

# Agenda

## Cabinet

**Date: Thursday 10 May 2018**

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**Time: 2.00 pm**

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**Place: The 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 Sarah Smith on (01432) 260176 or e-mail [sarah.smith1@herefordshire.gov.uk](mailto:sarah.smith1@herefordshire.gov.uk) in advance of the meeting.

# **Agenda for the meeting of Cabinet**

## **Membership**

**Chairman**

**Councillor JG Lester**

**Vice-Chairman**

**Councillor NE Shaw**

**Councillor H Bramer**

**Councillor BA Durkin**

**Councillor DG Harlow**

**Councillor PD Price**

**Councillor P Rone**

**Councillor EJ Swinglehurst**

## Agenda

	Pages
<b>1. APOLOGIES FOR ABSENCE</b> To receive any apologies for absence.	
<b>2. DECLARATIONS OF INTEREST</b> To receive any declarations of interest by Members in respect of items on the Agenda.	
<b>3. MINUTES</b> To approve and sign the minutes of the meeting held on 12 April 2018.	11 - 22
<b>4. QUESTIONS FROM MEMBERS OF THE PUBLIC</b> To receive questions from members of the public. <i>Deadline for receipt of questions is 5:00pm on Friday 4 May 2018.</i> <i>Accepted questions will be published as a supplement prior to the meeting.</i> <i>Please see <a href="https://www.herefordshire.gov.uk/getinvolved">https://www.herefordshire.gov.uk/getinvolved</a> for information on how to submit a question.</i>	
<b>5. QUESTIONS FROM COUNCILLORS</b> To receive questions from councillors. <i>Deadline for receipt of questions is 5:00pm on Friday 4 May 2018.</i> <i>Accepted questions will be published as a supplement prior to the meeting.</i>	
<b>6. MARLBROOK PRIMARY SCHOOL: NEW PERMANENT ACCOMMODATION AND ADDITIONAL ON-SITE CAR PARKING</b> To approve the business case for a new permanent building at Marlbrook Primary School to accommodate the additional pupils admitted from 2014 in response to rising numbers in South Hereford and to meet parental preference, and to agree the procurement approach to deliver the required works.	23 - 32



## **The Public's Rights to Information and Attendance at Meetings**

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- Inspect agenda and public reports at least five clear days before the date of the meeting.
- 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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- Have access to a list specifying those powers on which the Council have delegated decision making to their officers identifying the officers concerned by title.
- Copy any of the documents mentioned above to which you have a right of access, subject to a reasonable charge (20p per sheet subject to a maximum of £5.00 per agenda plus a nominal fee of £1.50 for postage).
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- The Shire Hall is a few minutes walking distance from both bus stations located in the town centre of Hereford.

## **RECORDING OF THIS MEETING**

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Please do not allow any items of clothing, etc. to obstruct any of the exits.

Do not delay your vacation of the building by stopping or returning to collect coats or other personal belongings.

The Chairman or an attendee at the meeting must take the signing in sheet so it can be checked when everyone is at the assembly point.

## Guide to Cabinet

The Executive or Cabinet of the Herefordshire Council consists of a Leader and Deputy Leader and six other Cabinet Members each with their own individual programme area responsibilities. The current Cabinet membership is:

Councillor JG Lester (Leader) (Conservative)	Corporate Strategy and Budget
Councillor NE Shaw (Deputy Leader) (Conservative)	Finance and Corporate Services
Councillor H Bramer (Conservative)	Contracts and Assets
Councillor BA Durkin (Conservative)	Transport and Regulatory Services
Councillor DG Harlow (Conservative)	Economy and Communications
Councillor PD Price (Conservative)	Infrastructure
Councillor P Rone (Conservative)	Health and Wellbeing
Councillor E Swinglehurst (Conservative)	Young People and Children's Wellbeing

The Cabinet's roles are:

- To consider the overall management and direction of the Council. Directed by the Leader of the Council, it will work with senior managers to ensure the policies of Herefordshire are clear and carried through effectively;
- To propose to Council a strategic policy framework and individual strategic policies;
- To identify priorities and recommend them to Council;
- To propose to Council the Council's budget and levels of Council Tax;
- To give guidance in relation to: policy co-ordination; implementation of policy; management of the Council; senior employees in relation to day to day implementation issues;
- To receive reports from Cabinet Members on significant matters requiring consideration and proposals for new or amended policies and initiatives;
- To consider and determine policy issues within the policy framework covering more than one programme area and issues relating to the implementation of the outcomes of monitoring reviews.

