

SCRUTINY COMMITTEE

Thursday, 11th March, 2021

**2.00 pm or on the rise of County Council –
whichever is later**

Online





AGENDA

SCRUTINY COMMITTEE

**Thursday, 11th March, 2021, at 2.00 pm
or on the rise of County Council, whichever
is later.
Online**

**Ask for: Anna Taylor
Telephone: 03000 416478**

Membership

- Conservative (9): Mr A Booth (Chairman), Mr J Wright (Vice-Chairman),
Mr M A C Balfour, Mr P V Barrington-King, Mrs P M Beresford,
Mrs R Binks, Mr G Cooke, Mr R C Love, OBE and Mr A M Ridgers
- Liberal Democrat (2): Mr R H Bird and Mrs T Dean, MBE
- Labour (2) Mr D Farrell and Dr L Sullivan
- Church Mr J Constanti and Mr Q Roper
- Representatives (3):
- Parent Governor (2): Mr K Garsed and Mr A Roy

In response to COVID-19, the Government has legislated to permit remote attendance by Elected Members at formal meetings. This is conditional on other Elected Members and the public being able to hear those participating in the meeting. This meeting will be streamed live and can be watched via the Media link on the Webpage for this meeting. County Councillors who are not Members of the Committee but who wish to ask questions at the meeting are asked to notify the Chairman of their questions in advance..

UNRESTRICTED ITEMS

(During these items the meeting is likely to be open to the public)

A - Committee Business

- A1 Introduction
- A2 Apologies and Substitutes
- A3 Declarations of Interests by Members in items on the Agenda for this Meeting

A4 Minutes of the meeting held on 22 January 2021 (Pages 1 - 8)

B - Any items called-in - None for this meeting

C - Any items placed on the agenda by any Member of the Council for discussion

C1 Covid - 19 Financial Monitoring (Pages 9 - 28)

C2 Local Authority Coronavirus Enforcement Powers (Pages 29 - 36)

EXEMPT ITEMS

(At the time of preparing the agenda there were no exempt items. During any such items which may arise the meeting is likely NOT to be open to the public)

Benjamin Watts
General Counsel
03000 416814

Wednesday, 3 March 2021

KENT COUNTY COUNCIL

SCRUTINY COMMITTEE

MINUTES of a meeting of the Scrutiny Committee held Online on Friday, 22 January 2021.

PRESENT: Mr A Booth (Chairman), Mr J Wright (Vice-Chairman), Mr M A C Balfour, Mr P V Barrington-King, Mrs P M Beresford, Mrs R Binks, Mr R H Bird, Mr G Cooke, Mrs T Dean, MBE, Mr D Farrell, Mr R C Love, OBE, Dr L Sullivan and Mr B J Sweetland

ALSO PRESENT: Mr P J Oakford (Deputy Leader and Cabinet Member for Finance, Corporate and Traded Services), Mrs C Bell (Cabinet Member for Adult Social Care and Public Health) and Miss D Morton (Deputy Cabinet Member for Adult Social Care and Public Health)

IN ATTENDANCE: Ms Z Cooke (Corporate Director of Finance), Mr A Scott-Clark (Director of Public Health), Mr B Watts (General Counsel), Mr D Shipton (Head of Finance Policy, Planning and Strategy), Mr M Rolfe (Head of Kent Scientific Services/Interim Head of Kent Resilience Team), Mr J Whiddett (Trading Standards Operations Manager), Mr G Romagnuolo (Research Officer - Overview and Scrutiny) and Mrs A Taylor (Scrutiny Research Officer)

UNRESTRICTED ITEMS

22. Introduction

(Item A1)

The Chairman stated his disappointment at the non-attendance of the Church Representative and Parent Governor co-opted members.

23. Declarations of Interests by Members in items on the Agenda for this Meeting

(Item A3)

Dr Sullivan declared an interest in Item A6 and informed the Committee that her husband was employed in the Children, Young People and Education directorate.

24. Minutes of the meeting held on 27 November 2020

(Item A4)

RESOLVED that the minutes of the meeting held on 27 November 2020 were a correct record and that they be signed by the Chairman.

25. Minutes of the meeting held on 10 December 2020

(Item A5)

RESOLVED that the minutes of the meeting held on 10 December 2020 were a correct record and that they be signed by the Chairman.

26. Draft 2021/2022 Budget and Medium Term Financial Plan

(Item A6)

Committee consideration based on the draft budget issued 7 January 2021.

Mr P Oakford, Deputy Leader and Cabinet Member for Finance, Corporate and Traded Services; Mrs Z Cooke, Corporate Director of Finance and Mr D Shipton, Head of Finance Policy, Planning and Strategy were in attendance for this item.

1. Mr Oakford provided a verbal overview of the budget and noted its progression through the Cabinet Committees. He stressed the fiscal significance of the past 10 months on County Council finances and noted the high level of uncertainty. Mr Oakford added that a possible adjustment of services and risks may be required, especially related to children's services expenditure, when considering a future return of pupils to school as an example.
2. Mr Shipton gave a presentation which provided a detailed overview of consultation feedback, the revenue budget and capital programme, schools budgets, financial risks, resilience, and medium-term planning. He noted that the provisional 2021-22 Local Government Finance Settlement (LGFS) had been greater than expected. Council Tax increases were outlined as a 1.99% general precept increase and a 3% Adult Social Care precept increase. Mr Shipton added that confirmation of Kent's ringfenced Public Health grant was still pending. Net spending increases were cited at £98m, £80.7m for business-as-usual operations and £17.3m directly related to Covid-19 operations, savings of £23.2m were delineated. Budget risks were addressed, Members were informed that financial risks had been considerably greater during the 2020-21 financial year as a result of the pandemic and that the trend would continue into 2021-22, assurances were given that reserves were to be bolstered to mitigate risks associated with in-year service demands. Kent's financial resilience was compared with other upper tier authorities, it was noted that the authority had comparatively low levels of reserves and relatively high levels of debt than other county councils.
3. The Chairman commended Mr Oakford, Mrs Cooke, Mr Shipton and all Officers within the Finance division for their efforts in producing a resilient budget given the challenges presented by the Covid-19 pandemic.
4. A Member appealed to the Monitoring Officer with a request for additional information concerning the County Council's revenue variation statements. Sections 4(a), 4(h), 7.1(b), 8.10(b), 17.68, 21.9 and 21.10 of the Constitution were cited by the Member. POST MEETING NOTE: A written response, from the Monitoring Officer, to the requests made by the Member was circulated to the Committee on 3 February 2021.
5. The Committee scrutinised the Draft 2021/2022 Budget and Medium Term Financial Plan on a page-by-page basis, the following questions were asked:
 - a. In relation to the national fiscal and economic context, a Member asked to what extent above inflation Council Tax increases were sustainable

