

The Cabinet

14th June, 2017 at 3.30 pm
at the Sandwell Council House, Oldbury

Present: Councillor Eling (Chair);
Councillors Carmichael, Hackett, Khatun,
Marshall, Moore, Shackleton and Trow.

Apologies: Councillors Gill, D Hosell and Underhill.

In attendance: Councillors Edis, E M Giles, Hickey and
P Hughes.

103/17 **Declaration of Interest**

Councillor Edis declared a non-pecuniary interest in Minute Nos. 106/17 and 108/17 below (Sandwell Adult and Family Learning Service - Fees and Concessions 2017/18 and Average Holiday Pay respectively) on the basis of a family member's employment.

104/17 **Minutes**

Resolved that the minutes of the meeting held on 17th May 2017 be confirmed as a correct record.

Strategic Items

105/17 **Childcare Sufficiency Report 2017-2018 (Key Decision Ref. No. SMBC16126)**

The Cabinet Member for Children's Services reported that the Childcare Act 2006 enabled local authorities to shape the market for childcare support in their area.

The Cabinet – 14th June, 2017

Working with providers from the private, voluntary, independent and maintained sectors, the local authority aimed to create a strong, sustainable and diverse market for childcare support that met the needs of parents and, in particular, sufficient, sustainable and flexible childcare that was responsive to parents' needs.

In addition, the Children and Families Act 2014 stated that local authorities should report annually on how they were meeting their duty to secure sufficient childcare, and make this report available and accessible to parents.

Consideration was now given to Sandwell's Childcare Sufficiency Report 2017-2018. To ensure that sufficient childcare places were available, a detailed and comprehensive action plan would be developed to address the recommendations arising from the findings of the report.

An equality impact assessment was not required for this proposal.

In response to a question raised by the Chair of the Budget and Corporate Scrutiny Management Board relating to nine of the fourteen recommendations of the Childcare Sufficiency Report relating to the Wednesbury wards and consideration to therefore be given to setting up specific time limited and targeted task force working with cross service officers to address the issues, the Cabinet Member for Children's Services confirmed that the Family Information Service would be attending meetings in all parts of the borough to discuss the needs and solutions required. The Team would consider all options including whether the task and finish cross service group could resolve the issues identified.

In response to a question raised by the Chair of the Economy, Skills, Transport and Environment Scrutiny Board, the Leader of the Council confirmed that all key decisions were included in the Council's 28-day notice and scrutiny boards had the opportunity to comment on reports before they were considered by the Cabinet.

Resolved:-

- (1) that the Sandwell Childcare Sufficiency Report 2017-2018, as now submitted, be endorsed;

The Cabinet – 14th June, 2017

- (2) that in connection to Resolution (1) above, the Director – Education, Skills and Employment develop and implement a Childcare Strategic Action Plan for 2017/18 to be monitored based on the recommendations of the Childcare Sufficiency Report in order to meet the Council's obligations under the Childcare Act, 2006.

106/17

Sandwell Adult and Family Learning Service - Fees and Concessions 2017/18 (Key Decision Ref. No. SMBC16139)

The Cabinet Member for Children's Services provided details of the Sandwell Adult and Family Learning Service fees and concessions 2017/18.

Funding for Adult and Family Learning courses was provided through an external Government contract with the Skills Funding Agency. The Government's policy was that providers of Adult and Family Learning courses should increase income from course fees on an annual basis so that those that could afford to pay was combined with targeted support for those with low incomes.

Sandwell Adult and Family Learning Service aimed to ensure that fees remained modest and were lower than those charged by other Black Country Adult Education providers, where charges were at an average of £4.50 per hour.

Following discussions with centre staff, learners and community partners and a comparison with neighbouring authorities, it was proposed that the base fee for the 2017/18 academic year remained at £3.50 per hour.

It was also proposed that several concessions would remain.