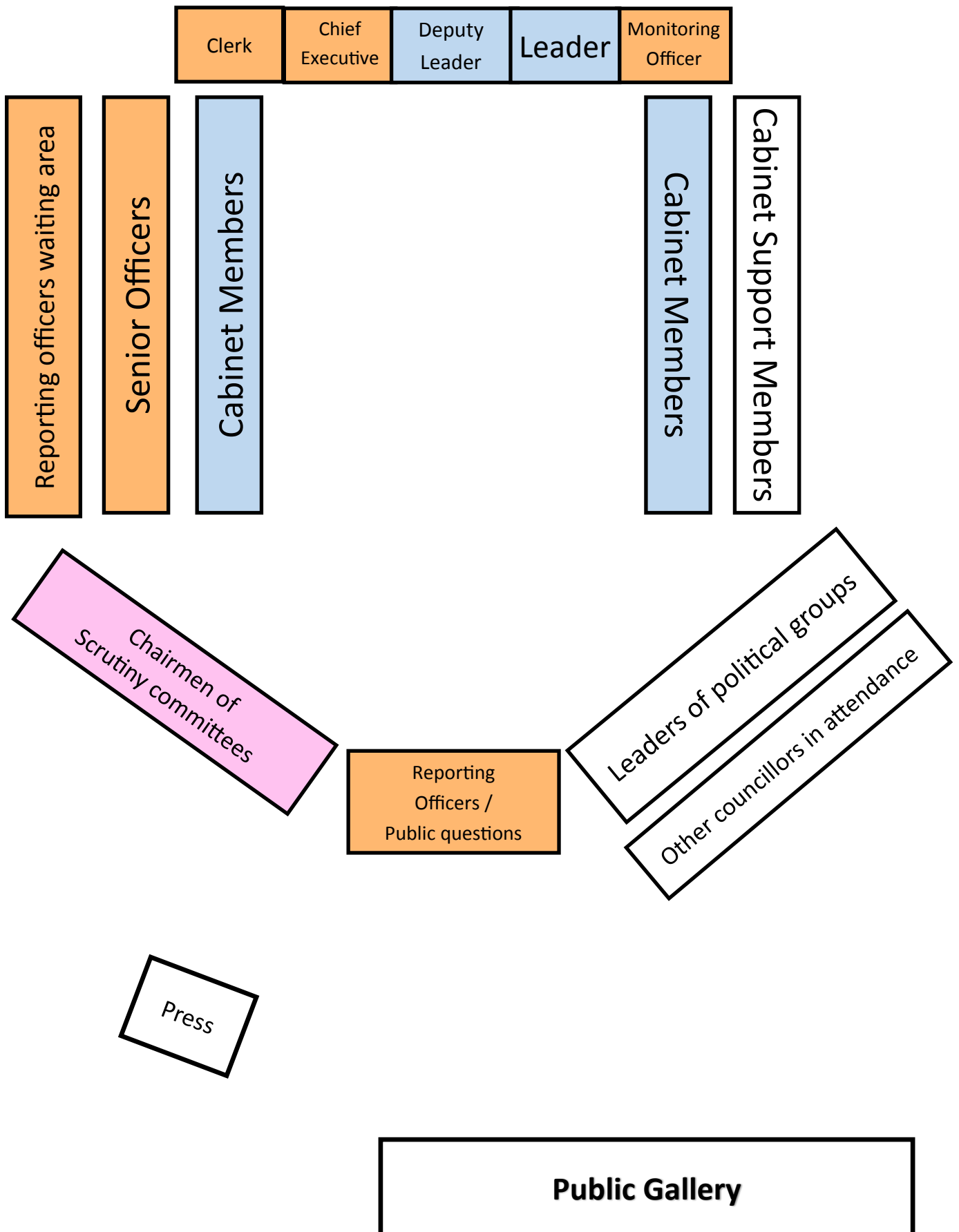
### Who attends cabinet meetings?

On the next page you will find a layout plan of the room showing who is sitting where. Coloured nameplates are used which correspond to the colours on the plan as follows:

Pale blue	Members of the cabinet, including the leader of the council and deputy leader – these are the decision makers, only members of the cabinet can vote on recommendations put to the meeting.
Orange	Officers of the council – attend to present reports and give technical advice to cabinet members
Pink	Chairmen of scrutiny committees – attend to present the views of their committee if it has considered the item under discussion
White	Political group leaders – attend to present the views of their political group on the item under discussion
	Other councillors may also attend as observers but are not entitled to take part in the discussion.









Herefordshire Council

**Minutes of the meeting of Cabinet held at The Council Chamber - The Shire Hall, St. Peter's Square, Hereford, HR1 2HX on Thursday 12 April 2018 at 2.00 pm**

**Present:** Councillor JG Lester (Chairman)  
Councillor NE Shaw (Vice-Chairman)

Councillors H Bramer (*until 4:46pm*), BA Durkin, DG Harlow, PD Price, P Rone and EJ Swinglehurst

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

Group leaders in attendance Councillors RI Matthews and EPJ Harvey

Scrutiny chairmen in attendance Councillors WLS Bowen

Officers in attendance: Alistair Neill, Geoff Hughes, Chris Baird, Andrew Lovegrove, Annie Brookes, Stephen Vickers and Karen Wright

**106. APOLOGIES FOR ABSENCE**

There were no apologies from members of the cabinet.

**107. DECLARATIONS OF INTEREST**

None.

**108. MINUTES**

**Resolved:** That the minutes of the meeting held on 15 March 2018 be approved as a correct record and signed by the Chairman.

**109. QUESTIONS FROM MEMBERS OF THE PUBLIC** (Pages 9 - 10)

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

**110. QUESTIONS FROM COUNCILLORS** (Pages 11 - 12)

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

**111. HEREFORDSHIRE SAFEGUARDING ADULTS BOARD ANNUAL REPORT 2016/17**

The chair of Herefordshire's Safeguarding Adults Board presented the annual report for 2016/17. It was noted availability of the chair taken with capacity on cabinet agendas

had led to this report being presented later than intended. The information in the report was therefore historical but presented an opportunity to reflect on practice and progress.

The chair of the board noted that adults safeguarding had historically had a lower profile than safeguarding of children but that this was an important area of work, protecting not only elderly adults but also adults with other care and support needs, such as learning difficulties, who were unable to protect themselves.