for Kent's taxpayers. Mr Oakford reassured Members that KCC had continued to lobby central government, directly and through the LGA and CCN for greater and longer-term financial settlements. Mr Shipton added that central government had published the 2021-22 Core Spending Power index, which analysed the resources available to local authorities to fund service delivery and set out its assumptions of Council Tax increases. It was confirmed that Kent's proposed increase was in line with the Government's assessment.

- b. A Member requested a statement of confidence from the Deputy Leader regarding the figures outlined for Capital Receipts. Mr Oakford stated his confidence in the Capital Receipt figures and his expectation that the projected figures would be achieved despite the associated risks.
- c. Mr Oakford was asked whether the future use and possible sale of KCC owned properties to provide additional capital had been considered. He noted that properties had been sold to fund capital projects over past 10 years and that the current focus of Infrastructure had been on analysing building use, especially when leasehold properties were considered. A Member requested that future capital demands and the use of KCC's estate be added to the Work Programme, this would be added to the agenda for a future Scrutiny Committee meeting.
- d. A Member requested clarification on future Member remuneration. Mr Oakford confirmed that the independent Member Remuneration Panel would make a recommendation on the appropriate level of Member remuneration for decision by County Council in May and that a 2% rise in allowances had been budgeted to reflect the existing scheme.
- e. A Member asked whether the capitalisation of mobile classrooms on school sites was possible or had been considered whilst schools were closed. Mr Oakford noted that the grounds for using mobile classrooms had been short term and to permit the continuation of construction projects. Mr Shipton confirmed that mobile classrooms could not be capitalised as they do not meet the requirement of enhancing an asset. When asked to confirm whether mobile classrooms were rented by the authority and to disclose the total spent by KCC on mobile classrooms, Mr Shipton agreed to circulate the relevant information to the Committee following the meeting.
- f. In relation to the contribution to reserves outlined in the 2021-22 Revenue Growth Proposals, a Member asked whether when the impact of Council Tax increases on economically vulnerable taxpayers was considered, what the rationale for reserve contributions had been. Mr Oakford confirmed that the increase in reserves were to mitigate the risks associated with increased service demands during the financial year, he cited the future easing of social restrictions and return to

school as an example of key drivers of demand, in particular for children's social care and home to school transport.

- g. A Member asked whether the Community Warden service would be evenly distributed across the county given the proposal to maintain the current number of staff posts. Mr Oakford reassured the Committee that he had worked with the Cabinet Member for Community and Regulatory Services and the Corporate Director of Growth, Environment and Transport to ensure that the service had the appropriate level of resources to provide coverage across the county.

6. The draft capital and revenue budgets were not noted by Dr Sullivan.

RESOLVED that the Scrutiny Committee note the draft capital and revenue budgets including the responses to the budget consultation.

27. Local Lockdown Directions - Broadstairs Christmas Market (20/00125) and Pantiles Market (20/00131)

(Item A7)

Mrs C Bell, Cabinet Member for Adult Social Care and Public Health; Miss D Morton, Deputy Cabinet Member for Adult Social Care and Public Health; Mr A Scott-Clark, Director of Public Health; Mr B Watts, General Counsel; Mr M Rolfe, Head of Kent Scientific Services and Mr J Whiddett, Trading Standards Operations Manager were in attendance for this item.

1. The Chairman introduced the Cabinet Member for Adult Social Care and Public Health, Director of Public Health and Monitoring Officer and invited them each to provide an overview of the decisions taken, timeline and multi-agency operations.
2. Mrs Bell gave a verbal overview of the Local Lockdown Directions decision making processes and confirmed that Public Health had contacted both event organisers and the respective District and Borough Councils with their concerns prior to the decisions. She added that the decisions had been taken in the public interest.
3. Mr Binks noted that, as the local Member, she had responded to the notification of the Broadstairs Christmas Market urgent decision, despite the report citing that she had made no comment. Mrs Binks confirmed her supported for the Broadstairs Christmas Market decision.
4. Mr Watts drew to the Committee's attention the improvement in information reporting related to both Local Lockdown Directions, following the Committee's request that reporting be provided at a greater depth and with the inclusion of the lessons learnt during the decision process.
5. A Member asked under what circumstances Public Health were made aware and involved in the actions to respond to events. Mr Scott-Clark confirmed that Public Health were informed through the information cell of the Kent

Resilience Forum, which collected intelligence on events, developments and included cooperation with KCC Trading Standards.

6. Mr Scott-Clark was asked why the decision to close Broadstairs Christmas Market had taken place with such short notice. He confirmed that the event had opened later than had been anticipated due to initial decisions taken by the District Council, which delayed Public Health's response as a result.
7. Mr Watts offered to provide a legal briefing to Members outlining the authority's powers relating to Covid-19 social restriction enforcement, he noted the speed of regulation changes and policy developments. A Member recommended that a standing item concerning the new regulations and powers affecting the authority be added to the Committee's Work Programme and that it include how Kent was set to respond to the changes, this would be included on the agenda for future Scrutiny Committee meetings.

RESOLVED that the Scrutiny Committee note the report.

28. Short Focused Inquiry - Farming Economy

(Item A8)

Mr G Romagnuolo, Research Officer, Overview and Scrutiny was in attendance for this item.

