

# AGENDA

## Cabinet

Date: **Monday 9 May 2016**

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Time: **2.00 pm**

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Place: **Council Chamber, The Shire Hall, St Peter's Square,  
Hereford, HR1 2HX**

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Notes: Please note the **time, date** and **venue** of the meeting.

For any further information please contact:

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If you would like help to understand this document, or would like it in another format, please call David Penrose on (01432) 383690 or e-mail [dpenrose@herefordshire.gov.uk](mailto:dpenrose@herefordshire.gov.uk) in advance of the meeting.

# Agenda for the Meeting of the Cabinet

## Membership

**Chairman**                    **Councillor AW Johnson**  
**Vice-Chairman**           **Councillor PM Morgan**

Councillor H Bramer  
Councillor JG Lester  
Councillor GJ Powell  
Councillor PD Price  
Councillor P Rone

## AGENDA

### HEREFORDSHIRE COUNCIL

Notice has been served in accordance with Part 3, Section 9 (Publicity in connection with key decisions) of The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

Item No	Title	Portfolio Responsibility	Scrutiny Committee	28 Day Notice Given
4	Support services for Syrian Refugees in Herefordshire	Health & Wellbeing	General Overview and Scrutiny	Yes
5	Hereford Library and Museum User Group Response	Contracts and assets	General Overview and Scrutiny	Yes
6	Unified residential and nursing contract between the council and Herefordshire Clinical Commissioning Group (CCG), fee increase for care homes and change in payment process.	Health & Wellbeing	Health and Social Care Overview and Scrutiny	Yes

**1. APOLOGIES FOR ABSENCE**

To receive any apologies for absence.

**2. DECLARATIONS OF INTEREST**

To receive any declarations of interest by Members in respect of items on the Agenda.

**3. MINUTES**

To approve and sign the minutes of the meeting held on 14 April 2016.

**4. SUPPORT SERVICES FOR SYRIAN REFUGEES IN HEREFORDSHIRE**

To approve the procurement of orientation and support services for Syrian refugees settling in Herefordshire.

**5. HEREFORD LIBRARY AND MUSEUM RESPONSE**

To consider the response to the proposals submitted by Hereford Library Users Group regarding the future operation of Hereford library and museum.

**6. UNIFIED RESIDENTIAL AND NURSING CONTRACT BETWEEN THE COUNCIL AND HEREFORDSHIRE CLINICAL COMMISSIONING GROUP (CCG), FEE INCREASE FOR CARE HOMES AND CHANGE IN PAYMENT PROCESS.**

To approve the approach to develop and implement a unified contract between the Herefordshire Clinical Commissioning Group (CCG) and Herefordshire council, agree to change policy to pay fees on a gross basis instead of net, and agree the rate to be paid to care home providers (Providers) for 2016/17.

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- Inspect minutes of the Council and all Committees and Sub-Committees and written statements of decisions taken by the Cabinet or individual Cabinet Members for up to six years following a meeting.
- Inspect background papers used in the preparation of public reports for a period of up to four years from the date of the meeting. (A list of the background papers to a report is given at the end of each report). A background paper is a document on which the officer has relied in writing the report and which otherwise is not available to the public.
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HEREFORDSHIRE COUNCIL

**MINUTES of the meeting of Cabinet held at Council Chamber, The Shire Hall, St Peter's Square, Hereford, HR1 2HX on Thursday 14 April 2016 at 10.30 am**

**Present:** Councillor AW Johnson (Chairman)  
 Councillor PM Morgan (Vice-Chairman)  
 Councillors JG Lester, GJ Powell, PD Price, P Rone and DG Harlow

Cabinet support members in attendance: Councillors JA Hyde and NE Shaw  
 Group leaders in attendance: Councillors JM Bartlett, TM James, RI Matthews and AJW Powers  
 Scrutiny chairmen in attendance: Councillors WLS Bowen and PA Andrews  
 Other councillors in attendance: Councillors CR Butler, ACR Chappell, PE Crockett, J Hardwick and EJ Swinglehurst  
 Officers in attendance: A Neill, J Davidson, G Hughes, P Robinson and C Ward

**148. APOLOGIES FOR ABSENCE**

Apologies were received from Councillor H Bramer.

**149. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**150. MINUTES**

**RESOLVED:** That the Minutes of the meeting held on 17 March be approved as a correct record and signed by the Chairman.

**151. HOUSING RELATED SUPPORT SERVICE - SHYPP CONTRACT (SUPPORTED HOUSING FOR YOUNG PEOPLE PROJECT)**

The cabinet member health and wellbeing presented a report to confirm the delivery arrangements for the young persons' housing related support services contract, currently delivered by SHYPP (Supported Housing for Young Persons Project), part of the West Mercia Housing Group. The report had been called in by the Health and Social Care Overview and Scrutiny Committee which had recommended that the counter proposals from SHYPP be properly considered and that cabinet determine whether, in the light of these proposals, they wished to propose any amendments to their previous recommendations.

In response to questions from cabinet members, the following points were made:

That the senior management of SHYPP had accepted the transitional funding of £78,331 for 2016/17. A full case audit of service users in the 20 units of accommodation would be carried out between April and August 2016 in order to establish the level of need and

future delivery model. Once this audit had been undertaken a decision on how to proceed would be brought back to cabinet

**Resolved:**

**That having reviewed the proposal (appendix 2) submitted by SHYPP, and having regard to the reasons (set out at paragraphs 10 and 11 of the report below) for implementing an approach which differs from that proposal, the original decision be confirmed as**

- (a) the accommodation based support element of the contract is remodelled with a proportion of the service financed through exempt rents to maintain the existing service level from 1 April 2016;**
- (b) a three month transitional period is allowed from 1 April to 30 June 2016 to support the financial change to the accommodation based support element;**
- (c) a 12 month transitional period is allowed from 1 April 2016 to 31 March 2017 to support the de-commissioning of the floating support element; and**
- (d) funding of £78,331 be made available to support the transition periods in recommendations b) and c) above.**

**152. CORPORATE DELIVERY PLAN 2016/2017**

The cabinet member economy & corporate services presented a report on the corporate delivery plan 2016/17. He reported that the corporate plan had been approved by cabinet on the 5 February, and said that this document represented the action plan to deliver the plan in 2016/17. The following points were made in reply to members in attendance:

- That the baseline figures were in a data book that supported the headline figures outlined in the quarterly report scorecard to cabinet.
- That the end of year progress report would be presented to cabinet on the 16 June.
- The cabinet member (health and wellbeing) said that the statistics in objective 3 of priority 2 were provided by the Department of Health and were designed to highlight the potential areas of need in the county and where resources should be spent. The figures were not meant to be compared with similar statistics provided by the Department for neighbouring counties. It was noted that mental health was the main priority for the health and wellbeing strategy for the county.

The Chief Executive replied to a further question concerning objective 7 of priority 4 of the document, and said that recruitment and retention was regularly discussed within the council, and a personal performance development plan was being introduced for all staff which would look beyond objectives for each employee and toward the kind of organisation that staff would like the council to become.

**Resolved: that the 2016/17 corporate delivery plan be approved.**

**153. APPROVAL OF SMALLHOLDINGS DISPOSAL PLAN**

Cabinet received a report on the smallholdings disposal plan. The Leader reported that cabinet was asked to consider the appointment of an Agent who would be responsible for developing recommendations concerning the structure and timing of the smallholding disposals policy. The agents would then be responsible for marketing the estate and implementing the disposals programme agreed by cabinet.

In reply to questions from cabinet members, the following points were made:



- That there had been no change in the council's smallholding policy since it had been approved on 3 December 2015. The new policy had included the decision to undertake a structured disposal of the smallholding estate and the commissioning of independent professional advice to ensure that best value was obtained for the tax payer
- That the agent's report would address areas outlined in paragraph 13 of the report: to maximise financial return; support the welfare of the council's tenants; support the local economy (including the agricultural sector); minimise timescales and maximise community benefits. It would be appropriate to consider timescales for individual tenants at this juncture.
- That the risk of a legal challenge to the appointment of a professional advisor was minimal as they would be appointed via the ESPO 2700 framework in accordance with the public procurement regulations.
- That framework agreements were widely used by the council for other property contracts.

Concern was expressed over the decision to issue notices to quit to several tenants, and a member in stated that he had been informed that the Local Government Ombudsman had agreed to investigate the process of serving the notices as a case of maladministration. It was stated that the monitoring officer had not received any communication from the ombudsman in this matter and and no claim for judicial review had been receivedhad been received.

The cabinet member (Infrastructure) pointed out that farm business tenancies were agree on a rolling basis, and it was usual practice that notices to quit were served toward the end of a given contract term.

**Resolved:**

**That:**

- (a) the procurement of an agent to provide professional services in connection with the disposal be undertaken through ESPO 2700 framework; and**
- (b) the identified sites at paragraph 14 be excluded from the disposal.**

#### **154. ADDITIONAL TEMPORARY CLASSROOMS AT MARLBROOK SCHOOL**

The cabinet member young people & children's wellbeing presented a report on the provision of temporary classrooms at Marlbrook School. He said that the school was a high performing popular community school and there had been an increase in demand for places in the last six years in reception year (YR) in excess of 90. The provision of temporary classrooms was in line with the school capital investment strategy and the best value option has estimated the cost to be £120k with an additional contingency of £20k.

In response to questions from cabinet members, the following points were made:

- That of the total costs, the school would provide £40k whilst the council would provide the balance of £80k.

- That the intake to the school was a reflection of parental choice, and that additional building would mean that the way people travelled to the school would be a key consideration.
- That traffic issues would be taken into consideration as part of the planning process.

**Resolved: That subject to securing planning consent, approval be given to provide an additional temporary classroom at Marlbrook school for a period of two years from September 2016 at a total cost of up to £140k**

## **155. LOCAL TRANSPORT PLAN**

The cabinet member (infrastructure) presented a report on the draft local transport plan (LTP) which covered the period 2016-31 and was aligned to that covered by the core strategy. This acknowledged the close linkage between the long term land use proposals set out in the adopted local plan and the supporting transport improvements required to enable that development. The linkages were also relevant to supporting the adopted health and wellbeing strategy and the emerging economic masterplan. The report before cabinet summarised both the main elements of the LTP and changes to the LTP document.

The following comments were made by members in attendance:

That consideration be given to further borrowing in order to allow for investment in the existing road network.

The cabinet member (infrastructure) said that Balfour Beatty were aware of the problems associated with potholes in the county and addressed issues effectively. The LTP would act as an aid to raising additional funds to address these issues, and the council was very effective at raising funds through the bidding process.

A member in attendance said that he would reserve his comments on the LTP for Council, and hoped that the cabinet member had noted his submission as part of the consultation process.

**Resolved: That the draft local transport plan (LTP) at appendix 1 and 2 of this report be recommended to Council for adoption**

The meeting ended at 12.04 pm

**CHAIRMAN**



<b>Meeting:</b>	<b>Cabinet</b>
<b>Meeting date:</b>	<b>09 May 2016</b>
<b>Title of report:</b>	<b>Support services for Syrian refugees in Herefordshire</b>
<b>Report by:</b>	<b>Joint commissioning manager</b>

## Classification

Open

## Key decision

This is a key decision because it is likely to be significant in terms of its effect on communities living or working in an area comprising one or more wards in the county.

