



Report to: Cabinet Meeting: 20 January 2026

Portfolio Holder: Councillor Paul Peacock, Strategy, Performance & Finance  
Councillor Susan Crosby, Health, Wellbeing & Leisure

Director Leads: Sanjiv Kohli, Deputy Chief Executive & Director – Resources  
Suzanne Shead, Director - Housing, Health & Wellbeing

Lead Officer: Jenna Norton, Senior Accountant, Financial Services, Ext. 5327

<b>Report Summary</b>	
<b>Type of Report</b>	Open Report / Key Decision
<b>Report Title</b>	The Management and Operation of the Council's Leisure Facilities under an Agency Model
<b>Purpose of Report</b>	To present the proposal of moving to an Agency model of delivery for Leisure Services by Active 4 Today Ltd (A4T).
<b>Recommendations</b>	<p>That Cabinet:</p> <ul style="list-style-type: none"><li>a) approve a change to the Leisure Management Agreement between Newark &amp; Sherwood District Council and Active 4 Today such that the company becomes an 'Agent' of the Council in the delivery of Leisure Services; and</li><li>b) delegate authority to the Deputy Chief Executive, Director of Resources and S151 Officer to vary the existing contract to an Agency Model arrangement and enter into all necessary agreements to implement the proposals.</li></ul>
<b>Alternative Options Considered</b>	To continue under the existing contract with Active 4 Today acting as Principal and would continue to incur irrecoverable VAT which a revised contract would eliminate.
<b>Reason for Recommendations</b>	This opportunity follows the successful litigation taken by Chelmsford City Council (and others) "the Chelmsford ruling"). The ruling confirmed as being non-business all supplies of local authority leisure services that were previously taxable (liable to VAT at the zero rate, reduced or standard rate) or VAT exempt.

## **1.0 Background**

1.1 The Council's wholly owned 'not for profit' leisure company, Active4Today (A4T), has been delivering leisure and sports development on behalf of the Council since 2015. A4T is currently engaged to act as Principal in providing leisure facilities to the public. However, together with the Council, they are considering changing the delivery model so that A4T acts in the Council's name (as its Agent) to provide the leisure services.

## **2.0 Current Position**

2.1 The current contractual arrangements with A4T reflect a long-established and widely adopted model for leisure outsourcing within local authorities. This structure was considered the most VAT-efficient at the time, as it transferred significant levels of VAT-exempt business activity to a separate entity, thereby protecting the Council's wider VAT recovery position under the partial exemption rules (as a Section 33 body, the Council is able to recover VAT on its exempt activities, provided the total does not exceed the 5% de minimis threshold). However, because leisure fees charged to the public are classified as VAT-exempt, A4T incurred additional costs in the form of irrecoverable VAT. The current annual cost to A4T for irrecoverable VAT is in the region of £236,000.

2.2 The opportunity to change the status, or capacity, under which A4T will provide the services follows the recent successful litigation taken by Chelmsford City Council (and Others) (["the Chelmsford Ruling"](#)). The ruling confirmed that all local authority leisure service supplies—whether previously subject to VAT (at zero, reduced, or standard rates) or exempt—are now classified as non-business activities. Not only should the non-business treatment be applied in the future, but it should also be applied in the past (the statutory four-year time limit for VAT reclaims).

2.3 In 2011, the Council joined several other local authorities in submitting claims to HMRC for the overpayment of VAT on Sporting Services - most notably through the [London Borough of Ealing case](#). These claims were made in anticipation of a potential change in VAT treatment, which was ultimately confirmed by the Chelmsford ruling. Throughout this period, the Council continued to correctly account for output VAT in accordance with the rules applicable at the time, prior to the recent reclassification of such services as non-business. The Council maintained this approach until the establishment of A4T. The total value of the claims submitted amounted to £213,894.22, which was reimbursed by HMRC following the update to its VAT manual in November 2023, along with £32,668.47 in statutory interest during 2024/25.

## **3.0 Proposal**

3.1 Following consultation with our tax advisors and legal specialists in this field, the Council are proposing to amend the existing Leisure Management Agreement between the Council and the leisure company. The proposed restructure would designate the Council as the 'Principal' in the agreement, with A4T acting as 'Agent' on its behalf. This change means that income generated by the leisure centres would

be treated as income belonging to the Council and therefore included in the Council's VAT returns. As a result, VAT that was previously irrecoverable could now be recovered going forward—while recognising that VAT had been correctly accounted for under the rules in place prior to the recent change in treatment. The Council would, in turn, pay a management fee to A4T to cover the costs of operating the services.

- 3.2 There will be no changes to the day-to-day operations of A4T. Service delivery, and customer experience will remain unaffected. The only operational change will be in the financial reporting and VAT treatment of income, which will be managed in consultation with the Council's VAT advisors to ensure full compliance.
- 3.3 The revised agreement will be subject to legal review and approval by both parties. A transition plan will be developed to manage the changeover, including updates to financial systems, VAT processes, and internal controls. Risk is considered low due to the Council's ownership of A4T and the clear legal precedent established by the Chelmsford ruling.

#### **4.0 Implications**

In writing this report and in putting forward recommendations, officers have considered the following implications: Data Protection; Digital & Cyber Security; Equality & Diversity; Financial; Human Resources; Human Rights; Legal; Safeguarding & Sustainability and where appropriate they have made reference to these implications and added suitable expert comment where appropriate.

Implications Considered			
Yes – relevant and included / NA – not applicable			
Financial	Y	Equality & Diversity	NA
Human Resources	NA	Human Rights	NA
Legal	Y	Data Protection	NA
Digital & Cyber Security	NA	Safeguarding	NA
Sustainability	NA	Crime & Disorder	NA
LGR	NA	Tenant Consultation	NA

#### Financial Implications - FIN25-26/1944

- 4.1 The allocated budget for 2025/26 Active4Today management fee is £109,390. Quarter 2 budget monitoring forecast that this expenditure would not be incurred, generating a saving to the council.
- 4.2 The Medium-Term Financial Plan (MTFP) approved by Full Council in March 2025 assumed a £142,000 saving in 2026/27 arising from the reduction of the management fee as a result of the review of leisure management ([MTFP Full Council report](#)). In line with this assumption and consistent with this proposal outlined above, the budget for 2026/27 onwards has been adjusted accordingly to reflect this saving.
- 4.3 Future income and expenditure budgets will be set in collaboration with A4T and aligned with the business plan approved by the A4T board.

Legal Implications - LEG2526/9978

4.4 Cabinet is the appropriate body to consider the content of this report. The Legal team have advised on this matter and specialist external legal support has been obtained to support in the preparation of the relevant documents.

Active4Today Comments

4.5 As part of the process for investigating the Agency model, Active4Today has worked with the Council and the legal organisations, to fully appraise the proposed approach. As stated within the report above, the day-to-day operations of A4T will not change.

4.6 There will be a continuation of the same quality of provision currently provided by the Company and the service to the customer, will not be affected, with the change to way the finances will be administered.

4.7 Active4Today have fully discussed this proposed change with its Board and are fully supportive of this new approach, to implement the most tax efficient model for both organisations.

**Background Papers and Published Documents**

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

None