1. The Chairman provided a verbal overview of the Short Focused Inquiry (SFI) and outlined the timeline. He noted the contributions made by Members across the Council. The comments of David Smith, Director of Economic Development, in response to the draft SFI recommendations were highlighted.
2. Members thanked Mr Romagnuolo for his work on the report and for reflecting the contributions and recommendations of Members. The contributions of the individuals and organisations who gave their experiences, expertise, and views to the Inquiry during its hearings were acknowledged.
3. Mr Romagnuolo outlined the Inquiry's information gathering process and highlighted the report's key findings which included: that British agriculture provided half of the nation's food supply and employed half a million people; Kent had a high concentration of rural businesses; capital investment in the rural economy had reduced; a reduction in rural tourism and a restriction of labour movement had constricted rural industries and that local farmers welcomed further advisory support, especially on diversification.
4. In reference to trade and perishable goods, a Member reminded the Committee that the report had been drafted prior to the EU-UK Trade and Cooperation Agreement, affective as of 1 January 2021. Mr Romagnuolo agreed to factor any alterations resulting from the Trade and Cooperation Agreement into the final report.
5. A Member noted the impact Covid-19 social and business restrictions had on the hospitality industry directly and food supply industry indirectly. A need to

ensure that decision makers were made aware of the impact and consequences restrictions had on the food supply chain was stressed.

6. It was said by a Member that KCC needed to increase its rural stewardship and involvement with the rural economy, when the impact rural industries had on the lives of people across Kent was considered. The Member recognised a Kent Rural Board as a possible means of engaging with rural industries to a greater extent, as was outlined in Recommendation 5 of the draft report.
7. The monitoring of soil, including soil depletion and the loss of farmland were raised by a Member as areas which KCC should expand data collection on. It was noted that Kent possessed a significant proportion of the UK's most fertile agricultural land.
8. In reference to Recommendation 5 of the draft report, a Member noted the need to consider the unintended consequences of EU Exit on the rural economy and identify possible environmental improvements. The need to improve data sharing with rural businesses was stressed. Recommendation 11 was praised for raising awareness of the impact fly-tipping had on rural landowners.
9. A Member noted the significant impact the pandemic had on the dairy industry and stressed the importance of building strong relationships with major supermarkets.
10. In reference to Recommendation 6 of the draft report, a Member stated that further support for the rural economy was required, gave their support for a rural board and emphasised the need for a Cabinet Member to act as Kent's rural champion.
11. The Chairman agreed to endorse a commitment to protect potentially productive land in his covering letter to the Leader and relevant Cabinet Members.
12. Mr Love moved and Mr Farrell seconded an additional recommendation to the Short Focused Inquiry Report that **“KCC’s Cabinet Member for Economic Development should draw the attention of the Secretary of State for Environment, Food and Rural Affairs to the devastating impact felt throughout the food Rural Affairs to the devastating impact felt throughout the food production and supply chain in Kent of the Covid restrictions imposed on the hospitality industry, and should urge that this impact is fully taken into account during future consideration of current or further restrictions.”**
13. Members voted on the motion. The motion was won.

RESOLVED that the Scrutiny Committee approve the Short Focused Inquiry Report into the farming economy, and that it be submitted to the Leader and relevant Cabinet Members along with a request for a formal response to the recommendations within two months.

POST MEETING NOTE: The recommendation that “KCC’s Cabinet Member for Economic Development should draw the attention of the Secretary of State for Environment, Food and Rural Affairs to the devastating impact felt throughout the food Rural Affairs to the devastating impact felt throughout the food production and supply chain in Kent of the Covid restrictions imposed on the hospitality industry, and should urge that this impact is fully taken into account during future consideration of current or further restrictions” was included in the published Short Focused Inquiry Report.

The Farming Economy SFI report was submitted to the Leader and Cabinet Member on 9 February 2021 for a response within two months.

29. To note 2021/2022 Scrutiny Committee meeting dates
(Item A9)

RESOLVED that the future meeting dates be noted.

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From: Peter Oakford, Deputy Leader and Cabinet Member for
Finance, Corporate & Traded Services

Zena Cooke, Corporate Director - Finance

To: Scrutiny Committee – 11 March 2021

Subject: Covid-19 Financial Monitoring

Key decision: No

Classification: Unrestricted

Past Pathway of Paper: Policy and Resources Cabinet Committee 3 March
2021

Future Pathway of Paper: N/A

Summary:

The attached report provides an update on the Covid-19 grants KCC has received to date and monitoring of expenditure from the grants.

Recommendations

Scrutiny Committee is asked to note the report

Contact details

Report Author(s)

- Dave Shipton (Head of Finance Policy, Planning and Strategy)
- 03000 419418
- dave.shipton@kent.gov.uk

Relevant Corporate Director:

- Zena Cooke
- 03000 416854
- zena.cooke@kent.gov.uk

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Covid-19 Monitoring

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Relevant Director	Corporate Director Finance, Zena Cooke
Report author(s)	Head of Finance Policy Planning and Strategy, Dave Shipton
Circulated to	
Classification	Unrestricted

Contact details

Head of Finance Policy, Planning and Strategy Dave Shipton 03000 419 418 dave.shipton@kent.gov.uk
Corporate Director of Finance Zena Cooke 03000 419 205 zena.cooke@kent.gov.uk