NOTICE has been served in accordance with Part 3, Section 9 (Publicity in Connection with Key Decisions) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

## Wards affected

County-wide

## Purpose

To approve the procurement of orientation and support services for Syrian refugees settling in Herefordshire.

## Recommendation(s)

THAT:

- a) the commissioning of an orientation and support service for Syrian refugees by way of an open competitive procurement process is approved;
- b) authority is delegated to the director for adults and wellbeing to award a contract for the provision of the orientation and support service at the conclusion of a tender evaluation process, for a period of two years and for a total value not exceeding £540,000.

## Alternative options

- 1 That Herefordshire not accept Syrian refugees for re-settlement in the county. This option is not recommended given the Government's apparent expectation that every local authority will re-settle at least 50 refugees. The council has indicated that it intends to receive 60 Syrian refugees in 2016.
- 2 To not commission a support service. This approach is not advised because refugees are likely to have a significant and complex range of needs and will need support to address them, to gain access to public services and to settle into their new environment. Without such support, it is unlikely that the refugees would be able to settle and integrate effectively into local communities. The council and its main partners have neither the staffing resources nor the expertise to provide this support and it would not be realistic to rely on the voluntary and community sector to provide the necessary services without funding or co-ordination.
- 3 To commission a service without a competitive procurement process. This option is not advised since the nature and scale of the proposed service and its financial value indicate clearly that it is subject to public sector procurement rules. These and the council's own contract procedure rules suggest that a competitive tender process is appropriate. Soft market testing which has been recently conducted indicates that a variety of different organisations would be interested in submitting tenders for this service. A competitive procurement service will help ensure a full range of options is available for consideration in a way that could not be achieved without such a service.
- 4 To commission an orientation and support service combined with the provision of housing for Syrian refugee families. This is not recommended as the sourcing of sufficient private sector housing in appropriate locations for refugees is likely to be beyond a single housing agency and consigning this strategic work to a procurement process, will lead to delay. There would then be significant risk of insufficient housing being available in time. A combined approach is also likely to deter some potential bidders, thereby limiting competition.

## Reasons for recommendations

- 5 The Government has established a Syrian vulnerable persons' resettlement programme (VPR) to take 20,000 people from Syria and its borders over a five year period to enable them to settle in the UK. It has been seeking commitments from local authorities throughout the country to accept and support refugees.
- 6 Herefordshire Council first indicated its willingness to work with its partners to welcome up to 60 Syrian refugees to the county in September 2015. It has recently confirmed that it will accept that number (approximately 18 families), with a view to them arriving gradually from September 2016. This pledge has now been put formally to the Minister for Syrian Refugees, who has accepted it.
- 7 The council's working group on refugees and asylum seekers, which involves various partner agencies, has identified a wide and complex range of issues which will need to be addressed in re-settling the refugees. The Home Office and the minister for Syrian Refugees have promoted general good practice in the settlement of refugees and its own "statement of requirements", which set out what councils and their partners must put in place in the way of orientation and support services.
- 8 It is proposed that the new service should be procured via a competitive commercial process, in view of its critical importance and the financial value. In addition, the best provider for the service could be drawn from a range of different types of organisation

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Further information on the subject of this report is available from  
Ewen Archibald, Joint commissioning manager on Tel (01432) 261970

and could establish a collaborative approach based on the capabilities required and patterns of practice nationally. These might include social housing providers, specialist refugee and asylum agencies and other voluntary organisations with local and cultural knowledge.

## Key considerations

- 9 The profile of the expected Syrian refugee population coming to Herefordshire is determined by the nature of the government's Vulnerable Persons Re-settlement programme. People are brought directly from camps and informal settlements around the Syrian borders and to be considered must meet at least one of the United Nations High Commission for Refugees (UNHCR)'s seven vulnerability criteria. This means that people will generally be children and women at risk, survivors of torture or violence, disabled people or those with significant health needs. They will all come in family groups and children will be around half of the cohort. Approximately 20% or 12 refugees are likely to have complex needs in relation to health, social care or education. As far as possible, the Home Office will match people from rural parts of Syria to areas like Herefordshire. This may mean that a smaller proportion of refugees can speak English as this appears to be less common in rural areas.
- 10 The needs of refugee families are expected to be many and varied. These will arise from arriving in a new country with a very different regime, culture, economy and climate and from surviving torture, abuse, civil war, loss of home, malnutrition and deprivation of essential services. The council is working with voluntary, community and faith organisations in finalising the shape of the support services required. These organisations will also provide a wide range of informal support and facilities which will wrap around and complement the commissioned service. The needs which the new service will address through direct support and by connecting families to essential services include:
- Basic household equipment and needs
  - Access to benefits
  - Interpreting, translation and language classes for adults
  - Allocation of a Home Office biometric ID card.
  - Finding employment or taking up training and other opportunities
  - Enrolling children in school and orientating to the education system, including access to language support and special educational needs.
  - Registering with GP and dentist and familiarising with other basic health services, allied to initial health screening, public health advice and any vaccinations required.
  - Secondary and specialist health services, including mental health services.
  - Meeting families' faith and spiritual needs
  - Child care and other pre-school services and support
  - Cultural orientation and understanding civil society
  - Tenant and landlord issues
  - Getting about and settling into community life generally.

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Further information on the subject of this report is available from  
Ewen Archibald, Joint commissioning manager on Tel (01432) 261970

- 11 The contracted service will be funded through monies allocated to local authorities on a per capita basis for each refugee in order to support them for the first two years. This funding will also be used to meet other costs including interpretation and translation, transport and any net costs of providing housing to refugees. The funding is one part of a whole package of financial support from government which also includes support for NHS services and education of refugee children. Although funding is also provided to local authorities for a further three years, this would be at a level insufficient to offer any specific support services. In any case, it is expected that refugee families' specialist and particular needs will be met largely within the initial two year period.
- 12 A soft market testing exercise has been completed recently in relation to the proposed service. This revealed some interest in the planned contract among a range of organisations and that there is a variety of potential models for delivering services of this kind. This process has informed the drafting of a full service specification, which is now being finalised and draws as far as possible on national standards and regional practices.
- 13 The procurement of the proposed service has been planned, having studied the recent processes undertaken in the region by Shropshire, Birmingham and Gloucestershire councils. The timeline for procurement is as follows, subject to review in the light of governance processes.

12 May	Tender documents published
23 June	Deadline for bid submissions
04 July	Tender evaluation process complete
07 July	Intention to award notice and standstill process commences
17 July	Non key decision to award
24-28 July	Contract award and mobilisation commences
5 September	Contract mobilised

- 14 The Home Office process for Syrian refugees in principle provides sufficient time for local authorities to agree to accept specific family groups and to plan for the meeting of their particular needs. Arrangements start around eight weeks ahead of arrival when profiles of individuals are sent to the council. It then confirms whether it is able to house and cater for each family group and whilst it may refuse in some circumstances, it cannot do so routinely. Around six weeks in advance, the Home Office sends detailed information about each person, including details of any particular, health, social care or educational needs. This information will be passed to the support services provider and other agencies to enable preparation. The families will then be met at the airport by the provider. Families are expected to need very intensive support over the first few weeks, gradually tapering off and reducing to a fairly low level in the second year.
- 15 The government has published information on expectations of local authorities and support services and it is intended that the programme will be guided by a regional approach, co-ordinated by the West Midlands Strategic Migration Partnership (WMSMP) and giving Herefordshire access to learning from other local authorities.
- 16 The proposed service will need to work in close co-ordination with a range of council and other public services, but also with a variety of local voluntary and faith groups. Many groups and organisations, including the Diocese of Hereford wish to provide support. This will be critical in helping people to settle into communities, adjust to life in Britain and gain

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Further information on the subject of this report is available from  
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employment to support their families. Interpreting and translation will be co-ordinated by the council's Equality, Resilience & Compliance Team, utilising both professionals and volunteers.

## Community impact

- 17 The recommendations are made for two primary reasons; firstly to ensure that refugees received in the county have sufficient appropriate support services to meet their needs and secondly, to ensure that their arrival does not have significant adverse impact on existing communities. There are very few people from Syria or of middle eastern origin already living in Herefordshire and the number of Muslim people is very small. This gives rise to concerns about the isolation of refugee families and also to the response of local people to settlement in their communities. Nationally and locally, whilst many people want to support refugees, there are some concerns about the impact this may have on local services and therefore, there may be some criticism of the council for supporting them, particularly at a time when council finances are already under pressure. In this context, communicating information about refugees clearly, accurately and consistently is very important. A communications strategy has been developed in outline and will be consolidated shortly.
- 18 Decisions about location of refugee families will be informed substantially by the capacity and availability of key public services. Potentially, there will be difficulties in locating families with young children across a number of year groups within Hereford city, because school places in reception and year one are in short supply. This makes it challenging to place siblings across more than one year group in the same primary school. Herefordshire Clinical Commissioning Group (HCCG) and Taurus have now undertaken to ensure that all refugees will be registered with a GP, wherever they are located. GPs are clearly the essential gateway to identifying and meeting many needs of refugees. In housing people, the first focus will be on private sector accommodation, and suitable houses are not likely to be available in sufficient numbers in one location. As a result of all these factors, it is likely that Syrian families will be located in two or at most three areas. Consideration needs to be given to all towns in the county since no location will offer a perfect balance in the availability of suitable housing and other services. Therefore, locations are subject to some further analysis and consultation with town councils and ward councillors.
- 19 The proposed service will be central to supporting refugees in their new environment and managing relationships within communities. However, alongside the service provider, voluntary and faith organisations will have important roles and are committed to working with the council to support people. All partner organisations will also be keen to promote a positive message about refugees, the reasons for welcoming them and the contribution they can make to Herefordshire society. In supporting and driving this inclusive approach to communities, the council will draw on the principles and practice reflected in the community safety and health and wellbeing strategies.

## Equality duty

- 20 The proposed service is intended in part to address potential inequalities facing Syrian refugees arriving in Herefordshire. The Public Sector Equality Duty requires us to pay "due regard" to eliminating unlawful discrimination, advancing equality of opportunity, and fostering good relations. We can do this by:
  - Removing or minimising disadvantages suffered by people due to their protected characteristics.

- Taking steps to meet the needs of people from protected groups where these are different from the needs of other people.
  - Encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.
- 21 The specification currently being prepared for the tender document will make this requirement clear.
- 22 This proposal will carry no risk of negative equality impact for local people.
- 23 The standard procurement process will ensure that equality considerations are embedded from the start, and that we are compliant with the Equality Act.

## Financial implications

- 24 The total costs of the proposed service contract will be met in full from payments made to the council from the Home Office in respect of each individual Syrian refugee. The contract costs will represent around 68% of the funding available from the government for support and general local authority costs in the first two years. In the first year, the government will also provide £4,500 for the education of each child over five years old and £2,200 towards NHS costs for each person. Additional funding is available on a case by case basis to support individuals with complex needs in relation to health, social care or education.

