

# **Title of report: Children's Emergency Out of Hours Duty Team (EDT) Service**

**Decision Maker: Cabinet member children and young people**

**Report by: Corporate Director - Children & Young People, and**

**Commissioning Officer, All Age Disability, Community Wellbeing**

## **Classification**

Open

This report is open but an appendix is exempt by virtue of the paragraph(s) of the Access to Information Procedure Rules set out in the constitution pursuant to Schedule 12A of the Local Government Act 1972, as amended.

## **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.

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**

(All Wards);

## **Purpose**

For the Cabinet Member for Children and Young People to consider and approve the recommendations to direct award the Children's out of hours Emergency Duty Team (EDT) social care service contract to the incumbent service provider for a further 3 years with the option to extend for up to an additional 48 months.

## **Recommendation(s)**

**That:**

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- a) To direct award a contract to Worcestershire County Council to deliver Herefordshire's children's social care out of hours Emergency Duty Team (EDT) service for a period of 3 years from 1 April 2026 up to 31 March 2029, with the option to extend up to a further 48 months, initially at an annual cost of £143,170; and
- b) To delegate to the Corporate Director for Children and Young People to take all operational decisions to agree terms and conditions within the contract, including managing the risk of Local Government Reorganisation that may curtail Worcestershire County Council's ability to deliver their contractual obligations by undertaking, if required, a scoping exercise on potential alternative service providers and their costings (in years 2 to 3)

### Alternative options

1. Herefordshire Council could try to deliver the function from within its own social care resources. This would require children's social care to recruit additional social workers and/or change terms and conditions of current children's social workers to enable them to work the unsociable hours required to deliver an out of hours service. As of September 2025, children's social care had 15 full time equivalent (FTE) vacant social worker posts, with a further 27 FTE posts filled with agency staff. Therefore, there is a significant risk of being unable to fill the additional vacancies arising from delivering the service in house. This is not recommended.
2. Herefordshire Council could delegate the function (under S101(b) of the Local Government Act 1972) to Worcestershire County Council to deliver the service. Although this would negate the need for us to commission Worcestershire County Council directly it is not recommended as it would result in the Council having less control over the service with limited opportunity to shape provision of what is a business-critical service.
3. Competitive tender of the service to appoint an external provider. In January 2025, we asked our regional and statistical neighbours how their EDT services are delivered to understand how other authorities deliver their EDTs. Responses received suggest EDT services in other areas have only been commissioned as part of wider restructure of children's social care services therefore, this suggests there is not a market for the EDT service externally. Additionally, there is no option to extend the current contract.

### Key considerations

4. Previous decisions taken by members include:
5. In September 2019, an executive [decision](#) was undertaken by Herefordshire Council Cabinet awarding the contract to Worcestershire County Council from 1 October 2019 for a maximum period of 42 months at a total cost of not more than £440,000.
6. Following the agreed option to extend the contract for 2 years from 1 April 2021 to 31 March 2023 (at a maximum cost of £253,952), a further [decision](#) was approved in February 2023 to apply a 3% uplift (£23,316 in total) across the contract duration, and confirm that 'Further amendment to be approved by the Corporate Director of Children and Families in line with Corporate Scheme of Delegation'.
7. In November 2022 a direct award [decision](#) for the service to continue to be provided by Worcestershire County Council was approved 'at a total contract value for the 3 years of £380,928, from 1 April 2023 up to 31 March 2026'.
8. Section 17(1) of the Children Act 1989 states that it shall be the general duty of every local authority to safeguard and promote the welfare of children within their area who are in need.

This duty continues during out of office hours and the recommendation to extend the current contract will enable the Council to continue to ensure that it meets its duties and obligations in relation to safeguarding children outside of normal working hours, including overnight, weekends and public holidays.

