

**Minutes of the meeting of Cabinet held at The Council Chamber -
The Shire Hall, St. Peter's Square, Hereford, HR1 2HX on
Thursday 28 February 2019 at 10.00 am**

Present: Councillor JG Lester, Leader of the Council (Chairman)
Councillor NE Shaw, Deputy Leader of the Council (Vice-Chairman)

Councillors H Bramer, BA Durkin, DG Harlow, PD Price, P Rone and
EJ Swinglehurst

Cabinet support members in attendance Councillors AW Johnson, JF Johnson and RJ Phillips

Group leaders in attendance Councillors PP Marsh and EPJ Harvey

Scrutiny chairpersons in attendance Councillors PA Andrews, WLS Bowen and CA Gandy

Other councillors in attendance: Councillors A Seldon and AJW Powers

Officers in attendance: Richard Ball, Chris Baird, Claire Ward, Andrew Lovegrove, Stephen Vickers and Karen Wright

50. APOLOGIES FOR ABSENCE

There were no apologies from members of the cabinet.

51. DECLARATIONS OF INTEREST

None.

52. MINUTES

Resolved: That the minutes of the meeting held on 31 January 2019 be approved as a correct record and signed by the Chairman.

53. QUESTIONS FROM MEMBERS OF THE PUBLIC (Pages 7 - 10)

Questions received and responses given are attached as appendix 1 to the minutes.

54. QUESTIONS FROM COUNCILLORS (Pages 11 - 14)

Questions received and responses given are attached as appendix 2 to the minutes.

**55. AGREEMENT OF SECTION 75 (S75) BETWEEN THE COUNCIL AND
HEREFORDSHIRE CLINICAL COMMISSIONING GROUP (CCG)**

The cabinet member health and wellbeing introduced the item.

It was noted that it was a national requirement to have a section 75 agreement in place and that such agreements enabled the joint commissioning of integrated health and social care provision. The future of funding was uncertain beyond April 2020 and, as a result, the new agreement would run for 12 months only ending in March 2020. The total value of the agreement was in excess of £55m.

The agreement was a continuation of what was already in place with the only significant change being the introduction of a discharge to assess pilot scheme to deliver short-term

bed based care whilst promoting the opportunity for assessment and planning to meet longer-term care needs.

The head of partnerships and integration confirmed that the council would continue to work very closely with its partners and that there had been no specific tensions or concerns with the operation of the current agreement.

Group leaders were invited to express the views of their group.

There was concern that the authorisation of the agreement would mean that officers would be able to move £55m without any further reference to cabinet. It was agreed that written clarification on this point would be provided.

It was agreed that:

- a) The section 75 (s75) agreement for the period 1 April 2019 to 31 March 2020 at a total value of £55.685m between the council and Herefordshire Clinical Commissioning Group (CCG), as at appendix one, is approved; and**
- b) The director for adults and communities be authorised to take all operational decisions necessary to complete the section 75 agreement.**

56. APPROVAL FOR HEREFORDSHIRE ADOPTION SERVICE TO JOIN ADOPTION CENTRAL ENGLAND (ACE) REGIONAL ADOPTION AGENCY

The cabinet member children and families introduced the item. She noted that the council was required to join a regional adoption agency (RAA) by 2020 and Herefordshire Council proposed to join Adoption Central England (ACE). The practical implications were being worked through but the advantages of joining the regional agency included sharing of resources and the ability to place children across a wider geographical area, which would reduce the need to purchase costly independent placements.

In discussion of the report it was noted that:

- Herefordshire adoption service was judged to be working well and would take its strengths to the RAA as current staff would transfer;
- Herefordshire Council would retain accountability for the provision of adoption services to children in the county and it is expected would continue to be subject to Ofsted inspections of those services;
- An implementation group had been established to oversee the transition of staff into the RAA, staff would be seconded to begin with and a TUPE process initiated subsequently;
- There was no indication that there would be a requirement for staff to travel across the whole region covered by ACE but opportunities might exist for staff who lived close to the border with Worcestershire;
- ACE was a standalone agency, governed by a board which Herefordshire would be entitled to join as a member of the RAA, Warwickshire County Council acted as the host authority;
- A sub-hub may be set up in Worcester, staff who worked in Herefordshire would have opportunities to work in offices in Herefordshire;
- Wales operated under a different legal framework so joint working with Welsh authorities had been discounted;
- Shropshire Council was part of a regional agency with Telford and Wrekin, Stoke and Staffordshire Councils which formed a large area and was not felt to be as good a match for Herefordshire;
- Herefordshire Council had a long-standing relationship with Worcestershire adoption service and joining ACE would build on that relationship;
- It was important that the transition happened as smoothly as possible.