The collective responsibility for safeguarding was emphasised, along with the specific responsibilities of the council. The role of partner agencies was noted. For example the proactive extension of fire safety checks by Hereford and Worcester Fire and Rescue Service to include other areas such as preventing trips and falls.

The potential direct and indirect consequences of safeguarding failures were noted, for example where vulnerable adults were victims of scams and lost substantial sums of money this could impact on their ability to fund their own care needs and resulted in greater reliance on the system. It was recognised that there had been a shift for social care staff in working with individuals rather than doing things to them, and in acknowledging that individuals might choose to live in risky circumstances.

It was noted that performance information was still largely predicated on information provided by the council. It was a struggle to get information from the police services and health services, partly reflecting the way data was recorded and lack of national policy in some areas. Work was continuing with these key partners to improve recording of information.

Cabinet members raised a number of queries regarding the report and work of the safeguarding adults' board. It was noted that:

- the performance sub-group of the board was considering what further information was needed and how to better gather information from partners;
- it was difficult to compare performance in Herefordshire with other areas due to inconsistencies in how performance was recorded;
- there was some concern about the impact of the takeover of the fire and rescue service by the police and crime commissioner on safeguarding work, it was an ongoing dialogue to raise awareness of adults safeguarding across all government departments and with the PCC's office;
- despite good attendance from key partners there was ongoing work with some board members to consider alternative reporting arrangements where physical attendance was difficult;
- it was acknowledged that the budget supporting the safeguarding boards business unit was getting tight but dialogues around this were already under way, if there was a need to commission a case review this would be a one off spend but could be quite expensive and hard to predict;
- the workforce competency framework formed part of the commissioning framework for partner agencies, there had been feedback that it was a robust document but long and detailed, work was under way to try and make the document easier to use for front line supervision.

Group leaders were invited to present the views of their groups. Views expressed included:

- concerns regarding deprivation of liberty cases, which were a national issue and which had been recorded on the corporate risk register of the council since 2014;
- concerns that it could become more difficult to ensure safeguarding where increased numbers of residents were receiving care in their own homes rather than in institutions; and
- that there should be follow up to preventative work to judge its effectiveness.

Further clarification was provided that:

- the extended checks provided by the fire service were a 12 month pilot and some end of pilot follow up visits would take place to assess how effective they had been and how to take the scheme forward; and
- deprivation of liberty was a complex area of work and recognised as an issue nationally, the sub group to the board reported regularly on this issue.

**The 2016/17 annual report of Herefordshire Safeguarding Adults Board was noted.**

## **112. HEREFORDSHIRE SAFEGUARDING CHILDREN BOARD (HSCB) ANNUAL REPORT 2016/17**

The chair of Herefordshire Safeguarding Children Board presented the report. She explained that the role of chair included meeting regularly with key leaders across partner organisations, providing challenge and looking for ways that partners could work together. The annual report included an assessment of the effectiveness of child safeguarding in the area and noted that 1 serious case review had been published during the year 2016-17. The HSCB had focussed on 4 key areas during the year covered by the report: child sexual exploitation and missing children, the child's journey through the child protection process, childhood neglect and early help. The chair of the board summarised the work carried out under these headings and progress achieved.

The usual activity had been carried out on child exploitation to deliver on the action plan objectives. There had been a general reduction in missing children although concern remained about home schooled children. There was concern that the police did not have enough resources to search out all cases of exploitation.

There had been improvement in the child's journey through the child protection process. This had been recognised in the recent peer review. However historic poor threshold management had led to some organisations making referrals without exploring other options and resources first. Now that the thresholds had been reinforced a fairly high proportion of referrals were not generating further action. Work was taking place to push back on organisations making inappropriate referrals. The number of children subject to a child protection plan had been higher in 2016-17 than would be expected given Herefordshire's population and profile. A lot of work had been done by the children's wellbeing directorate and as a result the number of children on protection plans had reduced. The number of looked after children had also been comparatively high and again work to reduce numbers was showing a positive effect.

Work on responding to child neglect had begun in 2016-17 and continued with a much sharper focus in 2017-18. It was noted that more than 50% of children on a child protection plan were due to neglect but that there was not always a consistency of reasoning in these plans. One of the difficulties of dealing with cases of neglect was that there was often no single precipitating event. The single serious case review concluded in 2016-17 had related to a family with multiple children, some of whom had disabilities, and who were of a minority ethnic background. There were concerns that abuse and neglect had not been identified or responded to as would be expected. Learning from the review had highlighted a need to do more work to understand the cultural context in such cases.

The peer review had noted some improvement in and improved understanding of early help. However the chair of the board reported there was still some way to go and the peer review had identified areas for further development. The chair of the board believe that some investment would be required in this area of work.

The conclusion of the annual report on 2016-17 was that the evidence available showed an improving trajectory in Herefordshire. The changing statutory context going forward would see the police and health services elevated to equal status partners with the council and there would be more demands on them as a consequence. The peer review had outlined areas for improvement and the priorities for 2018-19 were expected to be largely the same as in 2016-17, with some shift from child sexual exploitation to exploitation of children more generally.