9. The Emergency Duty Team (EDT) service exists to provide an emergency responsive service for children and young people believed to be at risk of significant harm and for whom delay until the next working day would be detrimental to their welfare and safety. The service ensures that they continue to be safeguarded in the immediate term.
10. The current EDT service has been delivered by Worcestershire County Council since 1998, when Herefordshire and Worcestershire became individual authorities and has demonstrated efficient and effective delivery since. This service currently has a Service Lead, 9 part-time social workers and 1 administrative assistant to provide Herefordshire Council's EDT service.
11. Children and young people are safeguarded by the out of hours service by addressing statutory emergencies that cannot be safely left until the following working day, including:
  - a. Child Protection assessments – S47 of the 1989 Children Act (including strategy discussion/meetings)
  - b. Emergency Child in Need Assessments – S17 of the 1989 Children Act
  - c. Investigation of the need to provide services for a child in need
  - d. Investigation of the need to accommodate a child
  - e. Investigation of the need for an emergency protection order
  - f. Emergency assessments under the NHS & Community Care Act 1990
  - g. Request from police for a joint visit
  - h. Coordinate and provide information for SUDIC (Sudden Unexpected Death In Infants And Children)
12. Ofsted's 2018 inspection of Herefordshire's children's social care found that 'an effective out-of-hours emergency duty service (EDS) provides timely and appropriate responses to children and families. Information sharing, contact with daytime services and access to the electronic database enables EDT staff to make informed decisions and take any immediate actions to protect or help children'.
13. In 2019, Ofsted undertook an inspection of Worcestershire County Council's services for children in need of help and protection, children looked after and care leavers overall safeguarding arrangements. Ofsted concluded that the authority were required to make improvements in order to meet a 'good' standard however the report was clear that, 'For those families needing help at weekends and overnight, the emergency duty team provides effective responses that are recorded well.' In 2023 Ofsted returned to inspect Worcestershire County Council, and noted that progress had been made in many areas where improvements were needed.
14. Ofsted's focused visit in January 2019 of Herefordshire's children's social care service found that; 'Decision-making following contacts to children's social care, including those made out of hours, is proportionate and results in the timely progression of referrals to statutory services. Decisions to look after children in emergency circumstances are considered and appropriate and the rationale for decision-making is clearly recorded.'

15. In 2022, Ofsted undertook an inspection of Herefordshire Council service for all Childrens service. Ofsted concluded that the authority were inadequate however, the report stated 'timely and proportionate action is taken to respond to children's urgent needs outside of normal office hours'.
16. Ofsted Monitoring visits have been ongoing between July 2022 and June 2025, however they have not focussed on this service area.
17. Herefordshire Council has been satisfied with the quality and responsiveness of the EDT service provided by Worcestershire County Council. There are clear joint operational protocols in place between Herefordshire Council and the EDT, and any emerging issues are addressed through regular contract management meetings and quarterly submission of performance data, which will continue to be required under the new contract.
18. The current service was commissioned utilising an extension and waiver to procurement rules in February 2023 based on the consensus that the market hadn't changed and there were no known competitors for this service.
19. There is no option to extend the current EDT contract, however, as per legal advice this is an 'exempt contract' for the purposes of the Procurement Act 2023 ("the Act") as it would be considered a 'horizontal' contract in accordance with para 3 of Schedule 2 of the Act. This exemption means that a new contract can be directly awarded without the need for a full procurement exercise. This is the best way for cost and quality to continue the EDT service that we are required to offer.
20. Following Cabinet Briefing on 11 September 2025, it was agreed that a Political Group Consultation was not required for this forthcoming decision, as funding for this service was already agreed in the budget as approved by Council on 7 February 2025.

### **Community impact**

21. The awarding of the contract for the out of hours service supports Herefordshire's overarching vision for all children and young people – that we keep them safe and give them a great start in life. It will also make the best use of the resources available in order to meet the council's priorities.
22. During the period April 2024 to March 2025, the service dealt with an average of 96 contacts with safeguarding cases per month and worked with on average of 46 different families per month. Most referrals to the service came from care providers (children's homes, fostering agencies and supported accommodation contacts), the police, or hospitals/GPs. The most common reasons for contacting the service were to share information / access advice, report a missing child or to share concerns. Most cases were, and continue to be, dealt with through telephone consultation, and when necessary EDT will arrange for a social worker to undertake an emergency site visit.

### **Environmental Impact**

23. Herefordshire Council provides and purchases a wide range of services for the people of Herefordshire. Together with partner organisations in the private, public and voluntary sectors we share a strong commitment to improving our environmental sustainability, achieving carbon neutrality and to protect and enhance Herefordshire's outstanding natural environment.

24. The environmental impact of this proposal has been considered through the service specification and includes appropriate requirements on the contractor/delivery partner to minimise waste, reduce energy and carbon emissions by working remotely when possible and to consider opportunities to enhance biodiversity. This will be managed and reported through the ongoing contract management.