## Legal implications

- 25 In January 2016 the Home Secretary made a statement to Parliament outlining the UK Government's intention to relocate to the UK some of the most vulnerable Syrian refugees displaced to neighbouring countries by the ongoing conflict. The Syrian Vulnerable Persons Relocation Scheme (the Scheme) will prioritise help for survivors of torture and violence, and women and children at risk or in need of medical care.
- 26 The Home Office has asked all local authorities to take at least 50 individuals under the Scheme and the council has agreed to accept up to 60 individuals (likely to equate to a maximum of 20 households). Central government will meet the costs of the arrivals in terms of accommodation and integration support, health and education costs for the first year from arrival and the Home Office has issued a Statement of Requirements which identifies the outcomes expected.
- 27 The council intends that the orientation and support services as set out in the Statement of Requirements be delivered by a third party provider under a contract for services. The contract will run for two years and its lifetime value will be £540k.
- 28 Where the council wishes to let contracts for services of the type described in this report and the lifetime value of those contracts exceeds €750,000 (equivalent to £589,148), then under Regulation 74 of the Public Contracts Regulations 2015 the council is required to let these contracts in accordance with provisions of section 7 of the Public Contract Regulations - the light touch regime.
- 29 The lifetime value of the contract required is less than the threshold referred to in paragraph 25 but, this does not prohibit the council from adopting the light touch regime. The council may consider it appropriate to adopt the light touch regime in these circumstances as to do so may enable it to reach a wider market of providers and consequently deliver value for money for the Scheme, the council and the individuals.

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Further information on the subject of this report is available from  
Ewen Archibald, Joint commissioning manager on Tel (01432) 261970



## Risk management

- 30 The main risks arising from the proposals in this report are;
- There will be insufficient bids of quality from appropriately qualified providers to ensure that the service can be provided on schedule and to the appropriate standards.
  - The provider will not receive appropriate collaboration and support from statutory and voluntary services locally on which refugees will depend.
  - The arrival of refugees may present challenges to community cohesion and the service and its provider may face challenge from the public or the local media.
- 31 Care has been taken in the development of the specification and wider preparation to ensure the readiness of public sector and voluntary organisations and generally a high level of commitment and awareness is demonstrated. The soft market testing undertaken and the processes already implemented by neighbouring authorities give confidence that a credible and effective provider will be identified. The communications approach and motivation of public and voluntary sector providers will assist in promoting and informing public and media understanding. In all its preparations, Herefordshire is able to learn from the experience and knowledge of other local authorities and the WMSMP.
- 32 If the recommendations in this report are not approved then the following risks would arise;
- The council would not be able to implement and honour its commitment to receive Syrian refugees during 2016 and so would have to withdraw its pledge to the government. This would bring very considerable reputational risk to the council and challenge from the government which could have impact in other respects. There would also be very significant challenge and criticism from local voluntary organisations, faith groups and public sector partners.

## Consultees

- 33 The views of the following partners have been taken into consideration in forming the recommendations of this report:

West Midlands Strategic Migration Partnership  
The Diocese of Hereford  
Gloucester City Council  
Shropshire Council  
Herefordshire Clinical Commissioning Group

## Appendices

None

## Background papers

None identified





<b>Meeting:</b>	<b>Cabinet</b>
<b>Meeting date:</b>	<b>9 May 2016</b>
<b>Title of report:</b>	<b>Hereford library and museum response</b>
<b>Report by:</b>	<b>Cabinet member contracts and assets</b>

## Classification

Open

## Key decision

This is a key decision because it is likely to be significant in terms of its effect on communities living or working in an area comprising one or more wards in the county.

Notice has been served in accordance with Part 3, Section 9 (Publicity in Connection with Key Decisions) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

## Wards affected

County-wide (Central ward location)

## Purpose

To consider the response to the proposals submitted by Hereford Library Users Group regarding the future operation of Hereford library and museum.

## Recommendations

THAT,

- (a) works to enable reinstatement of Hereford library and museum building, and relocation of the Wellbeing Information and Signposting Service (WISH) to the Broad Street site, Hereford be undertaken to a maximum cost of £500k;
- (b) following completion of the works at recommendation a) above the balance of the capital allocation be used as match funding for a development scheme, led by HLUg or other partner, subject to the development scheme being approved by the relevant cabinet member within a two year period; and
- (c) a further report be prepared on the options for shorter term re-opening of the museum and art gallery at the Broad Street site, pending a decision on longer term options for sustainable delivery of the museum and archive service.

## Alternative options

- 1 The reopening of the building is delayed until funds are raised for the development scheme whilst retaining the temporary provision at Hereford Town Hall and extra hours at Belmont Library. This is not recommended as HLUg advise that the fundraising and new building works could take in the region of four to five years and this will have an impact on users of the services. This would also be viewed as a reduction in service and challenged the authority's statutory duty to provide "comprehensive and efficient library service" therefore trigger a judicial review instigated by the community who are concerned with any further reduction in service.

- 2 The services are withdrawn to meet the authority's required budget savings. The level of capital spend would also be reduced, though elements of the work would be required to make good the building for alternative use. This is not recommended as it would adversely affect the council's ability to meet the statutory duty to provide a comprehensive library service in the county.
- 3 There is no delay in conducting the major works along with reinstatement works. This is not recommended as it would reduce the opportunity to fundraise for a development scheme.
- 4 The council seeks alternative site(s) to house the services. This is not recommended at this stage, as HLUG have confirmed their preference is to maximise the current Broad Street site with no obvious other alternative presented during the research or consultation. However, to be revised as part of the longer term consideration for the services.
- 5 The council lead and fund the development scheme presented by HLUG. This is not recommended, as there are insufficient funds and resource to conduct a scheme to that scale without wider community in-put.
- 6 That the museum and art gallery is not reopened based on the recommendation Review of Museums and Archives Services. This is not recommended, but to work with interested parties to resource the museum and art gallery.

## Reasons for recommendations

- 7 The recommendations enable services to be resumed at the earliest opportunity, mitigating the effect on users if the building was closed for a long period. This is balanced with giving the HLUG or another party time to secure funding for a development scheme. If funds are not forthcoming for any development scheme within 2 years then the opportunities for the site and the services are reviewed to consider options in light of value for money.

## Key considerations

### Hereford Library

- 8 Hereford library is situated at Broad Street in Hereford within a listed building, and the museum and art gallery are on the first floor. The Woolhope Club, a membership society, has a room in the building for its collection.
- 9 There were 184,434 visits to Hereford library, between April 2014 and March 2015, with 175,638 issues of stock. The Herefordshire Library Service when bench-marked against other local authorities was one of the lowest spend in the country (more information on the use of the library service can be found at Herefordshire Council library website: [www.herefordshire.gov.uk/libraries](http://www.herefordshire.gov.uk/libraries)).
- 10 Spend on premise cost and budget for Hereford Library when based at the Broad Street site is outlined below.

	Per financial year					
Sites and Services	Rates	Utilities	Revenue (sites)	Income	Staffing	Total
Hereford Library	29,402	14,580	2,605	-28,777	143,434	161,244

- 11 The Wellbeing Information and Signposting Service (WISH) were due to locate to the library as the two services are complementary. WISH, provides information for both adults, children and young people, to support the council's preventative role and aspects within the Care Act and Children and Families Act. Whilst preparing for building work to accommodate WISH, pre-demolition surveys and inspections uncovered traces of asbestos in the library and basement areas. This led to the immediate closure of the

whole building.

12 Cabinet, on 3 December 2015, considered the options of supporting a larger development scheme which had been advocated by HLUG and agreed that:

- Subject to Council approval of the capital programme in December 2015; the Hereford Library Users Group (working with other relevant stakeholders) be invited to confirm by the end of February 2016, whether or not they wish to work with the council to explore options for future service delivery of a library in Hereford;
- Subject to Council approval of the capital programme, works be undertaken at the earliest opportunity to remove asbestos from the Broad Street building at a cost of £86k; and
- A further report be brought forward following consultation with stakeholders to determine a preferred option.

13 Since December 2015, HLUG have been active in reviewing the options and opportunities for the development of an enhanced library for Hereford. The group asked for an extension to the timescale, which was agreed, and final proposals in the form of a response from HLUG were received on 23 March 2016 after the group's AGM (see appendix 1 to this report).

14 The conclusion of the response is that the current site be developed to create a major community and cultural centre in the heart of Hereford; whilst the larger scheme is being developed, and the funds secured, services at the Broad Street site be reinstated for use. This is reflected in the following extract from the proposal:

"With minimum repairs and refurbishment following clearance of the asbestos reopen the library and set aside the rest of the budget for development and subsequent construction of our proposals. These comprise demolishing and removing all the internal rear areas (with the listed frontage preserved and modernised internally) and installing a new structure. This would provide additional floor space and modern facilities not only for the library but for other community and cultural services. We estimate that this would double the present useable floor space".

15 The asbestos has already been removed from the site. To achieve this, walls and floors were stripped back, with carpets removed. This process has actually exposed some key Victorian features, and changes in the floor levels might have an impact on HLUG's wider plans.

16 As outlined in the cabinet report of 3 December 2015, there is a capital allocation towards addressing the needs of the Hereford library and museum, of £1m. This includes major requirements to address safety concerns, as part of the property maintenance plan over the next five years, and includes replacement of the lift, roof, heating system and other mechanical and electrical works.

17 The below table gives a number of actual and estimated expenditure:

<b>Works required</b>	<b>Cost £'000 December 2015</b>	<b>Cost £'000 March 2016</b>
Asbestos removal works	86	80 actual
Re-instatement works – up to costs	219	350 estimate
Improvements required over next five years	543	543 estimate
WISH	152	152 estimate

- 18 Based on current estimates, the re-establishment works would be £300k-£350k, depending on the scale required and the quotes received (via a framework). This has increased from the initial £219k, given the need to rectify the works due to the asbestos removal. This will cover fire protection measures to exposed beams; new mechanical and electrical reinstatement works to all areas of the library including: electrical power/lighting; information, communication technology (ICT); heating; mechanical ventilation; fire alarm; new ceiling installation works; new carpets to library areas; new decoration works; new library reception counter; and new library shelving units to the first floor. No capital works are required for the museum area.
- 19 The spend on fixes and reinstatement should not be wasted and considered as part of any development scheme. Also, any alternative use for the building would need to include both the short term and long term capital requirements.
- 20 The estimated timescale for reopening the library and museum would be January 2017, based on:

Task Name	
Property Services engagement lead & client brief development	May 2016
Agreement on scope and development of works and specification	June 2016
Planning and listed building consent (if required)* / tender evaluation and contractor appointment	August / September 2016
Commence on site	September 2016
Construction and Library re-open	January 2017

\*existing consents in place.

- 21 All attempts will be made to bring forward the time scale and reduce the expenditure.
- 22 There is currently a temporary library, based at Hereford Town Hall, and extra hours at Belmont library, to compensate for the current closure. That will continue until the re-opening of the main library and museum at Broad Street – no other options have emerged for an improved temporary library.
- 23 WISH have confirmed they would be interested in locating to the library and museum, based on the above time-table.