Cabinet members raised a number of questions on the report. It was confirmed in response that:

- record keeping and a lack of analytical capacity of the police and other partners was an area of concern;
- the relaunched multi-agency safeguarding hub (MASH) was performing much better and delivering greater consistency;
- recruiting and retaining good social workers was a challenge across the country, Herefordshire had done some good work on recruitment generally but it was still difficult to recruit experienced social workers;
- the director for children's wellbeing noted the recent positive local government peer review that highlighted a number of areas of good practice, but also that caseloads were too high in some teams at the moment, cabinet was supporting work to address this and the focus was to ensure good quality, consistent casework;
- an Ofsted inspection should be expected within the year given that it had been some time since the previous inspection, there was no reason to believe that Herefordshire would fail an inspection but the board recognised that there were still areas for improvement;
- partner agencies generally worked together well, there was a good level of attendance at board meetings and support for sub groups from the relevant agencies, the performance of board members was reviewed every year and part of this review was to challenge them on how they fed back into their respective agencies;
- the chair of the board would support making attendance at training on child exploitation compulsory for taxi licence applicants both for first issue and for subsequent renewals.

Group leaders were invited to give the views of their group. There was support for the improved guidance on neglect which many councillors who were school governors were drawing on. There was also concern regarding safeguarding of children in home education. There was a request for the safeguarding board to have input to the scrutiny committee ahead of the planned task and finish group and a suggestion that the council should learn from work done by award winning authorities such as Hertfordshire.

**The 2016-17 annual report of the Herefordshire Safeguarding Children Board was noted.**

*The meeting was adjourned at 15:56 and resumed at 16:04.*

### **113. CORPORATE DELIVERY PLAN 2018/19**

The cabinet member, finance and corporate services introduced the item. The 2018-19 corporate delivery plan was aligned to the four corporate priorities of the council and was the third of four delivery plans in the current corporate plan cycle. The delivery plan set out the projects to be undertaken and measures to be used to judge progress, grouped under areas of activity. Some of the targets were still to be finalised as they relied on yearend figures from 2017-18 which were not yet available. It was noted that cabinet

would receive quarterly performance reports through the year and that the targets in the plan would feed into directorate, team and individual plans.

In discussion of the proposed plan it was noted that:

- provision for the pay settlement had been made and final confirmation was awaited from finance that the reserves in departmental budgets and the overall budget were adequate to meet increased staff costs;
- good progress had been made in developing a relationship with NMiTE the university had met all the milestones set by the department for education and drawn down three tranches of funding, the general scrutiny committee had recommended that the audit and governance committee review the arrangements for council oversight and this was being arranged.

Group leaders were invited to give the views of their group. Concern was expressed that the measures used did not tally with all of the things that group leaders felt should be measured. The view was also expressed that it was premature to agree objectives before the previous yearend figures were known.

**Resolved that:**

- a) the draft corporate delivery plan 2018/19 at Appendix 1 be approved; and**
- b) the assistant director environment and place be authorised to make presentational changes to the approved corporate delivery plan 2018/19 prior to publication, following consultation with the cabinet member finance and corporate services.**

#### **114. CONSTRUCTION AND FACILITIES MANAGEMENT SERVICES TO HEREFORDSHIRE COUNCIL**

The cabinet member contracts and assets introduced the item. The main points noted were:

- the figure in recommendation (b) represented an upper limit which was required for procurement purposes, the detail of the expected spend was set out in the report and there was scope to undertake additional work as part of the contract if the council chose to do so;
- the procurement process would be a combination of frameworks.

Group leaders invited to give the views of their group. It was stated that:

- appropriate break clauses should be included in the contract;
- there should be a clear distinction between maintenance work and development work.

It was clarified that whilst provision would be made in the contract for an option to extend the contract by one year to mitigate any risk of subsequent contracts not being ready to proceed at the appropriate time, any exercise of that contractual option would be subject to further governance.

**Resolved that:**

- (a) an amalgamated property maintenance and cleansing service be procured for a one year period from 1 September 2018 – 31 August 2019; and**
- (b) the chief finance officer be authorised, following consultation with the cabinet member contracts and assets, to award a contract to the successful provider following tender evaluation, with a contract value of up to £12m.**

## 115. PROPOSED REDESIGN OF THE ALLOCATIONS ARRANGEMENTS FOR HEREFORDSHIRE

The cabinet member health and wellbeing introduced the item. The head of strategic housing and wellbeing commissioning and the strategic housing team leader spoke to the report.

The main points noted were:

- that the council had a range of statutory duties relating to housing but did not own any housing stock of its own;
- providers operating in the county were not prepared to continue with the existing allocation system and the council had no power to force a system on them;
- Herefordshire was one of the first, but not the only, council to make significant changes to its housing allocations system;
- changes to the system would not go live until fully tested with an expected implementation in autumn 2018;
- under the new system users would have the choice to go on the housing register and/or register directly with the individual providers;
- the council would make referrals from its housing register to the three largest providers in the county – with around 80% of the total housing stock – through a single system called homehunt while smaller providers would receive direct nominations;
- the new arrangements would include automatic transfer of data, all parties would work to a detailed agreement on data protection and data handling;
- while there was a measure of complexity in the new arrangements, the existing homepoint system was also quite complex;
- a no wrong door approach would be put in place to assist users and the council would monitor the performance of the new system overall;
- the IT systems behind the new allocation arrangements would be important and the council was seeking to revise and upgrade systems, a recent procurement exercise had resulted in no contract being offered as none of the bids were considered satisfactory but work was continuing to seek a suitable system;
- providers were content that homepoint continue until the new system was ready but did want the new system in place as soon as possible;
- the council was working closely with partners and a working group of communications officers from all the organisations involved to develop a communications strategy for the launch of the new system;
- there was no requirement for alignment in policies between English and Welsh authorities but discussions with neighbouring Welsh councils had proved useful in the past and could be renewed, it was noted that generally social providers based in Wales had not expanded into English border areas;
- social rent was generally fixed below affordable rent which was set below market rate, however in practical terms in most schemes there was little difference between social rent and affordable rent;
- social housing could only be operated by a registered provider and increasingly providers were focussing on commercial risk, leading in some cases to being unable to provide social housing on rural developments as no provider was willing to take them on.

