice update.
 - 12.5.3. Ensure the Authority complies with GDPR by informing individuals/suppliers of the data transfer.
 - 12.5.4. Review the data processing agreements with third parties to ensure they align with the new controller's obligations.
 - 12.5.5. Update privacy notices to clearly inform customers of the change in data controller and to specify any impact on data processing practices. Circulate new privacy notice to customers via post/email/website pages.
 - 12.5.6. Although no data transfer will take place, reinforce existing cybersecurity protocols to ensure the secure handling of data under the new controller.
- 12.6. **Post-Transfer:**
 - 12.6.1. The Authority shall review and align data retention policies with the new data controller requirements, ensuring they comply with GDPR.
 - 12.6.2. The Parties shall agree a plan for the destruction of data held by the Supplier post-transfer, where it no longer serves a legitimate business purpose or operational need.
 - 12.6.3. The Authority will need to update and reflect the post-Transfer arrangements within its Retention Schedules and Record of Processing Activities (**ROPA**).

12.6.4. The Parties shall set up access protocols to ensure the Authority can access any necessary Supplier data post-transfer.

14.1.1 The Parties shall jointly ensure retention of data necessary for ongoing services, billing, and compliance.

13. Workstream 4 – Assets, Leases and Contracts

Asset Transfer

13.1. The majority of assets are already owned by the Authority. The Supplier has provided a list of assets owned by the Supplier. The Supplier also holds cash balances.

13.2. The Supplier will provide an updated register of the assets it owns (including a current statement of the cash it holds) upon request by the Authority.

13.3. The assets will transfer within the Transfer Agreement, to the effect that:

13.3.1. The Supplier shall transfer all rights, title and interest in the assets (to be set out in a schedule) to the Authority for a nominal sum (the sum of one peppercorn (£0.01)), which the Authority agrees to pay upon the date of Transfer.

13.3.2. The Supplier warrants that it has full legal title to the Assets and that the Assets are free from any encumbrances or liens.

13.4. The Authority acknowledges that the Supplier may incur costs between the termination of the Management Agreement and the date on which it is wound up. The Authority will agree to indemnify the Supplier for all such costs in return for subrogation rights to manage any claims that may arise either by or against the Supplier.

13.5. Condition surveys for the Supplier facilities were conducted in 2022. The Parties agree that these are a true reflection of the current conditions and recent enough to not warrant conducting further surveys.

Intellectual Property (IP)

13.6. Clause 27.1 of the Management Agreement provides that all IP created by the Supplier and its staff in the course of performing the services are the property of the Authority. There is no need to transfer any IP, but for the sake of completeness, will be dealt with in the Transfer Agreement.

Termination of Leases

13.7. The Supplier-leased properties that have formal leases are as follows:

13.7.1. Corn Exchange, King's Lynn

13.7.2. St James Swimming & Fitness, King's Lynn

13.7.3. Lynnsport, King's Lynn

13.7.4. Oasis Leisure Centre, Hunstanton

13.8. Other properties operated by the Supplier that are covered by the provisions of the Management Agreement are:

13.8.1. Downham Market Leisure Centre, Downham Market

13.8.2. Town Hall, King's Lynn

- 13.8.3. South Lynn Community Centre, King's Lynn
- 13.8.4. Fairstead Community Centre, King's Lynn
- 13.9. Within the leases and the Management Agreement there are a number of options relating to lease termination.
- 13.10. Under clause 9.2 of the Management Agreement, the Leases will terminate automatically upon termination of the Management Agreement.¹

Novation of Contracts

- 13.11. The Supplier's third-party contracts cover a range of subjects and involve varying commercial relationships. Pending discussion with the counterparty in each case, various approaches may be needed to transfer the contractual relationship from the Supplier to the Authority.
- 13.12. The Authority and the Supplier have currently worked on the basis that all the existing contracts should be transferred in the interests of continuity. Before steps are taken to novate contracts, this should be double-checked, as there may be an opportunity to exit contracts upon the winding-up of the Supplier.
- 13.13. In the first instance, the Authority proposes to write to each counterparty and simply seek their agreement to the Authority taking over as the assignee. Where this is accepted, the contractual mechanism will be simple to arrange.
- 13.14. In the event it is not possible to achieve novation, the Authority may determine to make new third-party arrangements. The Supplier and the Authority will work together to facilitate this.

14. Workstream 5 – Communication and Stakeholder Engagement

- 14.1. Outlined below are the identified objectives and key "strands" of the Communication and Consultation plan (draft to follow). The plan identifies specific key stakeholders (internal, partners and external) and a detailed activity plan with actions and key dates for communicating with those stakeholders via appropriate channels.

14.2. Communication objectives:

- 14.2.1. Continue to share clear, consistent messages about the transfer in a timely manner with both Supplier and existing Authority staff, to update colleagues at relevant points in the HR process;
- 14.2.2. Make sure front-facing staff, customer services colleagues and councillors have the key messages in a timely manner in case of any public enquiries;
- 14.2.3. Deliver proportionate, supportive communications around the Direct Debit letters being sent out, in order to reduce the risk of customer enquiries or of fraudsters using it as an opportunity;
- 14.2.4. Welcome Supplier colleagues into the Authority and support their on-boarding process;
- 14.2.5. Generally, support openness and transparency around the in-housing process.

¹ For completeness, the operation of clause 9.2 is stated to be subject to clause 9.4, but this does not apply in the current circumstances.

14.3. **Key communication strands:**

- 14.3.1. Ongoing concurrent and consistent updates for Supplier staff and existing Authority staff (as required) at key points in the HR process – letters, emails and briefing sessions;
- 14.3.2. Dispatch advisory Direct Debit letters to relevant leisure centre customers, to give notice of the Transfer – supportive communications around this milestone;
- 14.3.3. Embedding Supplier colleagues within the Authority’s community of colleagues, ensuring key internal communications and engagement opportunities are inclusive of Supplier staff;
- 14.3.4. Marking completion of transfer - Internal, partner and external communications on the date the transfer is fully complete – ensuring transparency and, internally, formally welcoming Supplier colleagues into the organisation.

15. Risk Management and Contingency Planning

- 15.1. A comprehensive risk register has been developed and includes potential risks such as staff becoming unsettled, impacts on business continuity, data breaches during the transfer and workstream delays. This risk register will be reviewed throughout the project to monitor any changes, emerging risks and mitigating activities.
- 15.2. The risk register highlights mitigating actions for all potential risks identified.
- 15.3. A copy of the risk register is available on request.

16. Post-Transfer

- 16.1. The Parties agree to resolve any miscellaneous matter that arises in accordance with the objectives and principles of this Exit Management Plan.
- 16.2. Once the transfer is complete, a ‘post-project’ review will be conducted to ensure that all aspects of the Transfer have been successfully executed and to identify any areas for improvement in future transitions.

The Parties have executed this Exit Management Plan on 2024

Signed and executed on behalf of the Borough Council of King’s Lynn and West Norfolk

Name: _____

Position: _____

Signature: _____

Signed and executed on behalf of Alive West Norfolk

Name: _____

Position: _____

Signature: _____

DRAFT