### **Hereford Museum and Art Gallery**

- 24 There were 14,000 visits to the museum and art gallery between April 2014 and March 2015. The space currently occupied by the service is based on the first floor with no asbestos found in those areas. The museum displays have remained in place and capital spend is not required to make the area available for use.
- 25 However, the museum and art gallery cannot reopen without access to the lift (via the main library) because of the requirement to have fire evacuation egress at the front and back of the building. Consideration also needs to be given to meeting the DDA (Disability Discrimination Act) requirements for accessibility.
- 26 The cabinet report of 10 March 2016 outlined the saving and income plan for the museum service. There are two points of consideration. The first is that the Review of Museums and Archives Services report recommended closure of the museum and art gallery as part of a budget saving proposal. Also, the staffing resource for the museum has been reassigned to extra opening hours at the Old House (value of £22k).
- 27 Therefore there are a number of options for the museum and art gallery to be considered during the reinstatement works as single solution or combined options:
- That the museum and art gallery does not open in its current form, with displays incorporated in different venues in the city (pop-up displays as suggested in the review report)
  - Potential of leasing the space to generate an income – estimated maximum income

of £15k.

- That the museum and art gallery staffing is supported by volunteers
- Reduce opening hours to weekends and school holidays when there is highest demand
- Community fundraising scheme to improve the displays
- Charging for entry
- That the art gallery is used a permanent or semi-permanent display of the council's visual arts collection.

28 Cabinet has already requested a report on the longer term options for future sustainable delivery of the museum and archive service. It is recommended that whilst those longer term options are being developed the options for shorter term re-opening of the museum and art gallery at Broad Street be explored with interested parties.

## Community impact

29 There were 184,434 visits to Hereford library, between April 2014 and March 2015, with 175,638 issues of stock (more information on the use of the library service can be found at Herefordshire Council library website: [www.herefordshire.gov.uk/libraries](http://www.herefordshire.gov.uk/libraries)).

30 There were 14,000 visits to the museum and art gallery between April 2014 and March 2015.

31 The budget consultation (published on the council website: [www.herefordshire.gov.uk/government-citizens-and-rights/democracy/council-finances/priorities-and-budget-consultation-2016-to-2020](http://www.herefordshire.gov.uk/government-citizens-and-rights/democracy/council-finances/priorities-and-budget-consultation-2016-to-2020)) shows considerable support for retaining a library service, and demonstrates the potential to support a fundraising campaign.

32 Feedback as part of the budget consultation, previous consultations and national research demonstrate the well-being, health and educational benefits of a library service. The museum and art gallery function has a link to tourism as an economic benefit to the wider county.

33 Visits to the temporary library at Hereford Town Hall have dropped considerably next to visits to the library when based at Broad Street (figures available for February and March 2016); along with reduction of stock issues (figure for November 2015 to March 2016)

34 Comparable visits:

Visitors	February 2016	March 2016
Broad Street (2014-2015)	13,973	14,213
Town Hall (2016)	4,875	5,723

35 Comparable issues:

Items issued	Nov'15	Dec'15	Jan'16	Feb'16	Mar'16
Broad Street (2014-2015)	13,832	11,263	14,786	14,191	13,934
Nelson Building / Town Hall	1,006	2,043	4,051	4,057	4,767

36 From when Hereford Library closed visits to Belmont Library, and stock issues have increased from the site based on the following comparisons:

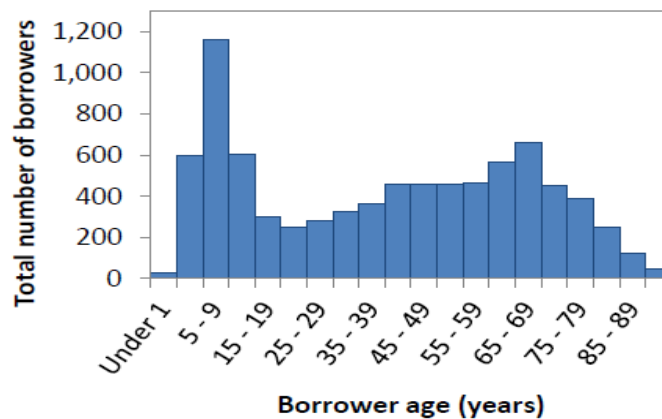
Belmont	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Total
Visitors 14-15	1,874	2,165	1,836	2,016	2,079	2,053	1,898	1,795	1,501	1,894	1,603	1,813	22,527
Visitors 15-16	1,801	1,953	1,803	2,034	1,967	3,555	5,034	3,725	2,530	3,552	3,137	3,606	34,697

Belmont	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Total
Issues 2014-15	2,007	2,269	2,085	2,334	2,602	2,339	2,267	2,263	1,697	2,153	2,070	2,014	26,100
Issues 2015-16	2,054	2,463	2,004	2,434	2,318	3,899	6,886	6,064	3,936	5,397	4,017	4,405	45,877

## Equality duty

- 37 The Equality Act 2010 – sets out the public sector equality duty regarding protected characteristics. The equality impact assessment relating to the options for Hereford Library are set out in appendix 2 of the cabinet report of 3 December 2015 and Appendix 2 museum and archive services report of the 10 March 2016.
- 38 In summary, the impact is on age. Significant high active borrowers are children and people over 65 years – therefore change of service will have an impact on these groups.

### Hereford Library age profile of active borrowers 2014/15



- 39 Based on the impact assessment accompanying the Hereford Library and Museum report of 3 December 2015 proposed the mitigation actions:
- A temporary library is established to support people's continued access to services
  - That alternative venues for free use of PCs / the internet are promoted
  - Promotion of the on-line services
  - Additional drop-off points are arranged
  - Non reduction of services in the market towns and Belmont whilst Hereford Library is closed
  - Any new venue will be fully accessible and will incorporate a range of accessibility aids that support people with particular impairments and take into consideration the needs of visitors of different ages
  - That a public health element is included in any new development which would aid people of different ages and with different access needs
  - Public consultation to take place on wider changes to the Herefordshire Library Service
  - Public access PCs are an important feature of a new library development
  - If the closure is prolonged explore specific and targeted schemes for younger children and older adults.



- 40 Summary of mitigation actions from the museum and archive services report of the 10 March 2016 were not all relevant to the Broad Street site, were:
- Increase the opportunity for volunteering, including instigating a volunteer campaign, to support the increased offer of the service as well as support individual wellbeing.
  - Consider the protected characteristic of age when reviewing the learning offer of the museum service to ensure there is an opportunity for children to learn about local heritage and the older people to engage with their own history.
  - Consider the protected characteristic of disability when designing the layout of The Old House with accompanying interpretation material on the ground floor.
  - Hold free entry days each season to enable people on low incomes to be able to visit The Old House.

## Financial implications

- 41 £1m provision for Hereford library has been included in the capital programme of the medium term financial strategy; of this £80k has already been utilised to remove asbestos from the building.
- 42 HLUG have asked for confirmation of long term funding for Hereford library. This will be considered as part of a wider report due to be presented to cabinet in October 2016 on the budget saving for the council provision of library and customer services.

## Legal implications

- 43 Section 7 of the Public Libraries and Museums Act 1964 (PLMA 1964) states that 'it shall be the duty of every library authority to provide a comprehensive and efficient library service for all persons desiring to make use thereof.' When fulfilling its duty under section 7, a local authority must have regard to the desirability:
- 'Of securing that facilities are available for the borrowing of or reference to books and other printed matter, pictures, gramophone records, films and other materials'.
  - That these facilities are sufficient in number, range and quality to meet the general and special requirements of adults and children.
  - Of encouraging children and adults to make full use of the library service.
- 44 If the Secretary of State is concerned that a library authority is in breach of this duty s/he may order a Public Inquiry. The remodelling of library services across the country has generated several legal challenges in recent years.
- 45 These legal challenges have tended to focus on whether the authority has complied with its obligations under the Equalities Act 2010 - the public sector equality duty (PSED). This duty imposes 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 PSED when taking any decisions on service changes. However, the courts also recognise that local authorities have a legal duty to set a balanced budget and that council resources are being reduced by central government.
- 46 Where a decision is likely to result in detrimental impact on any group with a protected characteristic, it must be justified objectively. This means that attempts to mitigate the harm need to be explored. If the harm cannot be avoided, the decision maker must

balance this detrimental impact against the strength of legitimate public need to pursue the service remodelling to deliver savings. The more serious the residual detrimental impact, the greater the financial savings must be to justify the decision. The harm can only be justified if it is proportionate to the financial benefit and if there have been reasonable efforts to mitigate the harm.

- 47 The library at Broad Street is in the ownership of the council but is subject to restrictive covenants on the title, restricting its use, such that it cannot be used 'for any purpose whatsoever other than for the purpose of a free library'.
- 48 The HLUG will need to exist as a legal entity before any funding or property transaction can take place. Depending on the type and strength of that legal entity, personal guarantees, or other security, will be required. The business case of the entity will need to be carefully examined.
- 49 If the HLUG is to be required to provide a library service. This will therefore fall within the public procurement legal regime, requiring process in accordance with the Public Contracts Regulations 2015 to be followed. This service is within the remit of the "light touch regime" but, as a minimum, advertising of the proposed award will be required allowing bids.
- 50 Consideration will then need to be given as to the type of disposition to be effected to the HLUG. In order for the council to retain control, a lease is recommended of an initial short duration.

## **Risk management**

Fundraising – if sums cannot be raised to enhance the service offer, then any new development will not take place.

Mitigation – a time limit given on fundraising and if unsuccessful resume status quo services at the Broad Street site.

Community resources – If there is insufficient resource to manage the requirements of a community led fundraising project, then the development scheme might not meet its potential.

Mitigation – New membership of HLUG and consider the support given from the local authority to aid the scheme.

Costs of reinstatement works – any cost on reinstatement works will have an impact on the amount of match funding available.

Mitigation – Spend the minimum require.

Timescales – if planning and listed building consent not received then could have an impact on delivery by January 2017.

Mitigation – consider if current consent can be used with improvement works.

Reputation – the closure of the museum and art gallery, and reduced provision of the library service could have an impact on the reputation of the authority and negative press especially as to date the authority has managed to retain cultural services without closure of facilities.

Mitigation – consider ways of retaining services whilst creating any necessary savings.

## **Consultees**

The HLUG response is attached at appendix 1 and has informed the recommendations to cabinet.

## **Appendices**

“Our response to the cabinet invitation of 3 December 2015” by Hereford Library Users Group.

## **Background papers**

1. “The Rankin Centre” by Hereford Library Users Group.
2. Hereford Library and Museum cabinet report – 3 December 2015
3. Museum and Archive Services cabinet report – 10 March 2016





## **OUR RESPONSE TO THE CABINET INVITATION OF 9<sup>TH</sup> DECEMBER 2015**

### **Objective**

In the accompanying papers HLUG make proposals, which if accepted and implemented by Herefordshire Council, show how the present Broad Street Library and Museum could be renewed, improved and revitalised to provide the county with a 21<sup>st</sup> century innovative, cultural and community centre to the considerable benefit of the city and the county's economy.