The chair of the children's wellbeing scrutiny committee commented that the proposal had been coming forward for some time. Joining ACE should make adoption quicker for children and provide better matches with potential adopters. A government evaluation of RAAs in November 2018 noted some challenges but it was felt that ACE was the correct agency for Herefordshire to join.

Group leaders were invited to express the views of their group. There was cautious support for the proposal to join ACE but concerns were expressed that the current good service in Herefordshire should be protected and that the regional setup could make the service feel further away from Herefordshire.

It was agreed that:

- a) Herefordshire adoption service joins Adoption Central England (ACE) regional adoption agency with effect from 1 July 2019; and**
- b) the Director of Children and Families be authorised to take all operational decisions necessary to complete the partnership and hosting legal agreements with ACE.**

57. REVISED SPECIAL GUARDIANSHIP ORDER (SGO) FINANCIAL SUPPORT POLICY

The cabinet member children and families introduced the item. The proposal would increase the financial allowance for carers with a Special Guardianship Order (SGO) to the same level as foster carers. Having a SGO conferred benefits for the child and for the carers. The carer would be able to take day-to-day decisions and would have reduced contact with social workers. The child would be treated the same as other children in the family. The reduced contact with social workers would release capacity in the service to focus on those children needing more support. The modest cost of the proposal would be met from existing budgets.

The chair of the children's wellbeing scrutiny committee supported the proposal and noted that it would remove potential stigma for a child in a family.

It was explained that an SGO would be put in place through the court and would grant the holder(s) parental responsibility for the child until the age of 18. While contact with social workers would reduce, continued family support would be available where families wanted it and they would be able to contact the council for support at any point in the future.

Group leaders were invited to express the views of their group. There was support for the proposal and it was queried whether there were other changes that could be made to deliver similar benefits.

It was agreed that:

- a) The revised financial policy for special guardianship orders at appendix 1 is approved; and**
- b) The policy is implemented from 1 April 2019.**

58. END OF DECEMBER CORPORATE BUDGET AND PERFORMANCE REPORT

The cabinet member finance and corporate services introduced the report and highlighted the following key points:

- The projected revenue outturn for 2018/19 was an overspend of £289k, this compared favourably to the same point in 2017/18 when an overspend of £2m was projected;

- The adults and communities directorate projected a balanced budget through reducing the number of cost of placements while the overspend in the children and families directorate had remained reasonably static since September;
- A steady increase in people accessing information and advice through WISH had been reported, while it was encouraging that people were using the service there was concern that the number of people needing support was increasing;
- The uptake of NHS Health Checks had improved but was still below target;
- Steady progress had been made on recruitment to the HomeFirst service with a full complement expected by the end of March 2019;
- Following the introduction of the Homelessness Reduction Act in April 2018 there had been a 59% increase in footfall and an increase in demand for temporary accommodation, this was impacting on budgets and continued to be managed by the Housing Solutions Team;
- There was increased demand for nursing provision, the number of block beds available to the council had been increased and projects at Waverley House and Hillside would deliver further capacity;
- School budgets remained tight, the budget for 2019/20 had recently been approved by the Herefordshire Schools Forum and included the full funding according to the National Funding Formula plus an additional £15 per pupil;
- Special education needs provision was under review, the council was committed to supporting schools to develop inclusive practices;
- Herefordshire continued to be below the national average for exclusions and home schooling but numbers had risen in line with national trends;
- The new local Early Help Assessment (EHA) had replaced the Common Assessment Framework and resulted in an increase in completed assessments meaning more families were being helped earlier;
- The number of child protection plans remained static, additional capacity had been provided to review current cases and the council's figures were now below statistical neighbours and below nation and regional figures per 10,000 children;
- The South Wye Transport Package was progressing to programme;
- Masterplanning had commenced on options for the Country Bus Station including potential for a new multi-storey car park and initial design feasibility works had been commissioned for stand redevelopment at Hereford Football Club;
- Ledbury was the first market town to reach referendum stage in its Neighbourhood Development Plan with Leominster's referendum due on 28 February;
- The proposed student accommodation block on Station Approach had received planning approval and would be the first significant project through the Development Regeneration Programme;
- The elections team had completed the canvass, increasing the electoral register by 1%, and planning was underway for council elections on 2 May.