Summary

<p>£184.4m additional grant provided by central government to support responding to Covid-19</p>	<p>These additional grants have come from a number of departmental announcements during the year. The main emergency grant from the Ministry of Housing, Communities and Local Government (MHCLG) has come in four tranches between March to October and is un-ringfenced (can be used for purposes determined locally in response to or recovery from the pandemic). Other grants have been specific grants (can only be used for purposes defined by government). Virtually all the grants have been allocated on a formulaic basis or with a few based on claims for costs incurred (including income losses).</p>
<p>Latest January Covid-19 return shows a £21.8m deficit</p>	<p>KCC submits regular monitoring returns to the MHCLG. KCC's returns show a reasonable degree of consistency throughout the year although some of the earlier forecasts have been revised downwards and some have subsequently been funded by specific grants. KCC forecasts are slightly higher than the average for other county councils but are not an outlier.</p>
<p>MHCLG returns differ from KCC budget monitoring</p>	<p>The returns include all forecast additional spending and income losses incurred as a result of the pandemic. The forecast includes contingency provisions not included in KCC budget monitoring reports. The return does not include the one-off underspends on the Council's core budget due to Covid-19 restrictions. Consequently, the MHCLG return shows a higher net impact than KCC budget monitoring.</p>
<p>Public Health grants</p>	<p>A total of £25.3m has been made available to support public health response to containing the outbreak. This includes £6.3m Test and Trace Support Service Support Grant paid in June, £12.7m from Contain Outbreak Management Fund (COMF) in response to the November national lockdown, and £6.3m from COMF in response to the tier 3 restrictions in December. Further monthly tranches of COMF will be made available throughout the remainder of the financial year whilst Covid-19 restrictions remain in place.</p>
<p>Helping Hands Scheme</p>	<p>The Council has recently agreed a further package of £16m funded from recent tranches of Covid-19 emergency grants to help families, businesses and communities impacted by the most recent national lockdown and restrictions. The scheme will also help households struggling to pay Council Tax bills for 2021-22</p>

2.1 Since the start of the Covid-19 pandemic the government has provided significant additional financial assistance to support the response. The November Spending Review identified that in total the Government has spent over £280bn in response to the pandemic. Of that, £113bn will have been provided during 2020-21 to support public services including NHS, local government, transport and employment support.

2.2 Nearly £6.8bn has been made available to help local authorities in England respond to the impacts of Covid-19 in 2020-21. This is in addition to £1.6bn made available in 2019-20. Additional financial support will continue to be available to public health local authorities during Covid-19 restrictions through the Contain Outbreak Management Fund (£0.9bn) and for loss of income from sales fees and charges.

2.3 As soon as the pandemic was announced KCC finance put arrangements in place to capture information about the additional costs the Council would incur. Initially there was very little guidance on the expectations on local authorities. The Government did issue three Procurement Policy Notes (PPN) although these related to suspending aspects of procurement procedure rather than guidance on the type of expenditure the government anticipated local authorities would incur. The Council produced local guidance on the expenditure and income to be captured. This included:

- Additional costs incurred in response to the initial emergency e.g. temporary mortuary, procurement of PPE, etc.
- Additional costs to support market sustainability e.g. payments to support social care providers in meeting Covid-19 related additional costs, payments to home to school transport providers even though no service has been provided due to closures, etc.
- Future demand increases e.g. adult social care where the Council has to assume responsibility following hospital discharges, children's social care due to increased demand following the easing of lockdown restrictions etc.
- Delays in delivering savings
- Loss of income
- Workforce pressures associated with demand increases

2.4 The Ministry of Housing, Communities and Local Government (MHCLG) has asked local councils to provide a monthly return setting out estimates of the impact of the Covid-19 pandemic. Initially this return was used by MHCLG to inform the allocation of additional tranches of the un-ringfenced emergency grant. The returns have evolved over time and include spending from specific grants as well as local spending decisions.

2.5 KCC's returns have identified actual and forecast costs to date. The forecasts have assumed that ring-fenced grants are spent in full in 2020-21 (with any unspent sums rolled forward to 2021-22).

3.1 Table 1 shows the latest amounts allocated from all the various grants provided by government departments in response to the pandemic. This table includes the December and January instalments of Contain Outbreak Management Fund for Kent and January instalment of grant for Clinically Extremely Vulnerable individuals. These grants were not received in time for the January MCLG submission which consequently included £7.2m less than table 1. This will be included in the February submission

Table 1	National	KCC	Dept	
Un-ringfenced				
Emergency Grant tranche 1	1,600	39.0	MHCLG	Formula
Emergency Grant tranches 2-4	3,100	55.9	MHCLG	Formula
Social Care Ringfenced				
Infection Control tranche 1	600	18.9	DHSC	Formula
Infection Control tranche 2	546	16.6	DHSC	Formula
Rapid testing	149	4.7	DHSC	Formula
Workforce capacity	120	3.1	MCHLG	Formula
Public Health Ringfenced				
Contain Outbreak Management Fund (to 2nd December)	485	12.7	DHSC	Formula
Test & Trace	300	6.3	DHSC	Formula
Contain Outbreak Management Fund (December)	900	6.3	DHSC	Formula
Contain Outbreak Management Fund (January)		6.3	DHSC	Formula
Clinically Extremely Vulnerable (tranche 1 - November)	32	0.9	MHCLG	Formula
Clinically Extremely Vulnerable (tranche 2 - January)	40	1.4	MHCLG	Formula
Other Ringfenced				
<i>Upper/Single tier</i>				
Winter Support Grant Scheme	170	4.5	DWP	Est of Costs
Additional Home to School Transport	99	4.5	DfT	Formula
Local Authority Emergency Assistance Grant for Food and Essential Supplies	63	1.7	DEFRA	Formula
Active Travel (tranche 1 revenue)	40	0.5	DfT	Bid
Active Travel (tranche 1 capital)		1.1		
<i>Lower/single tier</i>				
Community Champions Fund	24		MHCLG/ DHSC	60 councils
Compliance and Enforcement Grant	30		MHCLG	Formula
Reopening High Streets Safely	50		MCHLG	Formula/claims
Provisional Rough Sleeping Emergency	3		MHCLG	
Next Steps Accommodation Programme	105		MHCLG	Bids
Total 2020-21	6,855	145.4		
Grand Total	8,455	184.4		

3.2 Appendix A provides more detail about how the main grants have been allocated. The vast majority have been shared out to all authorities based on formulae. Some are subject to bids and some based on actual claims. The first tranche of the un-ringfenced emergency grant was received at the end of March 2020 and included in the 2019-20 accounts. Only £1.7m of this was spent/applied to income losses in the last weeks of 2019-20 in the immediate aftermath of the pandemic. The remaining £37.3m was held in a Covid-19 reserve to support further spending/income losses in 2020-21. Use of this reserve was included in the 2020-21 budget amendment approved by full Council in September.