Group leaders were invited to give the views of their group. It was confirmed that written answers would be provided to questions submitted prior to the meeting. Views expressed set out that:

- there was surprise that providers could not be required to comply with the council allocations policy;



- there was disappointment that the council was moving away from an integrated system;
- there was concern that the timescale for commissioning the software needed was ambitious and a view that the commercial sector did have systems which might be relevant;
- a unified point of contact seemed sensible but there was recognition that the homepoint system had not worked;
- procurement of the new IT system was the biggest risk;
- training and informing the public was very important.

In light of the difficulties in procuring a new IT system it was agreed that the recommendation be amended to remove reference to a specific date for implementation. Instead it was recommended that the new system be implemented at the earliest opportunity.

**Resolved that:**

- (a) the following new arrangements for allocating social housing be approved for implementation at the earliest opportunity within the existing budget:**
- **the closure of the Home Point system and brand**
  - **the separation of the housing register from the advertising of properties and the management of bidding and the discharge of the council's duty to nominate people and monitor allocations through multiple arrangements, including automatic data transfer.**

## **116. REVISION OF THE ALLOCATIONS POLICY FOR HEREFORDSHIRE**

The cabinet member health and wellbeing introduced the item and noted that it was a natural follow on from approval of the new housing allocations system that had been discussed in the previous item.

It was noted that the proposed new policy was a revision of the 2016 policy that had not been implemented because of feedback from housing providers. The main changes from the previous policy were:

- reflection of statutory requirements under the Homelessness Reduction Act 2017;
- a tightening of local connection requirements in line with government guidance;
- broader application of reasonable preference categories to disabled applicants and those with mental health needs;
- changes around overcrowding and shared accommodation;
- introduction of exclusions from the register for unacceptable behaviour and/or housing debt;
- extension of waiver of local connection for military personnel to ex-partners and ex-spouses; and
- some other procedural changes.

It was noted that unusually the document was required to cover both the policy and procedural details. It was explained that there were some differences in the exclusions policies of the council and the providers. Providers had an obligation broadly to support the council in its housing duties but did have the freedom to set their own exclusions policies. Dialogue was ongoing with providers on some of the harsher exclusions to bring their policies closer to the council policy.

It was clarified that where social or affordable housing was provided under a section 106 agreement which stipulated a certain definition for local connection such as within the

parish this would continue to be followed. If there was no such stipulation in the agreement then the standard local connection criteria in the policy would be applied.

Group leaders were invited to give the views of their group. It was stated that:

- there was concern over the divergence of the council policy and policies of individual housing providers;
- it was important to make the process as simple as possible.

It was agreed that in line with the previous item on the allocations arrangements the recommendation be amended to remove reference to a specific date for implementation. The policy would instead be brought in at the earliest opportunity, to coincide with the implementation of the new IT system.

**Resolved that:**

- (a) the Allocations Policy for Herefordshire at appendix 1 be approved for implementation at the earliest opportunity.**

The meeting ended at 5.16 pm

**Chairman**

**PUBLIC QUESTIONS TO CABINET – 12 April 2018**

Question 1

Mr P Eyles, Hereford

To: cabinet member, infrastructure

Under current plans councillors will only be told the number of houses affected by the bypass after a route is chosen. This must be wrong. May councillors now be told how many houses lie within 300 metres of all the potential routes, before they take a decision, in order to permit a fair and informed selection? Otherwise, would an Inspector not consider the decision process to be flawed?

Response

The published corridor assessment framework included figures for each route corridor for the number of houses which would be directly affected through demolition.

Further detailed assessment continues in line with national guidance. This includes assessment of the direct impact on homes as well as impacts such as noise and air quality on other properties that will not be directly impacted by a bypass route but are adjacent to each route and this will inform a decision on the route.



**COUNCILLORS QUESTIONS TO CABINET – 12 April 2018**Question 1

Councillor RI Matthews

In a recent Family Court Case brought against Herefordshire Council, the Hon Mr Justice Keehan stated ‘ I have never before encountered two cases where a local authority has so seriously and serially failed to address the needs of the children in its care and so seriously misused, indeed abused, the provisions of Section 20 of the Children’s Act 1989.’

What action is being taken to address this issue?

**Response**

Herefordshire Council has received a judgment from the Family Court, which highlights specific past failures in the application of section 20 of The Children Act 1989 (which applies to looked after children and their parents). Section 20 refers to a voluntary agreement between those with parental responsibility and the council, for the council to look after the child. If there is not a voluntary agreement in place children can become looked after through a court order. We regret these past failings in relation to the use of section 20 and, prior to the judgement being received, we had changed our practice to reduce the likelihood of similar cases occurring in future.

Herefordshire Council continues to work to keep children in Herefordshire safe and give them the best start in life. The actions taken now ensure that all requests for children coming into care are presented to a legal gateway meeting, every agreement to voluntary care must be reviewed by a member of the legal team within 28 days, social workers must consider the capacity of individuals with parental responsibility when seeking informed consent for an action, and this capacity must be assessed by independent reviewing officers.

