

Decision maker:	Cabinet member contracts and assets
Decision date:	Friday 12 January 2018
Title of report:	Surrender of Tenancy at Peterchurch Centre
Report by:	Strategic property services manager

Classification

Open

Decision type

Non key

Wards affected

Golden Valley North;

Purpose and summary

To agree termination of the occupational arrangements and costs incurred in respect of the council's use of the Peterchurch centre at Peterchurch church. The council is paying running costs in respect of the premises under its Licence to Occupy dated 8 August 2008 for the designated use as a children's centre. The Licence was made between the Reverend Simon Lockett ('Licensor'), the Parochial Church Council of the Parish of Peterchurch ('Church Council') and Herefordshire Council ('Licensee'). Children's centre services provided by the council no longer operate from the premises and in accordance with the cabinet report dated 14 September 2017 a review of the arrangement is required.

The report seeks approval to surrender the licence through the operation of the one-off break clause on the 10th anniversary of the start date i.e. 8 August 2018 and to serve the required 6 months' notice on or before 8 February 2018. A separate licence in respect of the community library will remain in place.

Recommendation(s)

That:

- (a) **the licence to occupy in respect of Peterchurch Church held by Herefordshire Council is terminated by the operation of the one-off break clause and the required 6 months notice is served on the landlord on or before 8 February 2018 so that the licence and all liabilities under it cease on 8 August 2018.**

Alternative options

1. There are three alternative options:
 - Allow the licence to remain in place for the remaining 15 years of the original 25 year term
 - Fund the community group through other means
 - Negotiate terms for a new occupational agreement
2. Allow the licence to remain in place – this would mean that the council will continue to pay for the use of the building for another 15 years (see details below). This arrangement is disproportionate to the council use, especially considering the council's children centre services no longer operate from the site. There could be a renegotiation of terms to be aligned to changing circumstances, however this still has a cost implication which does not match the corporate use / need.
3. Fund the group through other means – a separate licence exists and a licence fee of £405.00 is paid by Herefordshire Council for the use of the Peterchurch Centre for a community library which recognises the continued need for the library provision. The venue runs a number of community activities valuable to local people having a positive effect on the council's approach for locally led activity. Therefore separate services may consider this a valuable provision to financially support through grant or revenue. This would be subject to a different and separate decision and agreement. Additionally the council can be charged adhoc rental charge for designated use.
4. That a new agreement is negotiated on more favourable terms for use of the Peterchurch Centre. This, again, would have a cost implication but might be a consideration in the future if clawback becomes an issue (see later).

Key considerations

5. The licence to occupy commenced on 8 August 2008 and permits use of the church for the purpose of delivering children's services. This was linked to a cabinet member decision dated 11 April 2008 to develop the church nave in partnership with the Parochial Church Council of Peterchurch. This allowed for the delivery of community activity and 10 hours a week of children centre work ([link](#)).
6. A grant of £255,000 was awarded to the council in 2008 by the Department for Children, Schools & Families for the delivery of children's services and contributed to the refurbishment of the church to make it suitable for the delivery of those services.

7. The licence provides that the council will be responsible for payment of all charges for water, heating and lighting and business rates relating to their use of the premises and for all PAT testing of portable electrical appliances, and supplies (toilet rolls, soap, paper towels) and 100% of any increase in the insurance premium and fire regulation costs on account of their occupation of the premises and in addition the sum equal to 50% of the charges for telephone, broadband/computer networking, 100% lift maintenance, 100% boiler maintenance, 50% of internal repairs and maintenance including the lighting equipment not covered by insurance, 50% of supply and servicing of fire extinguishers and similar services supplied to the premises as a whole, 100% of the cost of removing refuse from the premises.
8. The total running costs in respect of the last 3 financial years were £12,275 in 2015/16; £12,406 in 2016/17; and £5,171 in 2017/18 (to date)' broken down by the following:

Sum of Amount	Cyclical maintenance	Electricity	Furniture & Fittings	Hygiene Services	Legionella	Planned Maintenance	Reactive Works	Repairs & Maintenance	Service Charge	Solid Fuel	Surveys / Assessments	TV Licences	Water & Sewerage	Grand Total
2013/14						594			105					699
2014/15		379	90	210		851	329	1,323		2,275				5,457
2015/16	3,711	793				626	3,421			2,620	1,103			12,275
2016/17	2,807	397		187	134	1,244	4,539	180		2,463		293	162	12,406
2017/18	1,415	908		80		-772	2,534			1,006				5,171
Grand Total	7,933	2,477	90	477	134	2,543	10,823	1,503	105	8,364	1,103	293	162	36,008

9. The licence to occupy provides for a single opportunity to break the licence on the 10th anniversary of the commencement date i.e. 8 August 2018 subject to serving on the landlord at least 6 months written notice which must therefore be served before 8 February 2018.
10. If the licence is not terminated it will continue for a further period of 15 years and the council will continue to be responsible for the running costs.
11. The funds were invested as part of the SureStart programme to create children centres across the county. At the time a number of sites were looked at, with the decision to provide service from the Peterchurch Centre and linking to the plans to develop the centre as a wider community facility.
12. Within the last 10 years the model for delivery of children centre services has changed – nationally and locally. This means children services are not automatically building based and reach out to families close to community settings using a variety of sites. In addition demand for type and volume of children centre services have changed, with universal services being delivered by private nurseries, community groups and information via the web. As a consequence the direct provision of children centre services at Peterchurch Centre no longer takes place. Community led activities (for both children and adults) take place independently of the council. The community linked to the centre is provided support for accessing alternative funding sources.