In discussion of the report it was noted that:

- Table B included projections of schemes likely to come forward and assumptions as to grants that would be received to cover these schemes, the table had been updated to end of December 2018 with additions since the capital programme was last approved by Council in July 2018;
- Herefordshire was now in the top or second quartile for the vast majority of performance indicators for educational outcomes, showing a significant improvement;
- Work was continuing to target particular groups, for example to secure higher attainment for pupils eligible for free school meals and in supporting speech and language development in the early years;
- Progress had been made quickly and effectively to address the weakness identified by Ofsted, work continued to ensure areas continue to improve and did not drift;

- The decision taken to increase the financial allowance to carers with a Special Guardianship Order was an example of measures to tackle the number of Looked After Children;
- The recent Ofsted focussed visit noted the improvements made and teams report they are feeling supported by the management team, there was still work to do but the improvements achieved to date should be acknowledged;
- Work under the national Troubled Families programme was achieving sustained change, with 366 families supported to the end of December 2018;
- 87% of premises were now able to access superfast broadband and this was expected to increase significantly in the next quarter, Herefordshire now had seven out of the top ten wards in the west midlands for full fibre coverage;
- There had been some slippage in the original timescales of the Fastershire project, this was disappointing but additional properties were being pulled into the contract and the council was on target to deliver full fibre to 50% of rural properties;
- Officers in adults and communities should be commended for delivering a balanced budget;
- The take up of NHS Health Checks was still below target despite an improvement in the latest quarter.

Group leaders were invited to express the views of their group. The positive progress in a number of areas was recognised, including delivery of planned savings. Concerns noted were:

- Herefordshire schools were still poorly funded compared to some and there were a number awaiting replacement buildings or major refurbishment;
- Whether the council was achieving good value for money from the scheme to provide student accommodation;
- Poor broadband connectivity remained a problem in some areas;
- Stress was now back up as the cause of nearly a third of staff absences;
- The overspend in the children and families directorate, showed a £200k increase since September and was double the figures in June, the pressure from the number of LAC was recognised but the costs needed to be turned around;
- The majority of underspends arose from reduced borrowing leading to savings on interest payments as investment was slower than planned;
- Clarification was requested as to whether the continuing overspend in children and families was being funded by delays in planned investments and how expected grant income had changed since the previous quarter report as the capital programme appeared to show a £2.75m net reduction on the previous figures.

It was confirmed that the S151 Officer would provide clarification on the capital programme outturn.

It was agreed that:

- a) **The projected financial outturn and performance for the first nine months of 2018/19 are reviewed and cabinet determines any additional actions required to achieve improvement.**

59. CORPORATE DELIVERY PLAN 2019/20

The cabinet member finance and corporate services introduced the item and summarised the priorities of the corporate plan and the key additions to the delivery plan for 2019/20:

- Prevention activity to keep people well, including the use of technology;
- A focus on the needs of people with dementia;
- A focus on reducing Delayed Transfer of Care (DTOC) figures;

- Developing edge of care services to prevent families needing higher levels of intervention;
- Develop speech and language skills of under 5's through education and training in early years settings;
- Economic development such as the construction of student accommodation on Station Approach and development of Ross Enterprise Park;
- Commence construction of the Southern Link Road and associated walking, cycling and public space improvements;
- Develop proposals for the transport hub in Hereford City;
- Progress developments within Hereford City such as improvements to the Edgar Street ground and a new multi-storey car park;
- Continuing to rationalise accommodation for the council.

Group leaders were invited to express the views of their group. There was support for some elements of the plan, with individual groups having some different priorities. Concerns were expressed that:

- The council should get best use from its property assets;
- There should be more emphasis on the community as a great deal of support was already being provided by communities around the council and more was being requested of them, also reference to working with parish councils;
- There was a lack of reference to the environment with climate change only implicitly mentioned, nothing about a revision of the core strategy or the procurement strategy.