### **Equality duty**

25. The Public Sector Equality Duty requires the Council to consider how it can positively contribute to the advancement of equality and good relations and demonstrate that it is paying 'due regard' in our decision making in the design of policies and in the delivery of services.
26. The mandatory equality impact screening checklist has been completed for this decision and it has been found to have low impact for equality.
27. Due to the potential impact of this decision being low, a full Equality Impact Assessment is not required. However, the following equality considerations should be taken into account when making a decision about this activity/project:
- a. 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.
  - b. The decision does not discontinue services and has no detrimental impact for those eligible to access the service.
  - c. This proposal pays due regard to the public sector equality duty by ensuring that children and young people who are believed to be at significant risk of harm remain safeguarded outside of normal working hours.
  - d. Children and/or their families/carers who require out of hours services will share a number of the protected characteristics, which are set down in the Equality Act 2010 and towards which public bodies such as Herefordshire Council have statutory duty.
  - e. Within the contract, there will be an obligation for Worcestershire County Council to monitor equality and diversity. They must have in place (at all times whilst providing any services and in relation to its activities within the United Kingdom) appropriate policies, procedures and systems to monitor and enforce those procedures, to ensure its compliance with relevant UK law relating to equalities and anti-discrimination, including the Equality Act 2010.

### **Resource implications**

28. The contract value is £442,524 for a three year contract period, and £1,097,034 should the further 48 month option to extend be utilised.
29. As this is a direct award there will be no initial set up costs, and the IT systems / access to Mosaic, and retention of appropriately qualified staff (without having to consider TUPE) will remain in place at no additional cost.

## Legal implications

30. In July 2025, Herefordshire Council Legal Services advised:
- a. *The purpose of the the contract appears to be an ‘exempt contract’ for the purposes of the Procurement Act 2023 (“the Act”) as it would be considered a ‘horizontal’ contract in accordance with para 3 of Schedule 2 of the Act.*
  - b. *A horizontal arrangement exists between co-operating contracting authorities when:*
    - i. *a. the arrangement is intended to achieve common goals in connection with the exercise of their public functions;*
    - ii. *b. the arrangement is solely in the public interest;*
    - iii. *c. no more than 20% of the activities envisaged by the arrangement are intended to be carried out for reasons other than for the purposes of their public functions. (See Annex B for calculation information.)*
  - c. *Public functions are activities contracting authorities carry out as a public authority - for example, local authorities are responsible for the disposal of household waste. Activities carried out for the purpose of a waste disposal function could be, for example, recycling or disposing of waste in landfill. Contracting authorities may also carry out activities that are not for the purpose of their public function, for example, local authorities disposing of commercial waste to create a profit.*
  - d. *It appears that the public function being delivered is the statutory duty pursuant to s17 Childrens Act 1989 to safeguard and promote the welfare of children by providing an emergency duty team and the function is being delivered via an agreement between co-operating contracting authorities and therefore procurement routes dictated by the Procurement Act 2023 are not required in such circumstances.*
  - e. *Procurement Rule 4.6.8 (f) in the Constitution confirms that the Council’s standard procurement framework does not apply to contracts in collaboration with other public bodies.*

## Risk management

31. If the decision is not approved:
32. Herefordshire would not have access to alternative out of hours Emergency Duty Team service for children’s social care without commercially procuring a service. As outlined in paragraph 3 this is not recommended due to the limited service provider market, resulting in a significant gap in this business-critical service. This could negatively impact the ongoing Ofsted reviews, and would remove timely and appropriate responses to children and families.
33. There is significant reputational and legal risk to the Council for not meeting its statutory/legal obligations. There would also be risk to the children and their families/carers who require this service and damage to the council’s reputation and strategic relations.
34. The data sharing agreement for this service with Worcestershire County Council would be impacted, as it currently supports the out of hours service to contact daytime services, access the electronic database which enables EDT staff to make informed decisions and take any immediate actions to protect or help children. In addition to this, EDT staff who require access to Mosaic as part of their role, will be required to sign a third-party agreement with the Council. EDT will also be included in the Multi-Agency Safeguarding Hub’s (MASH) partnership data

sharing agreement. MASH is a partnership between the Council's children's social care, police, health, probation, education and Women's Aid. It provides a single point of contact for all safeguarding concerns. It is a confidential unit in which information is shared securely in order to make sure children and young people in Herefordshire are kept safe.

35. This statutory service will be added to the Council's corporate risk register as Local Government reorganisation may mean that Worcestershire County Council cannot continue to provide this service year on year for the full contract term.

### **Consultees**

36. Following Cabinet Briefing on 11 September 2025, it was agreed that a Political Group Consultation was not required, as funding for this service was already agreed in the budget.

### **Appendices**

None.

### **Background papers**

None identified.

**Please include a glossary of terms, abbreviations and acronyms used in this report.**

1. EDT – Emergency Duty Team.
2. MASH - Multi-Agency Safeguarding Hub.