3.3 Table 1 reflects the grants reported in the MHCLG monitoring returns. The MHCLG returns include the revenue element of phase 1 of the Active Travel Grant. Funding from this grant was brought forward in response to the pandemic. KCC has received revenue grant of £470k and capital grant of £1,130k from tranche 1 of this grant. The MHCLG also includes expenditure to support clients discharged from hospital funded by income from Clinical Commissioning Groups (CCGs).

3.4 Un-ringfenced grants can be used for any purpose to support the authority's response to the pandemic. Specific grants can only be used for prescribed purposes determined by government under the conditions for grant. The governance arrangements for decisions on spending grants are set out in Appendix B.

Covid-19 Monitoring – Key Numbers from January Submission

£94.9m	Un-ringfenced additional emergency grant funding received MHCLG in 2019-20 and 2020-21
£80.7m	Ringfenced additional grants such as Care Homes Infection Control, Test and Trace, Contain Outbreak Management Fund, and Covid-19 Winter Grant Scheme from Department for Health and Social Care (DHSC)
£5.1m	Additional income from Clinical Commissioning Groups (CCGs) for hospital discharges into social care
£180.7m	Total additional funding
£174.5m	Forecast additional spending in 2019-20 and 2020-21 full year and delayed savings in 2020-21
£28.0m	Forecast loss of income in 2019-20 and 2020-21 full year
£202.5m	Total change in KCC spend and income
£21.8m	Net shortfall

4.1 The latest return was submitted on 1st February. This return included actual spending and income losses and commitments recorded on the Covid-19 monitoring system up to January, together with forecasts for the remainder of the year. The Covid-19 monitoring captures the additional impact on the Council of the Covid-19 response since the start of the pandemic. It does not identify whether the Council already had budget provision for any of the expenditure e.g. continuity payments to suppliers. The forecast includes contingent sums for future potential spending/income losses. The returns do not include any underspends due to Covid-19. For these reasons the return differs from the Council's overall budget monitoring reports. The returns assume all ring-fenced grants are spent in full.

4.2 The latest return continues to show an increased shortfall between the grants and impact on spending/income losses compared to the December return as it included assumed additional spending from the tranche 4 grant not included in previous returns. The main areas of additional spending include the following:

- Adult social care – additional payments to providers supporting KCC clients equivalent to two weeks' worth of care agreed early in the pandemic to help meet additional impact of staff costs and travel/PPE purchases; procurement of KCC stock of PPE to provide free of charge to providers/KCC staff, forecasts for additional placements and assessment costs for clients discharged from hospitals, investment in digital technology to reduce face to face assessments; additional payments to all registered providers (including those with non-KCC clients) later in the year as prescribed from infection control grant
- Children's services – forecast demand for additional placements and assessment costs due to the impact on vulnerable families from sustained lockdown and school closures
- Education – continuity payments to home to school transport providers during the initial lockdown to ensure providers could remain in business for when schools reopened; provision of additional mobile classrooms due to delays in building projects
- Public transport – continuity payments to providers to ensure they remain in business when transport use returns

- Environment – establishment of a temporary mortuary facility, setting up on-line arrangements for accessing Household Waste sites, support payments for districts for the impact on kerbside collections
- Other – delays to savings plans and assumed spending to provide additional support to residents and households severely impacted by Covid-19 restrictions and not in receipt of support from central government

4.3 Main income losses come from sales, fees and charges (Kent Travel Saver, Registration and libraries, community learnings, and adult social care day centres), commercial income (dividends from wholly owned companies), and other (investment income from interest and equity funds).

4.4 Table 2 shows a high-level summary of each month's submission

Grant Allocated & Impact	Monthly return								
	Jan £m	Dec £m	Nov £m	Oct £m	Sept £m	July £m	June £m	May £m	April £m
Emergency Grant	95.0	95.0	95.0	95.0	77.3	77.3	66.9	66.9	39.0
Social Care funded by CCGs	5.1	5.1	5.1	5.1	3.2	5.8	1.6		
Other Grants	80.7	59.0	41.8	25.2	25.2				
Total forecasts									
Additional spending	174.5	142.0	128.6	115.1	112.3	92.8	96.6	100.4	106.1
Income losses	28.0	21.7	22.2	22.1	23.2	23.0	21.0	17.1	19.3
	202.5	163.8	150.8	137.2	135.5	115.9	117.6	117.5	125.5
Less grant notified	(180.7)	(159.0)	(141.9)	(125.2)	(105.6)	(83.0)	(68.5)	(66.9)	(39.0)
Forecast shortfall from Grant	(21.8)	4.7	8.9	12.0	29.9	32.8	49.1	50.5	86.5

4.5 Table 3 shows the main components of the additional spending and income losses based on the broad service headings used by MHCLG.

Spending & Income Losses	Monthly return								
	Jan £m	Dec £m	Nov £m	Oct £m	Sept £m	July £m	June £m	May £m	April £m
Additional Spending									
Adult Social Care	81.0	77.0	79.4	66.0	62.7	44.2	45.1	49.8	56.6
Children's Services	4.6	5.2	6.3	6.6	6.4	7.2	8.1	8.1	6.0
Education	11.3	10.7	14.0	14.3	13.5	17.4	17.8	15.9	10.1
Highways & Transport	4.5	4.7	3.7	3.6	5.2	5.2	4.7	4.3	16.0
Public Health Specific Grants	25.3	19.0	6.3	6.3	6.3	-	-	-	
Public Health	8.3	8.3	1.0	0.9	1.1	0.8	0.7	0.7	1.0
Cultural & Related	0.5	0.5	0.4	0.5	0.2	-	0.2	0.2	-
Environment & Regulatory	6.1	5.1	3.6	3.5	3.3	3.3	3.5	4.3	11.7
Finance & Corporate	5.3	4.4	4.2	4.1	4.0	4.0	7.2	8.6	4.8
Other	27.6	10.2	9.7	9.3	9.7	10.8	9.2	8.5	
Total	174.5	145.1	128.6	115.1	112.3	92.8	96.6	100.4	106.1
Income losses									
Sales Fees and Charges									8.5
Highways and Transport	6.0	4.4	4.6	4.6	5.8	5.6	3.8	2.9	-
Cultural and Related	3.3	3.2	0.2	0.2	0.2	0.2	0.2	0.2	-
Other	9.9	5.4	5.3	5.2	4.8	5.4	5.0	3.7	-
Sub Total Sales Fees and Charges	19.2	13.0	13.3	13.1	14.2	13.9	9.0	6.8	8.5
Commercial Income	4.0	4.0	4.0	4.0	4.0	4.0	6.0	5.0	5.0
Other Income	4.8	4.8	4.9	5.1	5.1	5.1	6.1	5.3	5.8
Total	28.0	21.7	22.2	22.1	23.2	23.0	21.0	17.1	19.3

5.1 Local authorities initially received additional funding between June and October from Contain Outbreak Management Fund (COMF) monies depending on the level of local restrictions. This granted targeted local authorities under Areas of Enhanced Support and Areas of Intervention £34.6 million in total.