It is important to note that in his judgement Mr Justice Keehan praises the care the two children have received from Herefordshire Council foster carers. He stated that “None of the criticisms in this judgment should be read as referring to or reflecting upon either of these foster carers. I have nothing but admiration for the stable and nurturing care they have given to both boys” Mr Justice Keehan acknowledged the changes we have already made to reduce the likelihood of similar cases in future and was very positive about the current approach in Herefordshire. A recent court judgement praised Herefordshire for its appropriate use of section 20 and the work of our social workers.

At its meeting on 16 April, the Children and Young People's Scrutiny Committee will be considering the establishment of a cross party task and finish group to look at our use of Section 20 orders, and review the processes we now have in place to ensure their appropriate use. I very much welcome this step and look forward to receiving the report of their findings.

**Supplementary question**

It can be taken as read that every local authority in the country will have been made aware of this court case and whenever it is referred to in the future Herefordshire Council will be remembered as the guilty party so it is essential we put things right. Can you tell us what the total financial cost will be to taxpayers in respect of legal and staff cost incurred in conducting this case?

**Response**

We are not in a position to give a figure at this stage. It is my understanding that historically other authorities have used section 20 orders in a similar way to Herefordshire, so it is not a question of highlighting Herefordshire as being the only one to have used these procedures in this way. The matter has evolved so we have learned from the issues we have had to face and hope that other authorities will also learn and implement changes as swiftly as we have done.



<b>Meeting:</b>	<b>Cabinet</b>
<b>Meeting date:</b>	<b>Thursday 10 May 2018</b>
<b>Title of report:</b>	<b>Marlbrook Primary School: new permanent accommodation and additional on-site car parking</b>
<b>Report by:</b>	<b>Cabinet member young people and children's wellbeing</b>

## Classification

Open

## Decision type

Key

This is a key decision because it is likely to result in the council incurring expenditure which is, or the making of savings which are, significant having regard to the council's budget for the service or function concerned. A threshold of £500,000 is regarded as significant.

This is a key decision because it is likely to be significant having regard to: the strategic nature of the decision; and / or whether the outcome will have an impact, for better or worse, on the amenity of the community or quality of service provided by the authority to a significant number of people living or working in the locality (two or more wards) affected.

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

Redhill;

## Purpose and summary

To approve the business case for a new permanent building at Marlbrook Primary School to accommodate the additional pupils admitted from 2014 in response to rising numbers in South Hereford and to meet parental preference, and to agree the procurement approach to deliver the required works.

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Further information on the subject of this report is available from  
 Andrew Hind, Karen Knight, Tel: 01432 260920, Tel: 01432 383042, email:  
 andrew.hind@herefordshire.gov.uk, kknight@herefordshire.gov.uk

Marlbrook Primary School is rated as an outstanding school by Ofsted and has been consistently oversubscribed since 2011. In 2015 and 2016 additional permanent and temporary accommodation was provided to enable the school to take in additional children.

Funding has been identified in the council's capital programme to enable Marlbrook Primary School to become a full three form entry school.

A design and build approach is being recommended for delivery of the extension.

The scheme will provide additional classroom and associated support spaces, as well as addressing car parking and other traffic management issues.

## **Recommendation(s)**

**That:**

- (a) Planning permission be sought for the permanent expansion of Marlbrook Primary School;**
- (b) Subject to securing planning consent, an extension to Marlbrook Primary School to enable its permanent expansion from two forms of entry (60 pupils per year group) to three forms of entry (90 pupils per year group) and provision of additional car parking and associated works to fulfil planning and transport requirements, be approved at a cost of not more than £4,688,500;**
- (c) a design and build contract is procured from one contractor to deliver the works; and**
- (d) the director for children's wellbeing be authorised to take all operational decisions necessary to implement the above recommendations within the agreed budget, including the process to procure and thereafter appoint a contractor who will deliver a design and build solution.**

## **Alternative options**

1. No capital investment is made. Additional places for 30 children in reception could not be accommodated at Marlbrook Primary School in September 2019 or September 2020. The children would have to be accommodated at another school in South Wye, Hereford. For a number of years there have been more children whose parents have requested a place at Marlbrook Primary School than there are places available at the school. While there are other schools in the area that might accommodate these children, there are not sufficient places in the appropriate year groups to enable this and parental preference over a number of years has been for places at Marlbrook. There are also indications of a longer term need for places at Marlbrook and across the local area.
2. Another mobile could be installed to provide additional classroom space. The siting of a mobile would not be considered best value as they are looked upon as temporary solutions, have a finite planning term and do not have the life span that a permanent build accommodation would have. The installation of a mobile would still require investment in car parking and traffic management works. The council's Schools Capital Investment Strategy includes the objective that: "children are not taught in temporary classrooms".



3. Design consultants could be appointed to complete the detailed design work prior to engaging a contractor which could be from a different company. This would involve two separate tender processes to appoint a design consultant and subsequently appoint a contractor once the design had been finalised. This option has been discounted due to the tight timescales to complete the build by September 2019 and it would not maximise the value of the work that could be secured from the budget allocated.