### **Background**

In December 2015 the Cabinet of Herefordshire Council resolved that:-

- (a) Subject to Council approval of the capital programme in December 2015; the Hereford Library Users Group (working with other relevant stakeholders) be invited to confirm by the end of February 2016, whether or not they wish to work with the council to explore options for future service delivery of a library in Hereford;
- (b) Subject to Council approval of the capital programme works be undertaken at the earliest opportunity to remove asbestos from the Broad Street building at a cost of £86k and
- (c) A further report be brought forward following consultation with stakeholders to determine a preferred option.

HLUG accepted this invitation and is now submitting its proposals to Cabinet.

### **History**

**HLUG** has been in existence for nearly 20 years and, in that time, has had two main objectives; to support the library service in its work and to obtain a library building that can provide an up to date and efficient service. Such a service is not possible in the present Broad Street building which is widely seen as not fit for purpose.

We have been asked to consider the options for the future of the Herefordshire library service. Our view is that the necessary improvement in the service will not be achieved within the Broad Street building in its present unsatisfactory state which is completely inadequate and cannot fulfil its role as the central county library.

The best solution to this problem would be a completely new and modern building on a city centre site. This was envisaged in the original schemes for a Civic Quarter as part of the Old Market development but has not come to fruition. With the increasing difficulties of the Council's finances, HLUG has been considering a number of other options.

### **The present alternatives**

There are a number of options that should be considered by the Council.

- 1) To build an entirely new library leaving Broad Street as a museum.
- 2) Once the asbestos problem in the building is cleared up to spend another £900k on repairs and maintenance of the present building.
- 3) Make only absolutely necessary repairs, reopen the library and set aside the rest of the budget for development and subsequent construction of our proposals. These comprise demolishing and removing all the internal rear areas (with the listed frontage preserved and modernised internally) and installing a new structure. This would provide additional floor space and modern facilities not only for the library but for other community and cultural services. We estimate that this would double the present useable floor space.

Alternative 1 could still be possible if the funding can be raised.

Alternative 2 would result in a building that would remain very much as it is at present with no improvement in the space available for the library or other services. This alternative would not result in the desired modern library service, nor could it include provision for the new university library or for other services.

Alternative 3 is the basis of our proposals to Cabinet which are submitted herewith.

### **The proposals.**

Our proposals are described in detail in the accompanying document. This is in two parts;-

- i) A description of how the building structure could be modified to provide additional space and the resulting benefits .
- ii) Details of how the considerably improved facility and services could be achieved.

The outcome would be a building in an excellent location that would provide much more than just a library. We envisage a centre for housing the library; space for exhibiting museum, art gallery and archive items; community, care, well-being and business services;, tourism; meeting rooms, café etc. – a true cultural and community hub for the future benefit to the economic development and prosperity of the whole county.

As this facility is not just a library or a museum we have provisionally called it The Rankin Centre to recognise James Rankin who was the principal benefactor of the original construction in 1875.

### **Consultations**

Our proposals are the result of considerable long term research and study of, and visits to, modern libraries and similar facilities both in the UK and overseas together with the many advances that have been made in layout, equipment, communications and access to the digital world.

In Herefordshire we have consulted widely with other interested parties. These include, The Woolhope Club; the museum and the archive centre and their support groups; the other library support groups around the county; schools and colleges; the City Council, The Courtyard, the cathedral, the Enterprise Zone, BID and other businesses, HVOSS, WISH and a number of local societies with an interest in the library and museum. Library staff and management have been kept closely in touch as the proposal has been developed. We have obtained preliminary advice on fund raising. A public meeting was held on 29<sup>th</sup> January when our proposals for a Rankin Centre were presented and discussed and where they received nearly unanimous support from the many present. A further point raised at this meeting was the need for the Council to develop a county wide cultural strategy.

Most recently we have consulted with NMITE who have shown considerable interest in the project and may well be able to help with funding, and the Arts College who have a particular interest in exploiting the art gallery facilities in the building.

### **Going forward.**

We believe our proposals are such that they should be developed further and there is a considerable amount of work needed which will require time, effort, enthusiasm, finance and support. Critical areas are capital cost, revenue, fund raising and further design work needed for estimates of costs and programme to be firmed up so that a business plan can be produced. This work requires the formation of a supervising body (subsequently becoming a trust with charity status so as to aid fund raising) with representation from the Council and interested organisations .This organisation would then appoint a project manager able to draw on suitable expertise and experience to produce the business plan and to raise funding. Depending on time needed for sourcing the necessary funds, this could take at least 18months. From initial studies we believe sources of funding for this initial work are available. It would need match funding and carefully targeted drafting of applications to such sources as HLF, Arts Council, Architectural Heritage Fund and possibly the EU.

A project team needs to be put in place. For whilst the proposal originated from Hereford Library Users' Group, realization of the project requires an independent, well-informed and enthusiastic working group to be established including various user groups and interested members of the public, together with representation from the Council, the proposed university, the colleges, and professionals from the library, museum and customer services operating staff. The task of this group would be to:-

- Resolve the uses of the building and how the new ideas can be introduced.
- Find the necessary funding for initial studies, examine future revenue and expenditure.
- Develop an outline design and estimate of costs.
- Explore alternative models for delivery, e.g. by setting up a charitable trust or another form of independent body
- Find a temporary location for the present library.

HLUG has produced a 16 pp document that includes sections on these topics with explanatory notes about our ideas for a truly innovative library and museum building with full access to archives and the digital world.

Some options for a community hub: Social Care – Wellbeing Information Signposting Herefordshire WISH; Getting people into jobs; Health advice; Tourism offers; Business advice and guidance on Entrepreneurship

The Economic Benefits of the Rankin Centre are described based on several studies recently published. The document stresses that the overall effect of the renovated building, given a creative designer, could be stunning: of great value to school children; of interest to adults; and a valuable tourist attraction. It could also provide incentives for young people wishing to join with participants in the county's economy.

Money matters: how to finance the project; ideas are given on Revenue generation through commercial exploitation, events and fees and Expenditure concerns through economies and different forms of organization.

We highlight the Synergies for the Rankin Centre: Museum and Library working together  
Children and reading—libraries can play a valuable role in the education of all ages

The new university - the New Model in Technology and Engineering can be supported by a dedicated Library with enhanced digital access.

We stress the importance of 'discoverability' in our complex world for the modern library and museum.  
We survey how libraries are changing: the need for a Digital Library

A Local History resource worthy of the county stresses the uniqueness of Herefordshire is a key feature.  
The organization of the Rankin Centre: its administration, the question of ownership are considered.  
Some alternative methods of delivering a library & museum service are proposed other than by the local government.

Our **Conclusion** is that with the central location of the Broad street building and its special architectural frontage the Rankin Centre can provide a major community resource for information, learning, culture and entertainment for all ages in a transformed and modern interior in a historic setting. It will become a major feature in the cultural life of the city and the county. Such re-use of a valuable heritage site provides an opportunity to achieve major funding from a range of sources.

By introducing a number of unique features, we anticipate that the Rankin Centre, as well as being a national and possibly international venue, will be promoting the entrepreneurial spirit of the city and of

The paper has been issued by the **Hereford Library Users Group**. Chairman John Faulkner [jfaulkner@talktalk.net](mailto:jfaulkner@talktalk.net)  
Secretary John Hitchin A full version as a pdf file is obtainable from John Hitchin via email: [johnhitchin@ereal.net](mailto:johnhitchin@ereal.net)









<b>Meeting:</b>	<b>Cabinet</b>
<b>Meeting date:</b>	<b>9 May 2016</b>
<b>Title of report:</b>	<b>Unified residential and nursing contract between the local authority and Herefordshire Clinical Commissioning Group (CCG), fee increase for care homes and change in payment process.</b>
<b>Report by:</b>	<b>Cabinet member health and wellbeing</b>

Open

### **Key decision**

This is a key decision because it is likely to result in the council incurring expenditure which is significant having regard to the council's budget for the service or function to which the decision relates.

Notice has been served in accordance with Part 3, Section 9 (Publicity in Connection with Key Decisions) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

### **Wards affected**

Countywide

### **Purpose**

To approve the approach to develop and implement a unified contract between the Herefordshire Clinical Commissioning Group (CCG) and Herefordshire council, agree to change policy to pay fees on a gross basis instead of net, and agree the rate to be paid to care home providers (Providers) for 2016/17.

### **Recommendation(s)**

**THAT:**

- (a) a unified contract to be developed by the council and commissioning the CCG for future spot placements Providers, with the intention of implementation from September 2016 subject to agreement with the CCG and providers;
- (b) the council approves the change in approach to pay Providers on a gross basis (i.e. inclusive of any client and third party contribution) rather than net, and to paying in arrears rather than the two weeks in advance and two weeks in arrears; effective from the implementation of

- the unified contract and subject to agreement with providers;**
- (c) as lead commissioner the council undertakes a procurement exercise with a view to establishing an accredited list for the council and CCG of Providers in Herefordshire; and**
  - (d) the Provider fee rate increase of 1% is agreed for 2016/17 (excluding placements still on the higher old usual price rates).**

## **Alternative options**

1. The council and CCG each continue to purchase placements separately on a case by case basis on their respective terms and conditions. This approach is not recommended as it does not support outcome based commissioning and is not person centred. In addition, the existing contracts build inefficiencies into the system as they take different approaches on a number of common issues.
2. The council continues to pay Providers on a net basis and Providers continue to collect client contributions, and if appropriate third party contributions. This approach is not recommended as it leaves the council open to the risk of unplanned debts and has been criticised by the Local Ombudsman as exposing residents and their families to unreasonable risk.
3. The council does not pay any increase to the current usual price paid to Providers or pays a larger increase. This is not recommended as the council is required to consider an annual increase as provided for in the contract whilst also taking into consideration the wider economic climate. Analysis shows there have been a number of increases in the cost of operating care homes. The recommendation figure of 1% represents a balance between recognising the cost pressures facing care home providers and the funding available to the council.
4. There are no alternative options for undertaking a procurement exercise due to Public Contract regulations 2015.

## **Reasons for recommendations**

5. The council and the CCG between them fund in the region of 900 placements in residential and nursing care homes across Herefordshire, at an annual net cost of around £27m, with the largest proportion of £19m being spent on council placements and the remaining £8m by the CCG. This is due to the greater number of placements adult social care makes compared to the CCG. In order to facilitate choice for service users, as required by the Care Act 2014, the council and the CCG should secure placements on an individual 'spot' basis. To ensure fairness, the council set a rate for the cost of care each year, for older people residential and nursing placements, with a third party being able to pay a top-up if they choose a home where the fees are higher than the rate. The recommendations are designed to align the council and CCG contractual arrangements, to address issues in the current contracts, and ensure that the rate for 2016/17 reflects the actual cost of delivery.
6. It is envisaged that collectively that these recommendations will ensure transparency and

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consistency of placements with Providers which are cost effective and value for money.

7. The proposed recommendations will ensure that the council is able to achieve transparency and continuity in its commissioning approach which will strengthen its position in shaping and supporting the market place. The recommendations will in the council's role under the Care Act 2014 to support the wider care market in delivering a range of sustainable, high quality services to meet the demands of the community.
8. The recommendations will facilitate the personalisation agenda, identifying needs and aspirations and ensuring choice and support for individuals to live their lives the way they want. The recommendations will deliver better outcomes not only for the council and CCG, but also for the Providers, the individual service user and their family.