5.2 Further payments totalling £123.7m were made in October following the move to local Covid-19 alert levels, to support proactive containment and intervention measures. Once again, these payments were targeted to individual areas according to the level of restrictions. Kent did not receive any targeted funding from these two initial allocations.

5.3 Following the introduction of national restrictions on 5 November, the COMF committed to paying all local authorities up to £8 per head of population (although this was inclusive of the funds already provided in early distributions). In total this provided a further £326.6m, taking the total payments from COMF to just under £485m (Kent's share £12.7m) as shown in table 1 previously. This was in addition to the £300m allocated to local authorities in June for Test and Trace Service Support Grant (Kent's share £6.3m).

5.4 The Covid-19 Winter Plan published on 23 November included provision for COMF to be increased to provide monthly payments to local authorities facing higher restrictions until the end of the financial year:

- upper tier local authorities in Tier 3 to receive funding of £4 per head of population per month
- upper tier local authorities in Tier 2 to receive funding of £2 per head of population per month
- authorities in Tier 1 would not be eligible for additional monthly funding
- local authorities that moved into local Covid-19 alert level: Very High prior to the implementation of national restrictions on 5 November would be eligible for a top-up payment from the fund, in recognition of the extended time those areas have been under higher restrictions

5.5 The December payment to Kent for tier 4 categorisation amounted to £6.3m and is included in table 1. Following the introduction of national restrictions from January all councils will receive £4 per head of population per month until restrictions are lifted. The amounts in this report do not include any of these further payments from January at this stage although these will be subject to same delegation and scrutiny arrangements set out below.

5.6 In line with the Cabinet Member decision, the Council established a Test & Trace Grant Monitoring Group (TTGMG) to oversee the spending of the £6.3 million Local Authority Test and Trace Service Support Grant, in accordance with the funding framework that set out the categories of eligible spend and grant terms and conditions. This group comprises the Director of Public Health, Corporate Director of Finance and Strategic Commissioner along with support from other public health, commissioning and finance officers.

5.7 The Director of Public Health has delegated authority for the spending of the public health Covid-19 grants and as such is accountable for all decision making. The TTGMG provides a scrutiny and assurance function to ensure transparent and consistent decision making. The TTMGMG is now known as the Covid-19 Finance Monitoring Group (CFMG) and its terms of reference have been extended to include all COMF allocations to ensure consistency for all decisions regarding the use of Covid-19 public health monies.

5.8 The November COMF payments were paid to upper tier authorities in two tier areas although it was expected that local areas would develop intervention strategies in partnership with lower tier district councils. In Kent it was agreed to make an initial allocation to Kent districts of £4m as part of this partnership, although further tranches could be available to support particular agreed local initiatives.

5.9 To date £6m of further activities (in addition to the £4m for districts) have been endorsed to be committed from COMF and a further £4.2m is pending final approval.

5.10 A further public health grant is to be provided to fund the programme of testing of asymptomatic residents in order to help prevent the spread of the virus. The funding is being used to operate twenty-four testing centres across Kent with capacity for one million tests. Based on the latest estimates this grant will be approximately £14m.

6.1 The Council has agreed to allocate £10million of emergency grant funding to be made available to help Kent’s most vulnerable households and businesses hardest hit by the pandemic. The Helping Hands Scheme will include a package of support ranging from assisting just-managing families with utility bills, to helping struggling businesses, to tackling digital poverty and match-funding crowdfunded community projects providing vital local assistance. This builds on the support to individuals and suppliers of council services under previous decisions to respond to the pandemic using the additional Covid-19 grants summarised in the monitoring returns.

6.2 The scheme is the latest initiative to help people and businesses in Kent most impacted by the recent national lockdown. The scheme will be funded by the most recent tranche of Covid-19 Emergency Grant and where applicable the Contain Outbreak Management Fund.

6.3 The Helping Hands Scheme will be developed by KCC services working in partnership with district and borough councils, and other key partners including voluntary and community organisations (including Kent Community Foundation), utility companies, business networks (including the Chamber of Commerce), and schools and colleges.

6.4 The Council has also agreed that a further £6million of Covid-19 Emergency Grant be made available through The Helping Hands Scheme to help Kent’s households struggling to pay their Council Tax for 2021-22. Under this scheme all existing Council Tax Reduction Scheme (CTRS) working-age households will automatically have their 2021-22 Council Tax bill reduced by £50 (or by the total Council Tax due if this is less than £50). The reductions will be applied by district and borough councils. New claimants eligible for CTRS throughout the year will also receive the additional reduction to their Council Tax bills.

6.5 To complement the additional Council Tax reductions one-off funding will also be given to every Kent district council to boost their Council Tax Hardship Funds. This will enable the districts to provide additional support towards paying Council Tax bills for those households who have been seriously impacted by the pandemic and have suffered a loss in income or a change in their financial circumstances, such as furlough, or redundancy.

6.6 The indicative allocation of the £16m Helping Hands scheme is set out in the table below:

Support for low-income individuals and households and those in financial crisis	£4.0m
Support for businesses and the self-employed	£3.0m
Tackling digital poverty	£2.5m
Match-funding for crowdfunded community projects	£0.5m
Council tax support for low income households	£3.6m
Additional council tax hardship funds	£2.4m

Details of Grant Allocations

1. Covid-19 Emergency Grant

The Government has used different formulae to allocate each tranche of the Covid-19 emergency. The methodologies from tranche 2 onwards were informed by the impact identified through the MHCLG monitoring returns.