## Key considerations

4. Marlbrook Primary School is a council maintained school located in the south of Hereford. It is currently rated outstanding by Ofsted and is also a teaching school. The school was a two form entry school with a planned admission number of 60 pupils per year, but has been consistently oversubscribed since 2011. The council requested the school to take 90 pupils in 2014, and it has taken larger year groups each subsequent year. Its planned admission number is now 90, but the school does not have a permanent building to accommodate this number.
5. In line with the council's School Capital Investment Strategy (SCIS) principles, the council has supported the school in its expansion plans through making provision in the 2015 and 2016 capital programme for a permanent and temporary classroom respectively to enable the school to continue to admit up to 90 reception children each year. In approving these arrangements, it was noted that a longer term permanent build solution was required for 2018 onwards.
6. The council's capital programme for 2018/19 includes provision of £5.135m to enable Marlbrook to become a full three form entry school. This provision was based on a provisional estimate of costs, recognising that more detailed feasibility work would need to be carried out to inform any decision to proceed. Initial high level costings support the allocated budget.
7. There are a number of ways in which new buildings can be procured. The design and build solution proposed by this report will seek tenders from contractors within an approved procurement framework. The same contractor will develop the design and the building within well-defined parameters provided by the council. These will include a schedule of accommodation including the required floor area of the spaces required, as well as details of the performance of the building. The advantage of this approach is that only one procurement process is required, rather than separate processes for design and subsequent construction. As the same contractor is responsible for both, the design will take the proposed construction system fully into account. The total timescale between approving the project and completion should be reduced by using this approach.
8. The new building will comprise classroom accommodation, shared practical areas and circulation space, a new additional hall, an enlargement of the kitchen, office and storage space, special educational needs teaching and administrative space, and other spaces as defined in the Department for Education's Building Bulletin 103 Area Guidelines for Schools, which set out nationally agreed standards. A hygiene room and physiotherapy room will be specified in order to provide for children with a range of special needs, meeting the requirements of the Equalities Act 2010.
9. The feasibility work investigated ways in which Marlbrook could be extended in the context of its expansion. The current project is based on the suggested approach for modifying the main building. The schedule of accommodation has been cross checked against Building Bulletin 103, to ensure that all required space is provided cost effectively.

10. There is a range of Department for Education guidance addressing specific aspects of school design, such as acoustics, lighting, ventilation, and fire safety, all of which would be required to be addressed in the design.
11. A new external play space will be specified to replace that which will be lost as a result of the new building.
12. 53 additional car parking spaces will be provided to reduce the pressure of parking on neighbouring roads. It will be required that the contractor provides these at the start of the project.
13. Minor remodelling of the existing school building will be required as part of the project. This would be done during school holiday periods.
14. The project would include the removal and disposal of the existing modular buildings, which will not be required once the extension has been completed.
15. The completed works would be required to conform to all relevant safeguarding standards in respect of fencing and controlled access.
16. It is expected that procurement would commence in May 2018, with a successful contractor appointed in June 2018.

## **Community impact**

17. Marlbrook Primary School is highly valued by the local and surrounding community. It provides high quality education for its children, whilst also supporting adult learning, including for the parents of the school's children. Marlbrook was judged outstanding by Ofsted in 2009, and because of its very positive report no further inspection has been required since then. The school is directly involved in early years provision and works closely with the children's centre and private day nursery based in the Greencroft building. All these activities support the council's Corporate Plan priority and Children and Young People's Plan objective of keeping children and young people safe and giving them a great start in life. Some of Marlbrook's pupils are looked after children. The improved and extended accommodation will provide these children, who are a particular responsibility of the council, with enhanced high quality learning environments.
18. The proposal to expand Marlbrook has been prioritised according to the principles set out in the Schools Capital Investment Strategy. The requirement for a three form entry school and the data that supported this was considered by Cabinet in April 2016. The total number of reception year (YR) children admitted to schools in south Hereford increased from a low of 174 in autumn 2010 to a high of 255 in autumn 2017 – an increase of 47%. The total number of statutory age children, that is, those from reception year to year 6, increased from a low of 1,224 in 2010 to a high of 1,625 in autumn 2017 – an increase of 33%.
19. Marlbrook previously had an admissions number of 60 – equivalent to two forms of entry. The school agreed to expand its admissions number to 90 to accommodate more pupils in 2014. Subsequently, its admissions number has been formally increased to 90. It has filled its reception class to capacity each year. At the same time, Our Lady's RC Primary School and St Martin's Primary School in south Hereford have maintained their numbers, and Riverside Primary School has seen significant growth. Marlbrook continues to be a school in high demand and the surrounding primary schools are also experiencing growth

in the number of pupils in their early age groups. Previous growth at Marlbrook has been accommodated mainly by the use of mobile classrooms. These have been jointly funded by the school and the council. The intake of future years' reception will require additional classrooms and the best way of providing this is by permanent expansion of the existing school building.

20. Concerns expressed about vehicle management within the site, and the impact on the public highway, are recognised. The surrounding residential roads are relatively narrow, and can experience a high volume of parking by parents and other users of the school site, particularly at the start and finish of the school day. It is intended to provide additional permanent parking on site to address this problem. The council will work with the school on further developing travel plans to minimise the impact of vehicles either on the school site or the surrounding roads.
21. The works will require access by the contractor's vehicles. This will be managed by the contractor under the supervision of the council with a view to minimising the impact of the construction project on local roads.
22. Responsibility for the on-site health and safety during the construction phase of the project will lie with the contractor, once appointed. The contractor will need to conform with the CDM 2015 Construction Design and Management Regulation, under which they will need to produce the necessary method statements and risk assessments for the work undertaken. The site will be kept separated, as far as possible, once work has started, and will be kept secured at all times to prevent unauthorised access.