In response to a question raised by the Chair of the Economy, Skills, Transport and Environment Scrutiny Board relating to attempting to increase English language courses particularly for the Black Ethnic Minority community, the Cabinet Member for Children's Services confirmed that a report on this issue would be submitted to a future meeting of the Cabinet.

The Cabinet – 14th June, 2017

Resolved:-

- (1) that the fee base for Adult and Family Learning courses in Sandwell for the academic year 2017/18 is maintained at £3.50 per hour;
- (2) that the fee concessions for Adult and Family Learning courses in Sandwell for the academic year 2017/18 shall remain as:
 - Family Learning, adult maths and English courses below Level 2 and employability provision will remain free;
 - fee discounts of 100% for personal development and personal interest courses are available for those that receive Job Seekers Allowance, Employment Support Allowance and Universal Credit, as approved/defined by the funding rules of the Skills Funding Agency, or are aged 19-25 and are in or have recently left care;
 - where people are not eligible for approved fee discounts, fee concessions will be available for those people who are aged 60+.

107/17

Award of Contract for the Provision of Technology Hardware (Key Decision Ref. No. SMBC16138)

The Cabinet Member for Core Council Services sought approval to award a contract for the provision of technology hardware for a period of two years from 1 July 2017 to 30 June 2019.

In accordance with the Council's Procurement and Contract Procedure Rules and Official Journal European Union legislation, a procurement exercise had been undertaken. However, despite 20 companies being invited to submit a tender, only one tender was submitted due to a number of companies not supplying all of the hardware that the Council required or they did not have the resources to supply the Council at the moment because they were committed to completing other tenders.

The Cabinet – 14th June, 2017

An exemption from the Council's Procurement and Contract Procedure Rules was therefore required because the required four tender responses had not been received.

In response to a question raised by the Chair of the Budget and Corporate Scrutiny Management Board, the Cabinet Member for Core Council Services confirmed that the framework agreement would underpin the functioning of the Council and provide maximum flexibility. The Council would continue to look at ways to improve the social value impact for the future.

Resolved:-

- (1) that the Executive Director - Resources award the contract for the provision of technology hardware to Computacenter (UK) Limited for a two-year period from 1st July 2017 to 30th June 2019;
- (2) that in connection with Resolution (1) above, the Director – Monitoring Officer enter into a contract with Computacenter (UK) Limited;
- (3) that in connection with Resolution (1) above, any exemption be made to the Council's Procurement and Contract Procedure Rules to enable the action proposed to proceed.

108/17

Average Holiday Pay (Key Decision Ref. No. SMBC16143)

The Cabinet Member for Core Council Services reported that following changes in case law in relation to the payment of average holiday pay and whether employees should receive 'normal pay' when taking holidays, an Employment Appeals Tribunal (EAT) had concluded that holiday pay should be equivalent to an employee's 'normal pay', or the amount normally received, rather than just basic pay.

Payment for overtime (typically worked by full time employees) and additional hours (worked by part time employees), which an employee could not normally refuse to carry out, must count towards their 'normal pay' when calculating the pay they should receive when on holiday.

The Cabinet – 14th June, 2017

Under the EAT`s decision, employees were entitled to an equivalent of 20 days of leave to be paid as normal pay (and not the additional week`s holiday granted through UK legislation). This equated to 20 days holiday as a percentage of the remaining days available to take that holiday (i.e. 240 working days) or 8.3%. Paying the 8.3% uplift removed the need for detailed and difficult calculations in respect of each employee and could be readily implemented by using established payroll management arrangements. This payment would be detailed separately on pay slips and would be subject to normal income tax, national insurance and pension rules.

Approval was now sought to adopt the Average Holiday Pay to be applied to all employees of the Council, including all local authority community schools (non-teaching). Schools that were Voluntary Aided and Trust Schools were being encouraged to adopt these provisions. Payments in respect of holiday pay would be made by uplifting all overtime and additional hours payments by 8.3% to cover “shortfalls” in holiday pay, with effect from 1st April 2017.