It was confirmed that work had started on a climate change seminar for delivery as early as possible in the new administration. The council was also working to deliver natural flood management across seven catchments in the county, this was an example of looking at new ways of managing climate challenges.

The plan contained a wealth of initiatives to benefit the citizens of Herefordshire, reaffirmed the council's commitment to vulnerable people, growing the economy and supporting education and higher education.

It was agreed that:

- a) the draft corporate delivery plan 2019/20 at Appendix 1 be approved.**

The meeting ended at 11.41 am

Chairman

PUBLIC QUESTIONS TO CABINET – 28 February 2019

Question 1**Mrs V Wegg-Prosser, Breinton****To: cabinet member, infrastructure**

In the light of confirmation from the Marches LEP that £2,145,000 from the DfT retained scheme for the South Wye Transport Package had been provided to the Council for the year 2016/17, and that a further £1,698,610 had been incorrectly advanced to the Council from LGF/LEP retained schemes underspends in 2015/16, and that no SWTP 'DfT retained' sums of money can be advanced to the Council in the year 2018/19, how will the Council fund the balance of monies it intends to spend in this current financial year on the SWTP?

Response

The total amount of income received from the Marches Local Enterprise Partnership is £3,843,609.71; this has been correctly treated as grant in the year received. South Wye Transport Package expenditure incurred in 2018/19 will be funded from Local Transport Plan grant as set out in the cabinet member report in November 2018. This report is available on the council's [website](#)

Question 2**Mrs E Morawiecka, Breinton****To: cabinet member, infrastructure**

Would the relevant cabinet member please explain what all the money spent to date on the whole South Wye Transport Package (SWTP) has been spent on?
It would be helpful for openness, transparency and accountability if the amount spent could be itemised by the unapproved SWTP budget headings such as land purchases; professional fees; construction costs; etc

Response

In addition to the forecast set out in the published papers, capital spend to the end of 2017/2018 on the SWTP project totalled £4,977,931.67. This comprised £4,786,544.24 professional design development fee costs and £191,387.43 spend on land acquisition and compensation payment costs.

Supplementary Question

The answer only provides spend to the end of March 2018 and so ignores the costs incurred in 2018/19, which included the public inquiry in November 2018. As set out in the response to the question of 31 January, Council and cabinet decisions to date have only approved spend of £2.75m in respect of professional fees relating to the SWTP. The written answer confirms that to the 31 March 2018 there was an authorised spend of £2,036,544 of professional fees on this capital budget before we even take into account what has been spent on professional fees in 2018/19. Who has authorised £4.786m worth of payments, over £2m in excess of the amounts permitted by various council decisions to be spent on professional fees and what action is being taken to protect taxpayers money from the uncontrolled profligacy of this administration on capital projects?

Response

All decisions have been taken according to decisions made by cabinet. We have approved that delegated officers will continue to work this scheme up. A further written response will be provided.

Question 3

Mr R Palgrave, How Caple

To: cabinet member, infrastructure

The Corporate Delivery plan states that detailed design of the preferred route for the Hereford bypass to inform the submission of a planning application will be undertaken in 2019-20. At Council on 15th February we heard from the Cabinet Member for Infrastructure that "the bypass will be taken forward by Highways England and the Department for Transport probably whether we like it or not". Would detailed design work done by Council's consultants on the bypass next year not be unnecessary and wasteful if Highways England assume responsibility for the project, given that they (Highways England) would need to ensure compliance with trunk road design standards?

Response

The detailed design work is neither unnecessary or wasteful because the scheme is an essential part of the infrastructure improvements needed to facilitate growth in the county, enabling the development of new housing and freeing up land for economic use as well as helping to address congestion and air quality issues in the city. Whichever public body ultimately takes forward this scheme would need the work to be done and we are carrying out that work in compliance with the design standards required by Highways England and the Department for Transport. I fully expect delivery of the bypass to be funded by central government.