Community impact

13. The delivery of children centre services arises from the council's core priority outlined in the corporate plan as "Keeping children and young people safe and giving them a great start in life". As outlined above the way children centre services are delivered has changed to meet changing needs, demands and service design – however the statutory

requirements continue to be met and targeted activity is provided by the council for those children and parents in need.

14. Exercising the break clause will mean that the community facility will no longer have the guaranteed income from the council. This could have an impact on sustaining the wider set of activities that take place at the church.
15. The notice period is at least six months and within that period the council will work with the group to find alternative forms of funding. The council will continue with the agreement to operate the community library and hire the venue when needed for activities consistent with other arrangements.
16. The decision will not have a direct impact on the council's responsibility for corporate parenting and targeted activity will continue with specific groups, parents, carers, children and young people.

Equality duty

17. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
18. The Equality Act 2010 established a positive obligation on local authorities to promote equality and to reduce discrimination in relation to any of the nine 'protected characteristics' (age; disability; gender reassignment; pregnancy and maternity; marriage and civil partnership; race; religion or belief; sex; and sexual orientation). In particular, the council must have 'due regard' to the public sector equality duty when taking any decisions on service changes.
 19. Negative impact on protected characteristics are concerned with age. This is primarily:
 - Young age – if funding is withdrawn from the Peterchurch Centre that could mean a reduction in service for children. These are universal services rather than targeted activity. Current community activity continues to take place as a form of mitigation without council funding.
 - Older age – the centre runs a range of activities for the wider community. This will include for older people who use the centre for positive engagement. If the centre was due to reduce its activities because of the council withdrawal of licence this could have a negative impact. The mitigation to support the community to source other avenues of funding more appropriate for this activity.

Resource implications

20. Termination of the licence will result in savings of approximately £12,000 p.a. on the basis of the costs incurred in the most recent complete financial year. This will contribute to the savings plans of the council in the medium term financial strategy.
21. The separate agreement for the community library at an annual fee of £405 will continue and specific services may use expenditure budget to hire the space when needed – funds are part of existing revenue budgets. This agreement contains an annual break clause in favour of the Peterchurch Centre and a three year break in favour of the Council.

Legal implications

22. There is opportunity for the council to terminate the Licence at Peterchurch Centre based on the cessation of children centre activity directly operated by the council at the centre. Notice must be served on the Church Council at least six months before the 10th anniversary of the commencement of the Licence Term i.e. notice must be served prior to 8th February 2018.
23. As outlined in risk management there may be some risk of the SureStart grant being subject to clawback. There have been cases of Surestart grants being clawed back in other areas when childrens' centres have closed, however the council has mitigating reasons for withdrawing including the national approach of moving away from building based services, the elapse of 10 years since the grant was awarded and the application of the monies to making the building permanently suitable for the delivery of services to children be it by the council or other providers – and in Peterchurch a private group for young families continues to operate from the premises.

Risk management

24. Risk relating to the recommendations are below:

Risk / opportunity	Mitigation
<p>A risk of clawback of part of the funding awarded in 2008 through the SureStart programme.</p> <p>It is likely the Peterchurch Centre have a dependency on the council contribution to sustain other community activity beyond the children centre services. Without this subsidy the centre will have a gap in its funding.</p>	<p>The Dfe have been contacted regarding the proposals outlined; the change in model and demand means that Peterchurch is no longer a designated children centre and therefore does not allow for continued licence by the council.</p> <p>A six months' notice period means that the council can support the group to access other funding and forms of income. Compared to other community groups there has been 10 years of subsidy and major investment in the establishment of the centre.</p>

Consultees

25. The Peterchurch Centre was included as part of the public consultation for children centre buildings in June and July 2017. From 513 response 3% (16 responses) were from users of Peterchurch. This is reflective of the low level of population in the area and low level of use. The below responses are from the published feedback. There were a higher number of respondees than those who designated themselves as users for the facility.

Peterchurch centre, Peterchurch

Support the community operated building through its use for children's centre outreach activity, community library and wider community programme.

Q11a. Do you agree with these proposals?

A large majority of respondents (90 per cent) agreed with the proposal for Peterchurch centre.

	Number of respondents	Per cent of respondents
Yes	142	90%
No	15	10%
Base*	157	100%
Don't know	183	
Total respondents	320	
Not answered	193	

Q11b. If no, why not?

Comments regarding proposal for Peterchurch were mainly concerned with the keeping current services and lack of service: "much needed in rural areas. Council should support the service", "what support is there currently? A health visitor goes in once a term!!! And when contacted she couldn't even say when she would next be there. There is a playgroup run by parents but no advice or support from anyone for them. There wouldn't even be the playgroup if the parents hadn't agreed to run it and the church, agree to support them in that use of the space. The library is run by volunteers. There are few buses so families here are isolated and are clearly lacking in support", "I don't use it as not in my area but I do have friends that use it and they like how it is already!"

Alternative comments were made concerning the allocation of resources "this is an expensive although good facility to run but in the lowest area of needs in the county. Should this not be subsidised by other sources rather than council funds?"

26. The conclusion to the consultation and other factors relating to children centre services as outlined in the cabinet report of 14 September 2017 was to continue to support the community facility but review the agreement.
27. The ward member, Councillor Price has been consulted and is supportive of the position outlined in the recommendations.

Appendices

None.

Background papers

None identified.