Covid-19 Emergency Grant Tranche 1 £1.6bn – March 2020

Just under 87% of the total grant (£1.39bn out of a total of £1.6bn) was allocated to local authorities with social care responsibilities (upper tier and single tier councils) using the adult social care relative needs formula (RNF). The RNF is the same as that used in the Formula Grant calculations prior to 2013-14.

The remaining 13% (£0.21bn) was allocated using the total settlement funding assessment for 2013-14 (a measure of spending needs on all council services). This was allocated to all councils (upper tier, single tier, lower tier and Fire & Rescue authorities).

KCC's allocation was £39.012m (2.44% of the total).

Covid-19 Emergency Grant Tranche 2 £1.6bn – May 2020

This tranche was allocated according to 2020-21 total population projection for each authority area. In two tier areas 65% was allocated to upper tier (62% for those areas with separate Fire & Rescue authorities with 3% allocated to the fire authority) and 35% to lower tier. In single tier areas with separate Fire & Rescue authorities, 97% went to the local authority and 3% to the fire authority. In London 96% went to boroughs and 4% to the Greater London Authority. The allocations for fire authorities were reduced by pro rata share of £6m to create a fire contingency fund.

KCC's allocation was £27.934m (1.75% of the total).

Covid-19 Emergency Grant Tranche 3 £0.5bn – July 2020

£6m from this tranche was top-sliced to be allocated to those authorities with additional Covid-19 costs to support Unaccompanied Asylum Seeking Children (UASC).

The remainder of this tranche £494m was allocated via a new formula taking account of population forecasts weighted for area costs and deprivation. Area cost weightings are based on those proposed for the Foundation Formula through the Fair Funding Review (not yet implemented), these take account of accessibility to services (based on measures of population sparsity and density) and remoteness as well as differences in labour and premises costs. Deprivation weightings are based on average Index of Deprivation (IMD) for the local authority area. Tranche 3 included no allocations for Fire & Rescue authorities.

The split in two tier areas is 79:21 between upper and lower tiers.

KCC's allocation was £10.312m (2.09% of the total).

Covid-19 Emergency Grant Tranche 4 £1.0bn – October 2020

£100m of this tranche was top-sliced to compensate for income losses on local authority leisure centres.

The remaining £0.9bn was added to previous allocations from tranches 1-3 excluding the allocations to Isles of Scilly (including a share of tranche 4 based on the isles population as a proportion of total population), Fire & Rescue authorities and Greater London Authority. The total local authority shares of tranches 1 to 4 of £4.553bn were re-allocated using the same population/area cost/deprivation formula as tranche 3 to calculate a notional revised total allocation. This resulted in some authorities receiving no additional funding from tranche 4 and some authorities receiving a fixed £100k minimum as their tranche 4 allocation. Effectively this means for most authorities the total share of tranches 1 to 4 is determined according to population estimate weighted according to area costs and relative deprivation.

KCC's allocation from tranche 4 was £17.701m (1.9%). This took the Council's total share from tranches 1 to 4 to £94.959m (2.1% of the total)

2. Adult Social Care Infection Control Fund

Tranche 1 £0.6bn – June 2020

The allocation shares for each local authority are calculated according to the number of registered care home beds in each local authority area (upper tier and single tier only) weighted by an area cost adjustment. The area cost adjustment reflects differences in wages and prices in different local authorities.

The government expected that care homes should receive a payment for the number of registered beds, representing 75% of the total funding. The remaining 25% can be paid to care homes or domiciliary care providers and support wider workforce resilience as determined by each local authority.

KCC's allocation was £18.878m (3.15% of the total).

Tranche 2 £0.546bn – September 2020

71% of the grant (£387.5m) is allocated on the basis of the number of care home beds, and 29% (£158.5m) is allocated on the basis of users supported by community care providers. The allocations for each local authority for care homes proportion is calculated according to the number of registered care home beds in each local authority area weighted by an area cost adjustment.

The government expected that care homes should receive a payment for the number of registered beds, and community care providers for the number of community care users, representing 80% of the total funding. The remaining 20% can be paid to care homes or domiciliary care providers and support wider workforce resilience as determined by each local authority.

KCC's allocation was £16.653m (3.05% of the total).

3. Adult Social Care Rapid Testing Fund

£0.149bn – January 2021

The allocation shares for each local authority are calculated according to the number of care home beds and the potential numbers of users of residential alcohol and drug services in each local authority (upper and single tier) weighted by an area cost adjustment. The area cost adjustment reflects differences in wages and prices in different local authorities

The government expected that care homes should receive a payment for the number of registered beds and residential alcohol and drug services beds, representing 80% of the total funding. The remaining 20% is available for local authorities' discretionary use to support the care sector to operationally deliver Lateral Flow Device (LFD) testing.

KCC's allocation was £4.686m (3.14% of the total).

4. Adult Social Care Workforce Capacity Fund

£0.120bn – January 2021

Each authority's allocation is determined using the Adult Social Care RNF

This funding enables local authorities to deliver measures to supplement and strengthen adult social care staff capacity to ensure that safe and continuous care is achieved to deliver the following outcomes:

- maintain care provision and continuity of care for recipients where pressing workforce shortages may put this at risk
- support providers to restrict staff movement in all but exceptional circumstances, which is critical for managing the risk of outbreaks and infection in care homes
- support safe and timely hospital discharges to a range of care environments, including domiciliary care, to prevent or address delays as a result of workforce shortages
- enable care providers to care for new service users where the need arises

KCC is passporting 89% of the overall grant to all CQC registered providers and the remainder is going to support the Design Learning Centre and KICA (Trade Association) who support the whole market in recruitment, training and development.

KCC's allocation was £3.082m (2.57% of the total).

5. Test & Trace Service Support Grant

£0.3bn – June 2020

Each authority's allocation is determined pro rata to the local authority Public Health Grant 2020-21.

KCC's allocation was £6.311m (2.1% of the total).