Question 4

Mrs C Palgrave, How Caple

To: cabinet member, transport and regulatory services

The Appendix to the Corporate Delivery Plan says that in 2019-20, Council will progress the delivery of a city centre multi-storey car park. Increasing parking capacity in the city will encourage greater use of cars for commuting and other trips into the city centre. How is this consistent with the statements made in the Local Transport Plan Strategy on the need to reduce the number of short car journeys, and to convert short car journeys to active travel, reducing congestion, improving air quality and health?

Response

The council's parking policy for Hereford is set out in the local transport plan (LTP) 2016-31 [policy document](#).

The corporate delivery plan commitment to progress a city centre multi-storey car park is supported by the policy set out in the LTP. The policy includes proposals to rationalise public car parks through the replacement of smaller car parks with fewer, larger car parks including multi-storey car parks. This approach isn't intended primarily to increase capacity but to improve the council's ability to manage car park use, reduce traffic circulation in the central

area and differentiate between long stay (commuting) and shorter stay (shoppers, tourists) parking. Greater influence over these factors can assist with the aim of reducing short, car based trips.

This policy is being implemented alongside other aspect of the parking policy which will further help manage demand and encourage more shorter distance trips to be undertaken using more sustainable modes such as walking, cycling and local buses:

- on street parking charges have now been introduced in the historic core;
- residents parking schemes have been reviewed and extended around the fringes of the city centre;
- parking charges have been introduced in Herefordshire Council staff car parks;
- parking charges have been kept under review and increased periodically.

Councillors' questions at Cabinet – 28 February 2019

Question 1

Councillor EPJ Harvey, Ledbury North Ward

To: cabinet member, finance and corporate services

Is this cabinet content that it is legally and constitutionally justifiable for an officer to be allowed to move £1,000,000 of public money, designated specifically for other purposes, at this point in the financial year and under a year-old delegation which only provides for “final budgetary adjustments”, without the decision being treated as both ‘key’ and open to call-in; and if so, will cabinet now authorise the immediate and detailed scrutiny of the project management of all the council’s transport projects to demonstrate unequivocally to councillors and to the public that they are being delivered in accordance with the assurances given by the Chief Executive in July 2018 following the failures in project management uncovered by the Blueschool House project investigation?

Response

The constitution sets out clearly who is authorised to take decisions and the limits on any authority, and I would expect officers and members alike to ensure that they comply with the provisions of the constitution and any other relevant legislative requirements. Cabinet is not responsible for the council’s constitution – that is a function of full Council having regard to recommendations made by the Audit & Governance Committee.

An operational decision to move money would be appropriate if the key decision authorising use of that money has already been taken at member level. Whilst operational decisions are not subject to the statutory call in process, it is always open to the relevant scrutiny committee to hold an individual senior officer or elected member to account for their actions; that is a matter for scrutiny.

Your request that cabinet authorise immediate and detailed scrutiny of project management of the council’s transport projects should be directed to the relevant scrutiny chair to consider building into their work programme. The cabinet may not determine that programme. However I understand that the Audit and Governance Committee, of which you are currently a member, has already asked the Head of Internal Audit to make provision in the internal audit plan for 2019/20 for focussed work on the project management of major transport projects to inform continued improvement; again, the internal audit plan is not a matter that cabinet may determine but you may be assured that any recommendations made by the internal auditor will be acted upon.

Supplementary Question

The response does not answer the question asked and makes every effort to kick the scrutiny part of the question down the road beyond the May elections. Cabinet is not responsible for the constitution but cabinet is obliged to operate within the constitution of this council. The cabinet member decision of 12 November 2018 cited in the revised decision notice as authority for officers to make this decision does not give officers this authority, it relates specifically to compulsory purchase orders affecting only two wards and authorises merely an increase of £200k in the land acquisition budget. There is nothing in the decision which provides cover for this £1m movement by officers. If the cabinet member for finance genuinely argues now that the decision of 12 November 2018 gives constitutional and legal cover for this movement why was it necessary for the Monitoring Officer and S151 Officer of

this council to state in writing the unlawfulness of officers' attempts to transfer £1.7m of growth deal money to cover the unauthorised expenditure already incurred on the SWTP as recently as the 22 January?

Response

In respect of the note of 22 January, I prefer to let the S151 officer comment on that if he wishes as he has been named. Otherwise the specific allegations require a written reply.