An equality impact assessment was not required for this proposal.

In response to questions raised by the Chair of the Budget and Corporate Scrutiny Management Board, the Cabinet Member for Core Council Services confirmed that as there was no central funding available for average holiday pay payments, this would be accommodated from within existing provision. There was an incentive to continue the drive to reduce overtime and additional hours costs further. The back-pay period for elements of overtime to be paid average holiday pay would be backdated to 1st April 2017 and implementation was planned for 1st July 2017.

t

Resolved that the Average Holiday Payment be adopted by uplifting all overtime and additional hours payments by 8.3% to cover “shortfalls” in holiday pay, with effect from 1st April 2017.

The Cabinet – 14th June, 2017

Business Items

109/17 **School Terms and Holidays 2018/2019**

The Cabinet Member for Children's Services presented details of the schedule of school terms and holidays which would be implemented by all controlled schools and which should be recommended to the governing bodies of all teaching establishments in Sandwell for the 2018/2019 academic year.

The schedule had been agreed by all neighbouring local authorities for recommendation in their respective consultation exercises. Birmingham had already agreed and published these dates.

The Joint Union Panel had considered the options and all unions had responded in support of the schedule.

The majority of those Sandwell schools already able to set their own term dates (academies, voluntary aided and trust schools) had continued to follow the local authority set dates.

The Cabinet Member for Children's Services recommended the proposals for approval.

An equality impact assessment was not required for this proposal.

The Chair of the Economy, Skills, Transport and Environment Scrutiny Board welcomed the proposals particularly as the school holidays were the same across neighbouring boroughs which helped working parents.

Resolved that the Schedule of School Terms and Holidays, as set out at Appendix A, be approved for publication to apply to all community and voluntary controlled schools for the 2018/19 academic year.

110/17 **Cabinet Member for Public Health and Protection**

The Leader of the Council congratulated Councillor Preet Gill on her recent election as Member of Parliament for the Birmingham Edgbaston constituency.

The Cabinet – 14th June, 2017

Whilst Councillor Gill would continue as a member of Sandwell Council, she would be stepping down as Cabinet Member for Public Health and Protection. With effect from Monday 19th June 2017, Councillor Elaine Costigan would become the Cabinet Member responsible for the Public Health and Protection executive portfolio.

111/17

Council's Use of Regulation of Investigatory Powers Act 2000 (RIPA) and the setting of Council's RIPA Corporate Guidelines and Policy

The Leader of the Council, in the absence of the Cabinet Member for Public Health and Protection, reported that the Regulation of Investigatory Powers Act 2000 (RIPA) specified the circumstances in which a local authority may carry out covert surveillance, which may otherwise constitute a breach of the Human Rights Act 1998.

Activities which may be carried out by a local authority, provided it complied with the Regulation of Investigatory Powers Act 2000, included: -

- covert surveillance during a specific operation;
- the use of covert human intelligent sources, such as agents, informants and undercover officers.

There was one application made for the use of directed surveillance and no applications for covert human intelligent sources for the period 1st April 2016 to 31st March 2017. The directed surveillance application was in connection with an investigation by Trading Standards into the sale of counterfeit goods.

The Council was inspected by Sir David Clarke, Assistant Surveillance Commissioner with the Office of Surveillance Commissioners on 28th July 2016 who had described the Council's structures as "sound and compliant". The Commissioner had also made two recommendations; to make a small number of minor revisions to the Corporate Guidelines and Policy, which were subsequently approved by Cabinet on 16th November 2016, and secondly that specific attention is paid to the circumstances in which RIPA authorisation was required for internet investigation in both RIPA training and investigation practice, to avoid any risk of unauthorised infringement of privacy.

The Cabinet – 14th June, 2017

In March 2017, an external trainer had provided training to social workers and solicitors to cover this aspect. It was anticipated that the next inspection would take place in 2019.