## **Key considerations**

### **Unified contract**

9. The council and the CCG currently manage placements separately, and providers work to two separate sets of terms and conditions, depending on which organisation funded the placement.
10. The Managing the Care Home Market project was identified as a pool within the Better Care Fund (BCF). The project aims to deliver integrated care decisions which will deliver better outcomes for the service user. It is intended that the unified contract will act as the proposed mechanism which deliver the outcomes identified in the BCF care home market management pool by bringing together the council and the CCG's funded placements under one set of terms and conditions.
11. Neither the council nor CCG currently commission under an outcomes basis. One of the rationales for adopting a unified contract is to enable both parties to be clear of their respective roles and responsibilities in conjunction with outcome focused service specifications which are drafted to ensure that the service will deliver on better outcomes for each service user. This will mean that the voice of the service user and what they want will be at the forefront of all decisions regarding their wellbeing.
12. The unified contract will also streamline and rationalise the terms and conditions used by the council and CCG to simplify contracting arrangements for our Providers as well as the service users and their families. The terms and conditions will apply to all placements by the council and CCG, ensuring consistency between Providers, but also clarity and clear terms for service users in relation to the scope, quality and standards which they are entitled to expect from the service.
13. The unified contract will seek a move to outcome based commissioning which will be person centred and appropriately monitored to ensure that service users' needs are met, and will be phased in by working with Providers, staff and service users.
14. In developing the unified contract, efforts have been made to engage closely with Providers, through open forums to which all Providers have been invited. During which, broader issues have been discussed, and through a smaller working group with a number

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of representative Providers, who have reviewed the proposed elements of the new contract in detail. Key proposals, in alignment with CCG, include:

- development and implementation of an agreed suspension policy
- a change in payment after death from 5 to 3 days
- a change in payment for the absence of a resident (usually hospital admission)

A summary of these proposals can be found in appendix three.

### **Moving to gross payment**

15. The council has historically paid net to Providers; which has resulted in the council only contributing towards the cost of an individual placement that falls to the council directly. The assessments of the client contribution and any third party contributions are completed by the council but it is subsequently the Provider's responsibility to collect these outstanding payments directly from the client, and from any third party, if such an agreement is in place.
16. The proposed recommendation to pay care home providers gross will enable the council to comply with the guidance contained in a recent report 'Counting the cost of care: the council's role in informing public choices about care homes' based on lessons learning from complaints September 2015' by the Ombudsman clearly state that where there is a top-up agreement in place, the council remains responsible for the full cost of the placement to the provider. This report does not recommend third party top-up and client contributions being paid directly to the Provider and states that it is even to be discouraged.
17. Although currently the Provider is responsible for collecting client contributions or any top up the council remains responsible for the placement as a whole. Therefore, if the Provider cannot collect the client contribution or, if applicable, a third party fee, the council still remains accountable for the totality of the funding. This has resulted in a number of council staff spending considerable dealing with the unpaid client or third party contribution. This results in complaints and unplanned debt for the council, putting the council's budget at risk. The proposed recommendation would alleviate these issues and enable council staff to concentrate on more strategic tasks and reduce the expenditure on administrative functions.
18. It is recognised nationally that some Providers have asked service users directly for an increase in their contribution, thereby increasing the overall cost of the placement without knowledge of the council, which is poor practice. This is done without the third party having a financial assessment carried out to ensure that they can afford to pay the provider the increase, and can leave the individual without the sufficient income to sustain themselves. Implementation of the recommendation to pay gross instead of net will ensure the practice described does not happen. Council officers will have control of the process, ensuring policy and practices are both adhered to in order to protect all individuals concerned.
19. The majority of councils already pay gross rather than net and Herefordshire therefore seems to be out of step with other councils in this regard.

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20. The recommendation to pay gross instead of net is being considered as a positive step forward by Providers. This has formed part of the charging consultation. It will also improve debt management as client contributions will be managed by the council debtors' team.
21. The council has engaged with Providers on the unified contract in workshops and at Provider forums. Issues relating to payments have arisen many times and the Providers are keen to see a move to gross payments as this would take some risk away from them.
22. Paying gross will benefit the service user and the family as they will only have to deal with the council regarding any issues relating to funding, simplifying the process so their discussions with Providers can focus on meeting the needs and wellbeing of the individual.
23. Whilst the council has taken into account concerns from Providers that they are facing increased cost pressures and the proposed annual increase will not cover these costs; the proposal to pay gross rather than net has received a positive response and is generally welcomed by Providers. This support will be a key incentive for Providers to agree to the new unified contracts terms and conditions.
24. The council has the systems and staff in place to set up the collection of both client contributions and third party payments, and this can be done in a consistent way rather than the different systems and approaches that each Provider may take.
25. The charging policy consultation asked whether the council should consider changing the charging policy and pay providers gross rather than net when future contracts are reviewed. A total of 73% (90) said yes and agreed with the proposal to pay gross and 27% (33) said they didn't agree.
26. The Third Party top up policy will be amended to reflect these changes to the system.

### **Payment changes**

27. The current council contract with Providers pays two weeks in advance and two weeks in arrears. Under the unified contract payment will be monthly in arrears. This will be in line with other council contracts.
28. Whilst the proposal to pay in arrears will have a one off cash flow benefit for the council, it will also reduce the exposure of the council to Provider failure, and the cost implications, time and resource the council has to put in to recover the debts if this happens.
29. The proposal to move to payment in arrears, rather than the current two weeks in advance and two weeks in arrears, will be consistent with the CCGs current approach.
30. Providers are concerned about the possible delays that changing the payment system to arrears may cause. The current payment process can sometimes lead to delays as there is a requirement for alignment with the completion of care plans, financial assessments and purchase orders required to be in place and agreed by all parties. Therefore, the council

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will need to ensure its payment systems are efficient and accurate and do not cause any delays to providers receiving their payments. This will include working with internal staff and Providers regarding the process and seek to resolve some of the delays encountered.

### **Provider rate increase**

31. From April 2016, the government has introduced a national living wage (NLW) for workers aged 25 and above, of £7.20 per hour. This increase will place additional financial pressure on the care home market where it is already a difficult market to recruit and retain staff, in particular nursing staff. Although most staff are already paid above the NLW, the need to ensure that the sector is able to attract workers means that there will still be a cost pressure and the 1% increase will not cover all of these additional cost pressures.
32. As required under the terms of the contract with Providers, the council has reviewed the rates paid to Providers, having regard to the retail prices index and other relevant information. The NLW rate from April 2016 has also been taken into consideration.
33. The Care Act (2014) and the supporting Care and Support Statutory Guidance (March 2016) sets out the market shaping duties for local authorities. The Guidance states that: "When commissioning services, local authorities should assure themselves and have evidence that contract terms, conditions and fee levels for care and support services are appropriate to provide the delivery of the agreed packages of care with agreed quality of care". It also references a number of tools that local authorities may wish to consider including the Laing and Buisson tool kit to understand the fair price for care.
34. Cabinet considered fee rates on 12 June 2014 and paid due regard to the "actual cost of care" in an "open book exercise." The work collated cost data from a number of providers into a cost model which was based on the Laing & Buisson model but was adjusted for local factors such as land and property costs. Cabinet considered the outcome of this exercise and set the usual price at that time and this is considered to be a reasonable basis for subsequent uplifts in light of the historical low inflation rates.
35. The recommended increase of 1% in the usual price for older people's residential and nursing placements takes account of the increase in the national living wage for over 25 year olds from 1 April 2016 and builds on the inflationary uplift of 1% applied in October 2015 to the older persons 'usual rate' to reflect the minimum wage applicable from that date. For consistency a 1% uplift will be applied for other care packages (excluding those still on the higher old usual price rates), these care packages are on a case by case basis dependent upon need.
36. The statutory guidance also stresses that local authorities must not undertake any actions which may threaten the sustainability of the market as a whole including setting fee levels below an amount that this not sustainable for providers in the long-term. It also emphasises the need for commissioning local authorities to have regard to the cost effectiveness and value for money in publically funded services. The council is able to make placements at the current rates ensuring choice is available to people.
37. The Local Government Act (1999) established a Best Value duty and requires the council to pay due regard to continuous improvement in the exercise of its statutory functions

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through a combination of economy, efficiency and effectiveness. Therefore, the council must also consider overall social value when commissioning and procuring services and forms part of a continuing discussion with the care market.

38. Taking into consideration the factors set out above, it is considered that there should be a rate increase of 1% on the 'usual rate' for residential and nursing placements for older persons, learning disabilities and mental health placements, based on these factors and the affordability for the council (further information can be found in appendix three).
39. The proposed increase is in line with the contract increase from the CCG of 1%.
40. The Care Act 2014 places a duty on councils to understand their local care market and makes them responsible for achieving a responsive, diverse and sustainable market of service providers that can provide high-quality, personalised care and support that best meets the needs of people. Moving to an outcome focussed approach will reflect the needs of individuals and also the developing quality assurance framework will ensure support is provided where appropriate to improve quality. This includes making sure Providers are sustainable and that councils are paying in line with national requirements.
41. Bench marking against other councils' care home rates on the 'usual price' for residential and nursing for older people, suggests that the rates proposed for Herefordshire are in line with the rates paid by other local councils. Please see table below. Please note: this is a comparison of 2015/16 fee rates, as other councils have not agreed their fee rates for 2016/17.

<b>Weekly fee rate</b>	<b>Herefordshire 15/16</b>	<b>Herefordshire Proposed 16/17</b>	<b>Worcestershire 15/16</b>	<b>Shropshire 15/16</b>	<b>Gloucester 15/16</b>	<b>Telford 15/16</b>	<b>Walsall 15/16</b>
Residential inc dementia	£457.46	£462.06	£417	£411.53	£520.92	£445.78	£383.53
Nursing (excluding Free Nursing Care FNC)	£523.18	£528.54	£435	£412.54	£511.00	£458.47	£372.39

#### **Accredited provider list**

42. The council proposes to put in place an approved/accredited list of Providers which can be used by both the council and the CCG to make placements. The value of the combined contracts will mean that procurement under the Public Contract Regulations 2015 will be required.
43. The procurement exercise will commence in July. Prior to the procurement starting workshops will be held to support Providers through the procurement process and advise

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of the mobilisation considerations to enable the council to meet the anticipated contract start date, 5 September 2016. To facilitate the council's ability to meet the anticipated rise in demand for this service, a procurement exercise will be conducted under a dynamic purchasing system. This will act as an open framework which will continue to operate in perpetuity for the duration of the contract so that care homes are able to join at any time. In addition, this will be used for out of county placements or any new providers who come into the market and would be precluded in joining the service, if the council adopted a conventional closed framework approach. (Please see appendix two Care home procurement timetable).

