

**Agenda Item:**

**Report to:** Overview & Scrutiny Committee for Services

**Date:** 13th December 2007

**Report from:** Corporate Director, Community Well Being

**Title of report:** **WHITE ROCK THEATRE - UPDATE**

**Purpose of report:** To provide an update on the contract for management of the White Rock Theatre.

**Recommendations:** **That the report be noted.**

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## 1.0 Background

- 1.1 In June 2007 it was reported to Cabinet that Live Nation (UK) Ltd was seeking to terminate the management agreement for the White Rock theatre in January 2009. Cabinet authorised officers to negotiate terms for the termination of the contract and that expressions of interest be sought from potential operators of the theatre. Cabinet requested that a further report be submitted detailing the outcome and considering any other potential options for the theatre.

## 2.0 Current Contract

- 2.1 A company experienced in local government procurement law, Sharpe Pritchard, were appointed, to provide legal advice to officers, at all stages of the negotiations and procurement process.
- 2.2 The negotiations with Live Nation were protracted but have recently been concluded and a formal deed, which varies the original contract, has been executed by both parties.
- 2.3 The contract with Live Nation now formally terminates on 31 January 2009. Live Nation retains full responsibility for the building until that date and all the terms of the original management agreement and lease remain in force.
- 2.4 Live Nation have accepted liability for costs (capped at an agreed level) incurred by the Council, in the negotiations and the procurement of new operators. These costs include the legal advice from Sharpe Pritchard.

## 3.0 Procurement of New Operator

- 3.1 During the negotiations over the termination no action was taken to actively seek new operators. This was to protect the Council's position in respect of the current contract.
- 3.2 The time was used to seek further clarification on the procurement process. Advice also had to be obtained to ensure that the process to be used conforms to the 'Restricted Procedure' under the Public Contracts Regulations 2006 but is sufficient to allow bids which provide for more sustainable alternatives to the current provision of a traditional and heavily subsidised theatre.
- 3.3 The above process caused some delay following agreement on the termination. The projected timetable is as follows:

Date	Detail
Dec 2007 – Jan 2008	Advertise for interested parties to complete pre qualification questionnaire.
February 2008	Short-listing
03 March 2008	Cabinet to agree options and short-list
March – May 2008	Prepare tender documents, specifications etc
May – June 2008	Tender period
July – Sept 2008	Tender evaluation
October 2008	Cabinet to award contract
Nov 2008 – Jan 2009	Lead in period
01 February 2009	Contract Start

## 4.0 Policy Implications

- 4.1 **Financial:** The Council currently subsidises the theatre by approx. £0.5 million per year. The prospectus makes it clear that the Council's financial position requires a reduction in this level of subsidy.
- 4.2 **Risk Management:** There remains the possibility that the procurement process may not elicit a new contractor or that the tendered price may be unacceptable. Initial actions to mitigate against this possibility are set out below.
- 4.2.1 Cabinet requested that a report on possible options for management of the theatre be incorporated in the report on the Expressions of Interest. This is being considered and will be further developed following discussions with the interested organisations.
- 4.2.2 As part of a separate project considering the viability of a new Leisure Centre, consultants were asked to consider whether it would be feasible to include some aspects of theatre provision within the proposed new facility. The consultants are due to complete the first stage of their work during December and their findings will be reported to Cabinet early next year.

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## Appendices & background documents

N/A

## Policy implications

Please tick if this report contains any implications for the following:

Equalities & Community Cohesiveness	<input type="checkbox"/>
Crime and Fear of Crime (Section 17)	<input type="checkbox"/>
Risk Management	<input type="checkbox"/>
Environmental issues	<input type="checkbox"/>
Economic / Financial implications	<input type="checkbox"/>
Human Rights Act	<input type="checkbox"/>
Organisational Consequences	<input type="checkbox"/>

Any ticked areas should be referred to in the text of the report under the heading "policy implications"

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