## **Equality duty**

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

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

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
  - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
24. The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services. Our providers will be made aware of their contractual requirements in regards to equality legislation. Marlbrook Primary School serves communities where there is a relatively high percentage of children with special needs. The new building will be fully compliant with disability legislation and take into account the needs of pupils and users with protected characteristics.

## Resource implications

25. The extension created in 2015 to provide one additional teaching space was delivered at a cost of £261k. These costs were apportioned equally between the council and the school.
26. The provision of a modular build to provide two additional classrooms was delivered at a cost of £110k. These costs were apportioned between the council and the school, 2/3<sup>rd</sup>:1/3<sup>rd</sup> respectively.
27. The school has contributed a total of £167k towards the expansion to become a full three form entry school. There will be no further contribution from the school.
28. £5.135m is included in the approved capital programme for the expansion of Marlbrook.
29. The funding has been secured as follows:

Corporate funding	£4,085,000
Basic Need	£1,000,000
Surplus funding from previous Marlbrook Primary School schemes	£50,000
<b>Total available for main project</b>	<b>£5,135,000</b>

30. £210k was originally committed to the feasibility works for the main extension. Of this £146.5k has been spent on developing options, which will provide the basis for the specification of the project. This leaves £63.5k which would be added to the budget for the design and build.
31. Cabinet agreed on 18 January 2018 to approve £300k from within the £5.135m to undertake the interim works to provide an additional classroom for September 2018 by modification of the Greencroft building. This leaves £4,688,500 to deliver the main project, including professional fees, design and construction of the additional accommodation.

Sum added to capital programme	£5,135,000
<i>Minus</i> feasibility costs	(£210,000)
<i>Minus</i> interim costs	(£300,000)
<i>Plus</i> unspent feasibility	£63,500
<b>Total available for main project</b>	<b>£4,688,500</b>

32. The figures shown are not final costs however they are based on a detailed analysis of the proposed schedule of accommodation and current professional advice on the cost range per square metre for new and refurbished school construction projects.

## Legal implications

33. The value of the proposed works is in excess of the EU procurement threshold for tendering. Accordingly, a competitive process compliant with the Public Contract Regulations 2015 will be undertaken to appoint a contractor. It is proposed that a pre-existing framework agreement will be used, to give the council a speedy route to market

and access to major construction firms with a national reputation but also an interest in the West Midlands region.

34. The design and build contract, procured through a two stage tender process, offers the council a route to securing the works which is intended to be more effective and quicker than tendering first for design services and then subsequently tendering for the works. The appointed contractor will provide the design and related professional services under a pre-construction services contract and during that first stage will work closely with the council to ensure that the council's requirements can be met within the overall budget. The council will then decide whether to award the works contract to that contractor. The firm contract price can be set before the end of the first stage before the council proceeds to award the works contract to the contractor. If for some reason the council does not decide, at the end of the first stage, to proceed with stage two i.e. the works contract, then the council will own the intellectual property rights in all the pre-construction work which has been undertaken, and it can choose to appoint another contractor to take on the works.

## **Risk management**

35. There is a risk that sufficient classroom space is not made available for September 2019. There is a potential to temporarily use existing building space on site, although the spaces may not be large enough to accommodate an entire class. More than one space could be used per class, at an additional cost or a teacher or teaching assistant to cover the extra spaces.
36. There is a risk that other users of the site, such as the nursery and residents' association, will be affected by the work. These parties have already been consulted about the proposed extension and will continue to be kept informed as the scheme progresses. The contractor will be required to ensure that the continuing operation of day to day activities of tenants and partners is not disrupted through regular site liaison meetings. Major plant movement and deliveries will be required to occur at times which do not impede the operation of the school, nursery or other site users.
37. There is a risk that planning permission is not granted. The planning team have been involved throughout the development of the options and the procurement process to be followed. Feedback to date has suggested that transport and parking are likely to be matters of concern to local residents. The provision of additional car parking spaces will be prioritised as part of the build.
38. There is a risk that the final costs of delivering the scheme, design and construction, will exceed the budget available. The costs will be monitored at all stages and value engineering applied to realise the project within budget. The chosen procurement route (two stage tendering) and the chosen form of contract, a design and build contract with a fixed cost or a target cost with an absolute ceiling, should also help ensure cost control.

## **Consultees**

39. Some consultation work has already begun and included school headteachers, staff and governors, the local ward member (who is supportive of the scheme), and members of the community.
40. The main comments received referred to the improved provision that would be provided for the school and potential difficulties in terms of an increase in car usage and parking.

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Further information on the subject of this report is available from  
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41. The cabinet member for young people and children's wellbeing has been consulted and is supportive of the scheme. Comments were made regarding the inclusion of sustainability features such as solar panels. A partial energy efficiency survey has been undertaken for the existing school which identifies potential improvements to align it with the new extension. Further sustainability improvements will be discussed and considered as part of the final design.
42. It was also suggested that the new build should take into account the needs of autistic children in its design. This will be included in the design specification provided to potential contractors.
43. The potential re-use of the modular buildings used since the school began to increase in size was raised. If there are appropriate alternative uses for the buildings when they are no longer required this will be considered. The most beneficial and cost effective solution for their removal will be implemented, which could include sale for re-use elsewhere should they not be required by the council. Their removal will be included as a requirement of the main contract.
44. Political groups have been consulted. The only comment raised was that the scheme should be closely monitored to ensure we obtain value for money and high standards of workmanship.

## **Appendices**

Appendix 1 – Map of Marlbrook Primary School

## **Background papers**

None identified.

Map of Marlbrook Primary School