## Community impact

44. The recommendations will support the Health and Wellbeing strategy aim to ensure "Herefordshire residents are resilient, lead fulfilling lives, are emotionally and physically healthy and feel safe and secure." Specifically it will support priority three: 'For older people-quality of life, social isolation, fuel poverty' and the future work to ensure care plans are in place for every older person in residential and nursing home care and; services and care organisations working more proactively together to avoid over reliance on hospital care. With an ageing population, people are living longer, developing complex health needs, therefore commissioning in partnership is essential to manage future demand.
45. The recommendations support 2 of the 4 priorities of the corporate plan to:
  - Enable residents to live safe, healthy and independent lives. Although people maybe in a care home, they still need to have their outcomes met, living in a safe environment. The council and the CCG will work with Providers to ensure that it commissions services that enable this for all individuals.
  - Secure better services, quality of life and value for money. The change in payment to pay gross and the increase in the rates will help support providers to meet the challenges faced with increasing cost.
46. The recommendations in this report will seek to help support, sustain and develop the care home market both now and in the future.
47. The managing the care home market project to jointly commission the service will reflect the national commissioning standards to ensure it is person-centred and outcome focused, well led and promotes a sustainable diverse market.
48. The project will take into account the new National Institute for Health and Care Excellence (NICE) material, which covers guidelines such as planning and delivery of social care and support for older people with social and care needs and multiple long term conditions. It promotes an integrated and person-centered approach to delivering effective health and social care services.
49. The contract will seek to ensure quality and choice is available to all social care and continuing health care placements, enabling people to have a choice on where and how they live their lives.



## Equality duty

50. The council is committed to equality and diversity using the Public Sector Equality Duty (Equality Act 2010) to eliminate unlawful discrimination, advance equality of opportunity and foster good relations.
51. It is not envisaged that the recommendations in this report will negatively disadvantage the following nine groups with protected characteristics: age, disability, gender reassignment, marriage and civil partnerships, pregnancy and maternity, race, religion or belief, sex and sexual orientation. (Please see appendix one, Equality Impact Assessment).

## Financial implications

52. The budget for residential and nursing rates includes an assumed uplift of 1%.
53. The unified contract brings some potential benefits for the council in relation to cash flow and debt management. It may also have some small financial benefits through the unification of the terms and conditions. The impact is likely to be of relatively low value and will be quantified once the changes are finalised. The move to paying gross rather than net has potential benefits in terms of debt management as it will enable the council to pursue and resolve debt issues earlier and more effectively than the current process, resulting in a lower risk of bad debt.
54. The proposed change to pay gross will have a cash flow implication on the council but will be balanced once the proposed payment in arrears begins and the client contribution and third party contribution begin to come in.
55. The additional administration for the council will be managed with the current resources and project support to set it up. The intention will be to get service users and third party top individuals on a direct debit to reduce administration. This will, however, need to be reviewed if the current available staffing is not sufficient to manage the administration arrangements.
56. In order to support providers transition from a payment of two weeks in advance and two weeks in arrears, modelling has been done on the impact for the council and providers on the upper quartile (top 25% of the highest paid providers) and the average care homes paid in terms of the monthly payment they receive from the council. The council is working with providers to manage the risk and impact in preparation for the contract; this will include allowing a three month phased approach before the change to paying a month in arrears is fully implemented.

## Legal implications

57. The council has a number of statutory duties that it must comply with regarding the commissioning of care. These are primarily contained within the Care Act (2014) and the supporting regulations. Under section 1 Care Act (2014), the council has a general duty in exercising its functions in relation to an individual's care and support, to promote that individual's wellbeing. The council discharges its duty in relating to an individual's care and support by entering into contractual arrangements with the providers of residential care homes.

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58. The Care and Support Statutory Guidance (March 2016) states that when local authorities commission services they should assure themselves and have evidence that providers deliver services through remuneration to promote the retention of staff. Further, that remuneration must be at least sufficient to comply with the national minimum wage legislation. Failure to comply with the legislation would leave the council open to potential legal challenge.
59. The Care Act (2014) also places a number of new duties on the council. These duties include market shaping and to promote the efficient and effective operation of the market for adult care and support as a whole. This in essence means that the council will need to be aware of its responsibility to meet needs of all people in Herefordshire whether publically funded or people with the own means to fund care (self-funders).
60. The legal duty to pay due regard to the “actual cost of care” is set out in “Building Capacity and Partnership in Care” (2001). This duty requires the council to set rates that reflect the legitimate current and future costs.
61. Section 75 of the National Health Service Act 2006 contains powers enabling NHS bodies (as defined in sections 275 and 276 of the NHS Act 2006) to exercise certain local authority functions and for local authorities to exercise various NHS functions. The council and the CCG entered into an agreement in exercise of those powers under and pursuant to the NHS Regulations 2000.
62. Under that agreement the council and the CCG committed to better integration of NHS functions and the council’s health-related functions to achieve the aims and outcomes set out in the agreement. Where the council wishes to let contracts for social services and the lifetime value of those contracts exceeds €750,000 (equivalent to £589,148), then under Regulation 74 of the Public Contracts Regulations 2015 the council is required to let contracts for social services in accordance with provisions of section 7 of the Public Contract Regulations - the light touch regime.

## **Risk management**

63. A risk management plan has been developed for this project and is regularly reviewed by the project board to ensure milestones are reached and risks are highlighted at an early stage and mitigations are put in where appropriate.
64. A key risk identified is whether providers agree to sign up to the unified contract, there will be an expectation that Providers will accept the terms and conditions. The council and CCG have mitigated the occurrence of risk by allowing time to discuss the key changes with Providers. A case by case approach will be taken in respect of those who do not accept the terms and conditions.
65. Another key risk is for Providers who have stated the increased cost pressures they are facing such as the requirement to make pension arrangements for staff and the NLW. Discussion with Providers on these issues is ongoing and the council and CCG will continue to look at how they can support Providers in different ways.
66. A key risk for the council and CCG if the recommendations are not agreed will be that any potential efficiency will not be delivered if a consistent fee structure is not put in place.
67. The service specification in the unified contract focusses on outcomes. The risk for the

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local authority of how this will be implemented and monitored will be mitigated by a proposed 12 month development process which will include close working with Providers, service users and council.

68. The change to payment for Providers from two weeks in advance and two weeks in arrears to four weeks in arrears will be managed by phasing in the changes to help mitigate cash flow risks to the Provider.

## **Consultees**

69. Providers were asked to provide information by filling out a model to evidence cost pressures in September 2015.
70. Consultation on the proposed change to gross has been completed through the charging policy consultation which ended on 11 March 2016.
71. The care home market is aware of the development of the unified contract and has been continually engaged in the general principles and the implications of the new terms and conditions of the contract. Detailed discussions with the market, either in a group setting or on a 1-2-1 basis has been ongoing since September 2015.
72. The care home market has been engaged with through the care home market provider forums held bimonthly.
73. In addition smaller contract meetings have been held to discuss in detail some of the proposals in the unified contract, to understand potential impacts and resolve any issues.
74. Providers have been consulted on the draft service specification for both nursing and residential care homes.

## **Appendices**

Appendix one EIA

Appendix two Care home procurement timescale

Appendix three Care home contract principles and financial model

## **Background papers**

None identified.



**Equality Impact Assessment**

**Appendix 1**



**Equality Impact and Needs Assessment Form**

**A) General Information**

**Name of service, function, policy (or other) being assessed**

Care home market in Herefordshire

**Directorate or organisation responsible (and service, if it is a policy)**

Adults Well Being

**Date of assessment**

1<sup>st</sup> March 2016

**Names and/or job titles of people carrying out the assessment**

Laura Tyler Commissioning Officer

**Accountable person**

Amy Pitt Joint Commissioning Better Care Fund Manager

## Equality Impact Assessment

### **B) Describe in summary the aims, objectives and purpose of the proposal, including desired outcomes:**

Managing the care home market is a project within the Better Care Fund (BCF) will deliver more effective market management of care home provision across Herefordshire and therefore enable the more cost effective purchasing of Residential and Nursing placements through the Local Authority and CCG for continuing health care (CHC) placements.

The care home market management and unified contract intends to address the following issues:

- The use of different criteria for allocation and charging.
- Disparate purchasing and contract arrangements for Residential and Nursing Care by commissioners.
- Fee differential between commissioners for the same service/outcome within the same care home.
- Duplication of activity across commissioning and procurement and poor use of available resources.
- Inappropriate use of bed based care when there are alternative care options available that promote and maintain independence.
- The incoherent approach to market shaping between commissioners.
- The lack of shared intelligence in relation to market usage and trends to inform resource decisions.
- The lack of a whole systems approach to comprehensive, complementary and integrated market management.
- The need for a single agreed view of quality assurance and safeguarding across the sector.
- Linkages and interdependencies with urgent, intermediate and long term condition community provision are not understood or articulated.

The objective is not only to implement a unified contract but to recommend an increase contractual price based on the Retail Price Index and other external factors which may have an impact on the price set.

## Equality Impact Assessment

### C) Context - describe, in summary;

<p><b>The number of people and/or providers that may be affected by the proposal.</b></p>	<p>In 2015/16 there were 149 permanent admissions: 83 residential 66 nursing Approximately 750 service users are in permanent placement in care homes at any time placed by adult social care.</p> <p>CCG has 140 CHC placements in county.</p> <p><u>Care Home Providers</u> There are currently 87 residential and nursing homes in the county covering all age groups and needs across Herefordshire. They can be either SPOT purchases or hold block contracts with the council.</p>
<p><b>What are the values of the contract(s) affected by the proposal? (if appropriate).</b></p>	<p>Residential and nursing homes for older people are contracted with on a spot purchase arrangement.</p> <p>The rates were uplifted by 1% with effect from 1<sup>st</sup> October 2015: Residential: £452.94 - £457.46 Nursing (without fnc) - £518.00 - £523.18</p> <p>Proposed 1% increase from the 1<sup>st</sup> April: Residential: £457.46 - £462.06 Nursing (without fnc): £523.18 - £528.54</p> <p>All Learning Disability and mental health placements are negotiated individually and therefore do not have a set rate.</p>
<p><b>What are the geographical locations of those that might be affected by the proposal?</b></p>	<p>The residential and nursing care homes are located across the county of Herefordshire.</p>

## Equality Impact Assessment

### D) Who are the main stakeholders in relation to the proposal?

- Current and future service users
- Service user family, friends and carers
- Care Home Owners and their staff
- Herefordshire Council
- Social care practitioners
- Elected members
- Clinical Commissioning Group (CCG)

### E) What are the anticipated impacts of the proposal?

#### Positive impacts

The proposals are intended to ensure that vulnerable people in Herefordshire continue to receive quality and reliable residential and nursing home services.

#### **Market shaping to ensure the council achieves best value both now and in the future**

As more people live longer with multiple and complex needs, and numbers of adults with dementia are expected to almost double in the next 20 years, those needing residential care will more likely need specialist dementia support. Using the findings from the Open Book Review to ensure the council is paying a reasonable price for all types of care will enable the council to make sure that it is making best use of its resources to meet both current and future trends in need.

#### **New contract agreement**

The current contract for residential and nursing homes is outdated and not sufficiently robust. The council and the CCG intend to have one single contract and terms and conditions for all publicly funded placements and CHC placements. Moving providers onto the same terms and conditions, the new contract will ensure greater fairness among providers.

Homes will have greater clarity on what their contractual obligations are. The core contract and terms and conditions will set out the council's expectation that providers will be required to meet the CQC Standards and the local quality assurance standards as part of the contractual arrangement but greater emphasis will be placed



## **Equality Impact Assessment**

on outcome based commissioning and personalisation to ensure the needs of the individual are met. A standard contract will provide the council and the CCG with greater assurance about the services being contracted, which, in turn, ensures service users are more likely to receive a consistent and reliable service.