S151 Officer response –There are a number of points and a number of financial issues that have been raised. Referring to the question asked about the £1m transfer, I refer back to the decision of Council in December 2016 where the capital programme was agreed for the SWTP at a total cost of £35m, £27m coming from government grant and £8m coming from the LTP. The decision to move the £1m in question is aligned with that. We are being open and transparent around that movement between budget headings to be very clear that we are following that process. A written response will be provided regarding the £1.7m referenced.

Question 2

Councillor AJW Powers, Greyfriars Ward

To: cabinet member, finance and corporate services

The Corporate Budget Performance Report, Appendix B Table A, shows that this administration is behind in its proposed investments in:

Hillside

Peterchurch, Brookfield and Marlbrook schools

Fastershire Broadband

Hereford City Centre Transport Package

Enterprise Zone

HEZ Shellstore

Solar PV panels

South Wye Transport Package

Development Partnership activities

Highways asset management

Ross Enterprise Park (Model Farm)

The budget for 2018-19 investment has been dropped by more than 50% (£76m), yet the forecast underspend (Table B) of the remaining £68m is still 30% (£21m). Why is the administration failing to meet its own investment targets?

Response

This administration is far from failing; it is continuing to deliver on the council's corporate plan priorities. Over the past four years our investment has delivered, amongst other things, a new primary school at Colwall, £4.01m improvement works to school buildings, the new city link road, £48.6m roads improvement, £5.08m investment in LED lighting and solar panels, a new energy from waste plant delivered with our Worcestershire partners, £10.8m investment in economic development projects, £6.8m support for housing delivery and disabled facilities grants, £5.6m investment in improvements to leisure facilities operated by Halo, £.83m investment in libraries and museums in the county; and £13.4m delivering

broadband improvements across the county. This is an extraordinary track record of delivering investment to realise the council's vision of 'People, organisations and businesses working together to bring sustainable prosperity and well-being for all, in the outstanding natural environment of Herefordshire' at a time when many other councils have struggled to adapt to the changing public sector financial environment, yet we have maintained an external audit opinion that the council remains financially sustainable for the foreseeable future.

Capital programme provisions approved by Council historically have been rolled forward to the following financial year, if not fully expended. At the July 2018 Council meeting officers were asked to re-profile the capital programme to indicate when it was anticipated projects would seek approval from cabinet to draw down the provision. This re-profiling exercise led to an adjustment of £74.2m which was profiled over future years. There has been a further net reduction of £2.4m in relation to an estimation of grants that would be received due to the £3.045m reduction on Highways Asset Management grant.

Of the re-profiled capital programme the only projects that are forecasting to spend significantly less than the re-profiled budget, as identified in the variance column in appendix b table are, Fastershire Broadband, Hereford Enterprise Zone (HEZ), HEZ Shell Store, South Wye Transport Package, Development Partnership activities and Ross Enterprise Park.

With reference to Fastershire, spend is behind profile due to holding back payment until work is completed by the supplier for the broadband fibre rollout. The supplier needs to evidence deliverables and outcomes with due diligence on any spend before payment is made. There has been a change since the reporting period in relation to Development and Regeneration Programme activities and this provision is now likely to spend before the end of the financial year. The re-profiling of the South Wye Transport Package reflects the current delivery programme for the Southern Link Road which has regard to the additional time required as a result of the public inquiry held in the autumn 2018 following a small number of objections received to the compulsory purchase order. The Hereford Enterprise Zone, Shell Store, and Ross Enterprise Park projects have, since the reporting period, received approval to spend within the approved capital provision; those budgets will now be re-profiled and project managed appropriately.

Budget re-profiling of major capital schemes is not an indication of failure to deliver but a matter of good practice in capital programme management and transparency.

Supplementary Question

The emphasis on reprofiling does not address the substance of my point about projects evidently falling behind the administration's targets and schedule. Would he please clarify the statement in the penultimate paragraph about the change in the development regeneration programme to explain these changes and confirm that this programme is a new descriptor for what hitherto, and indeed in the papers for this meeting, has been entitled development partnership activities - has the partnership ended?

Response

The partnership has not ended but there has been a change in terms of a potential spend in relation to the next reporting period to end March 2019. This provision is likely to expend a degree of capital. I believe that group leaders have been advised of the potential spend.