The policy had since been revised to take into account a change of responsibilities; the Executive Director - Resources was the Senior Responsible Officer and the day to day management of RIPA was now undertaken by a solicitor within the Prosecutions, Licensing and Governance Section of Legal Services.

An equality impact assessment was not required for this proposal.

In response to a question raised by the Chair of Safer Neighbourhoods and Active Communities Scrutiny Board, the Leader of the Council confirmed that the RIPA policy referred to the Council's use of covert surveillance techniques which were undercover. Body cameras worn by Street Wardens were overt and did not fall within the RIPA regime exercised by the Council.

Resolved:-

- (1) that the information regarding the Council's use of the Regulation of Investigatory Powers Act 2000 from 1st April 2016 up to 31st March 2017 be received;
- (2) that the Council's revised Regulation of Investigatory Powers Act Corporate Guidelines and Policy be approved.

112/17

Action Taken on Matter of Urgency – Friends of Ingestre Orangery

The Cabinet Member for Core Council Services presented details of an urgent action taken by the Director - Regeneration and Planning, in consultation with the Cabinet Member for Core Council Services. The action related to providing grant funding in the sum of £50,000 to the Friends of Ingestre Orangery for design costs for the restoration of the orangery at Ingestre Hall, a Grade II listed property in Staffordshire, owned and operated by the Council as a residential arts centre for schools.

The Cabinet – 14th June, 2017

The grant funding would enable preparation of the technical design of the project which included architectural, structural, building services, specialist subcontractor design and specifications.

The completion of the works would enable the Friends of Ingestre Orangery to then submit a grant funding bid for European Leader funding for which Staffordshire County Council would act as accountable body. The Leader programme required that design work was completed, a main contractor appointed and an application submitted by mid-August to enable a decision on Leader funding in mid-September. In order to meet the August deadline, works needed to be commissioned urgently.

The Friends of Ingestre Orangery was a charitable organisation and had successfully secured grant funding of £48,900 from Heritage Lottery Fund for a Round 1 bid to undertake development work for the restoration of the orangery. The total cost of the development work was £70,700 and match funding of £10,000 was provided by the Council, along with donations of £1,000, funding from the Friends of Ingestre Orangery of £4,000 and support in kind of £6,800.

Resolved that details of the urgent action taken by the Director – Regeneration and Planning to authorise the grant of £50,000, in support of Phase 2 Heritage Lottery Fund bid for the restoration of Ingestre Orangery to support Friends of Ingestre Orangery accessing European Leader match funding as part of the overall restoration project, be received.

(Meeting ended at 4.00 pm)

Contact Officer: Suky Suthi-Nagra Democratic Services Unit 0121 569 3479
--



**Schedule of School Terms and Holidays
2018/2019 Academic Year
Primary, Secondary and Special Schools**

Appendix A

	Main Holidays	Half Term Holidays	Working Days
<u>Autumn Term 2018</u>			
From: Monday, 3 September	From: Monday, 24 December	From: Monday, 29 October	75
To: Friday, 21 December	To: Friday, 4 January	To: Friday, 2 November	
<u>Spring Term 2019</u>			
From: Monday, 7 January	From: Monday, 15 April	From: Monday, 18 February	65
To: Friday, 12 April	To: Friday, 26 April	To: Friday, 22 February	
<u>Summer Term 2019</u>		<u>May Day</u> <i>Monday, 6 May</i>	
From: Monday, 29 April	From: Tuesday, 23 July	From: Monday, 27 May	55
To: Monday, 22 July		To: Friday, 31 May	

The Cabinet – 14th June, 2017

Pupils to attend school on 190 working days within the overall arrangements determined by the schedule.

Bank Holidays:

Christmas: Tuesday 25 and Wednesday 26 December 2018

New Year: Tuesday 1 January 2019

Good Friday: Friday, 19 April 2019

Easter Monday: Monday, 22 April 2019

May Day: Monday, 6 May 2019

Spring Bank Holiday: Monday, 27 May 2019