### **Increased efficiency promoted within the residential and nursing care home market**

Due to reductions in central government funding, the council is seeking to find efficiencies, and reduce costs. Whilst enabling residents to live safe, health and independent lives is a priority, the council must look to find ways of making reductions and promoting efficiency across all areas of provision, including residential and nursing care for all service users, to ensure that the limited financial resources available are used efficiently and targeted effectively so as to benefit the most vulnerable.

### **Negative impacts**

Whilst the project is not intended to have any negative impacts, the following potential impacts should be considered:

- The increase of 1% as stated by providers will not cover their increasing costs with things such as additional pension costs and minimum living wage pressures.
- The increase may put increasing costs on self-funders in the market who have to pay for their own care.
- Not all care homes may agree to the new contract, therefore a risk these homes may choose not to agree to sign up to the new contract at the new usual price, thus reducing the number of beds available for eligible service users at the council's usual price.

### **Mitigation:**

This increase is set against other proposals, one of which is to pay providers gross and not net so they will no longer have to collect client contributions and if applicable third party to ups. This will take some risk away from them will reduce administration cost. Ongoing engagement with service providers seeks to ensure that terms are negotiated so all parties come to an amicable conclusion.

Residential and Nursing Fees  
Equality Impact Assessment

F) With regard to the stakeholders identified and the diversity groups set out below;

	<i>a) Is there any potential for (positive or negative) differential impact?</i>	<i>b) Could this lead to adverse impact and if so what?</i>	<i>c) Can this adverse impact be justified on the grounds of promoting equality of opportunity for one group, or for any other reason?</i>	<i>d) Please detail what measures or changes you will put in place to remedy any identified adverse impact.</i>
Age	<p>Yes. This proposal will affect older people as it relates to residential and nursing homes for older people.</p> <p>Yes. The NLW only impacts upon those 25 and over.</p>	<p>If fewer homes agree to contract with the council at its usual price, service users choosing to go to more expensive accommodation will be required to fund the difference (e.g. a third party contribution). This may place additional financial burden and anxiety on residents and their families.</p> <p>Those in care home employment may get paid different rates depending upon age but this is down to the care home and not the council.</p>	<p>The Council has a duty to set a usual price with due regard to the cost of care and Best Value. As the council has significantly reduced financial resources, it is appropriate all areas of spend are scrutinised to ensure resources are appropriately targeted to benefit all eligible vulnerable adults.</p> <p>All care homes are regulated by the Care Quality Commission and adhere to local quality standards. These proposals are not intended to impact on quality of service.</p> <p>This is not within the remit of the council; employers need to ensure that they are acting within legislation as directed by government.</p>	<p>The Directive on Choice means service users can choose whatever home they wish and their options are not limited to those homes that agree to contract with the council at its usual price. They can choose to pay a top up. Please note: this is not the same for CHC placements/LD and mental health placements.</p> <p>New contractual terms and conditions will be developed with care home provider's that clarify expectations and requirements and promote compliance with the CQC standards expected.</p> <p>Please see previous comment.</p>

Residential and Nursing Fees  
**Equality Impact Assessment**

Disability	Yes. All social care funded service users are assessed as having eligible critical or substantial needs.	It is not intended to have any adverse impact, outcomes based commissioning will put them in control of what they want to do and how they want to live their lives.		
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Residential and Nursing Fees  
**Equality Impact Assessment**

Gender	Yes. Women constitute 74% of service users According to the 2011 Census (table DC6110 for ref), 80% of people working in the 'human health and social care' industry in Herefordshire are females. Compared to 47% of the total workforce across all industries.	This should not have any adverse impact.		
Race	Yes. 95% of service users identify themselves as White British	No. The composition of service users according to this equality strand is broadly reflective of the local demographics in Herefordshire generally (6% of the population describe themselves as non White British)		
Sexual Orientation	<i>No data available to allow analysis</i>			
Religion/ Belief / Non Belief	<i>No data available to allow analysis</i>			
Pregnancy / maternity	<i>Not applicable</i>			
Marital Status	<i>No data available to allow analysis</i>			
Gender Reassignment	<i>No data available to allow analysis</i>			

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### **G) Consultation**

**Please summarise the consultation(s) undertaken with stakeholders regarding this proposal**

#### **Service providers**

A number of consultations have taken place to inform the development of a unified contract.

- Bi monthly provider forums have been held regarding the contractual changes and providers have voiced concerns over increasing costs in the care sector.
- Workshops have been held through September – December 2015
- 1-2-1 with providers have been offered and held in October.
- Contract meetings with providers
- Written feedback received from providers
- Providers were asked to fill out a template in August/September 2015 to detail their cost pressures and only 4 responses were received.
- Letters received from providers regarding cost pressures within their organisation.

#### **Internal officers**

- Monthly meetings
- Meetings with finance to model impacts

#### **Market**

- Opportunity for procuring via pro contract portal once procurement activity commences

### **H) Additional information and / or research**

Include here any references or other sources of data that you have used to inform this assessment.

Are there any gaps in your evidence or conclusions that make it difficult for you to quantify the potential adverse impact(s) of this proposal? If yes, please list them here

If you have identified gaps in your evidence or conclusions, how will you explore the proposal in greater depth? Or, if no further action is required, please explain why.

#### **Information and research used:**

- Framework I reports
- 2011 census report



Review	Development of Service Specification	Provider session	Contract terms and conditions/ s signed off	Issue contract notice to OJEU (CST) 3-4 days	Advertise the opportunity on contracts finder	ITT (min of 30 days)	Commercial services collate responses and produce evaluation packs	Evaluate tenders + award contract	Standstill period - min 10 days	Officer decision	Contract award notice	Handover / transition period	Lead officer	Responsible Officer
Sept - 1st April	9th May	ongoing	Monday 17th June	4th July	8th July	8th July - 8th August (31 days)	9th August	10/11/12 and 15th August	N/A	between 16th and 19th Aug	from the 19th Aug, with contract start 5th Sept.	3 months	Laura Tyler	Amy Pitt









# Care Home Market Contract

 **NHS**  
Herefordshire  
Clinical Commissioning Group

 **Herefordshire Council**

 **NHS**  
Herefordshire  
Clinical Commissioning Group

# Contract Principles


 **Herefordshire Council**

## Suspension of placements

**NHS**  
Herefordshire  
Clinical Commissioning Group

**Current Position**  
Council – No suspension process in place, currently seek voluntary suspension.  
CCG – Have a suspension process in place

Proposal	You said	Council/CCG	Final recommendation
Implement a clear suspension process in line with the quality assurance process.	Agreed in principle but want a clear process which provided timescales.	Produce a suspension policy that clearly details the process. If this process is needed at any time, an action plan will be drawn up and timescales mutually agreed.	Implement suspension policy aligned with quality assurance framework.


 Herefordshire Council


## Gross Payment

**NHS**  
Herefordshire  
Clinical Commissioning Group

**Current Position**  
Council – currently pay net and provider collects third party and client contribution  
CCG – N/A

Proposal	You said	Council	Final recommendation
The council move to paying gross and collect the client contribution and if applicable third party element.	Agreed with this as a proposal.	Council placements only. Big change. Additional risk on council cash flow. Best practice and inline with other areas.	Move to pay gross (subject to approval by cabinet in May).


 Herefordshire Council




### Payment after death of service user

**Current Position**  
 Council – Pay 5 days (including day of death)  
 CCG – Pay 3 days (including day of death)

Proposal	You said	Council/CCG	Final recommendation
Pay 3 days (including day of death) in line with the CCG	Impact on the cost of the placements . Financial loss to providers. Concerns for families to collect possessions so soon after the loss of family member.	Additional cost to CCG if this were to change to the councils current 5 days, and already in place with CCG.	Implement the 3 days (including day of death) proposal






### Shared room rate


**Current Rate**  
 Council –Currently at 95% of the usual price rate  
 CCG – N/A

Proposal	You said	Council/CCG	Final recommendation
80% of the current rate	Agreed that a shared room is needed but 80% is a lot less and false economy.	Council placements only. Agreement that shared room rates are used less but they still need to be available for choice and to ensure capacity in the market.	Change the proposal back to the current 95%.




**Change in payment**

**Current Position**  
 Council – Pay 2 weeks in advance and 2 weeks in arrears  
 CCG – Pay by calendar month in arrears




Proposal	You said	Council/CCG	Final recommendation
Move from paying two weeks in advance and two weeks in arrears.	Concerns over this proposal and cash flow particularly for smaller organisations and the serious implications this may have.	LA recognises the concerns raised by providers. Risk to council paying in advance To pay GROSS the council must look at how it mitigates its financial risk. Council reviewing ways of reducing risk.	Continue with the move to paying in arrears, however the council will mitigate this by phasing this in.





**Absence of resident**

**Current Position**  
 Council – 100% for 6 weeks and 80% thereafter  
 CCG- 100% for 4 weeks and 80% thereafter



Proposal	You said	Council/CCG	Final recommendation
100% in week 1, 75% in week 2, 50% in weeks 3-6 and beyond.	Unworkable for providers and unfair for service users, especially for mental health clients. Placements cannot be held with this proposal.	The risk of losing placements is too high for this proposal. The administration on this is not viable for either stakeholder and therefore proposal needs to be reconsidered.	Align with the CCG terms 100% for 4 weeks and 80% thereafter.







## Contract update – Martin Samuels

**Fee increase**

- On the 1<sup>st</sup> October 2015 the ‘usual rate ‘ for older people increased by 1%
  - To reflect the change to the minimum wage.
- Providers were informed that rates for 2016/17 would be considered
  - In line with the outcome from the Comprehensive Spend Review (CSR)
  - Once the financial implications on the council was determined.
- As a result a decision report will be recommending to cabinet on the 9<sup>th</sup> May
  - To approve a 1% increase for all placements on the current usual rate (see below)
  - All learning disability and mental health placements
  - Backdated to the 1<sup>st</sup> April 2016







## Contract update

**Fee increase**

- The below table provides the proposed rates for the ‘usual rates’ 2016/17 based on the 1% increase:

Weekly Fees £	Residential & Dementia	% increase	Nursing	% increase
Current usual price	457.46		523.18	
Impact of NLW (assuming 67% of staff affected are 25+)	4.38		5.10	
Profit uplift @ 5%	.22		.22	
New price adjusted for minimum wage	462.06	1.01%	528.54	1.01%
Non-pay inflation	0		0	
Revised fee calculation	462.06		528.54	





## Timeline

**Key dates:**

Cabinet decision paper:	9 <sup>th</sup> May 2016
Draft contract:	16 <sup>th</sup> May – 10 <sup>th</sup> June 2016
Final contract:	17 <sup>th</sup> June 2016
Procurement: Workshops	4 <sup>th</sup> May 10am – 2pm Plough Lane offices/ 9 <sup>th</sup> June 10am – 2pm Leominster
Procurement:	8 <sup>th</sup> July – 1 <sup>st</sup> August 2016
Contract start:	5 <sup>th</sup> September 2016