6. Covid-19 Winter Support Grant Scheme

£0.170bn – November 2020

Each authority's allocation is based on estimated costs. The grant is made available to support those most in need with the cost of food, energy (heating, cooking, lighting), water bills (including sewerage) and other essentials. The grant must be spent by 31st March 2021, 80% on families with children and 80% on food and fuel costs.

KCC's allocation was £4.504m (2.65% of the total).

7. Local Authority Emergency Assistance Grant for Food and Essential Supplies

£0.063bn – July 2020

Each authority's allocation is determined according to the population of each local authority, weighted by a function of the English Index of Multiple Deprivation (IMD).

KCC's allocation was £1.669m (2.65% of the total).

8. Clinically Extremely Vulnerable (CEV) Funding

Tranche 1 £0.032bn – November 2020

Allocated to upper tier councils (county councils and single tier authorities) to support the clinically extremely vulnerable during second national lockdown. It will be used to provide support, such as access to food deliveries and signposting to local support of befriending services, to the most at risk and enable them to stay at home as much as possible.

KCC's allocation was £0.891m (2.78% of the total).

Tranche 2 (general) £0.040bn – January 2021

Allocated to all upper tier councils (county councils and single tier authorities) on updated January CEV patient count.

KCC's allocation is £0.899m (2.84% of the total).

Tranche 2 (targeted) £0.9bn – January 2021

Allocated to upper tier authority areas which entered Tier 4 where Shielding guidance had been introduced prior to 5th January.

KCC's allocation is £0.508m (5.79% of the total).

KCC's total share of tranche 2 CEV is £1.408m (3.84% of the total).

9. Contain Outbreak Management Fund

Areas of Enhanced Support and Areas of Intervention £0.035bn – June 2020

Targeted to particular areas. KCC received no allocation from this distribution.

Local Covid-19 alert level payments £0.124bn – October 2020

Following the move to local Covid-19 alert levels, targeted local authorities were eligible for payments from the Contain Outbreak Management Fund to support proactive containment and intervention measures. KCC received no allocation from this distribution.

National Restriction Payments £0.326bn - November 2020

Following the introduction of second National Lockdown allocated to all single tier and upper tier authorities as £8 per head of estimated population.

KCC's allocation was £12.652m (3.87% of the total).

Tier Restriction Payments – December 2020

Following the introduction of the tiering system allocated to all single tier and upper tier authorities as £4 per head of estimated population in tier 3 and £2 per head in tier 2.

KCC's allocation was £6.326m.

National Restriction Payments – January 2021

Following the introduction of third National Lockdown allocated to all single tier and upper tier authorities as £4 per head of estimated population.

KCC's allocation was £6.326m.

10. Emergency Active Travel Fund

Part of £225m – June 2020

Local authorities (including combined authorities) were invited to submit bids to improve cycling and walking facilities. Tranche 1 supports the installation of temporary projects for the Covid-19 pandemic. Authorities received either 100%, 75%, 50% or 25% of their bids based on the extent to which they aligned with the criteria. Tranche 1 allocations amounted to £39.840m including capital and revenue elements.

KCC's allocation was £1.6m (£1.13m capital, £0.47m revenue) amounting to 4% of the total. KCC's capital is 100% of the amount requested.

Key Decisions

Decision Number	Decision Title	Amount	Link
20/00035	The emergency purchase of bulk Personal Protective Equipment (PPE)	up to £2m	20/00035 - The emergency purchase of bulk Personal Protective Equipment (PPE)
20/00034	Procurement of Temporary Body Storage Facilities	£11m	20/00034 - Procurement of Temporary Body Storage Facilities
20/00041	Support for Community Based Wellbeing Providers	£3.4m	20/00041 - Support for Community Based Wellbeing Providers
20/00042	Integrated Digital Assistive Technology Solution	£1,477,980	20/00042 - Integrated Digital Assistive Technology Solution
20/00044	Covid-19 Block Beds for Older Persons Residential and Nursing	£2,494,828	20/00044 Title: Covid-19 Block Beds for Older Persons Residential and Nursing
20/00049	Additional Payments to Adult Social Care Providers	£13m	20/00049 - Additional Payments to Adult Social Care Providers
20/00050	Continued bulk purchase of Personal Protective Equipment (PPE)	£3m additional funding (resulting in £5m total for additional PPE purchasing programme)	20/00050 - Continued bulk purchase of Personal Protective Equipment (PPE)
20/00056	Capital Construction Programme - Delay costs to projects as a result of Covid-19	up to £7.89m of additional funds	20/00056 - Capital Construction Programme - Delay costs to projects as a result of COVID-19
20/00061	Infection Control Fund	£18.88m	20/00061 - Infection Control Fund
20/00060	Adjustments to the Kent Test and Secondary Co-ordinated Admissions scheme as a result of Covid-19 restrictions	£170k estimated	20/00060 - Adjustments to the Kent Test and Secondary Co-ordinated Admissions scheme as a result of COVID-19 restrictions
20/00067	Infection Control Fund - wider social care market support	£4.72m	20/00067 - Infection Control Fund - wider social care market support
20/00093	Local Authority Emergency Assistance Grant for Food and Essential Supplies	£1.67m	20/00093 - Local Authority Emergency Assistance Grant for Food and Essential

			Supplies
20/00106	Infection Control Fund (Round 2)	£16.653m	20/00106 - Infection Control Fund (Round 2)
20/00095	Local Authority Test and Trace Service support grant and Containment Outbreak Management Fund	T&T: £6,311,400; COMF: £12,652,440 (Nov 2020); £6,326,220 (Dec 2020); £6,326,220 (Jan 2021)	20/00095 - Local Authority Test and Trace Service support grant and associated outbreak management
20/00110	Covid-19 Winter Grant Scheme	£4.5m	20/00110 - COVID Winter Grant Scheme
20/00111	Funding for support to Clinically Extremely Vulnerable	£891,000 (Nov 2020); £1,407,609 (Jan 2021)	20/00111 - Funding for support to Clinically Extremely Vulnerable
21/0024	Covid-19 Emergency Grant Funding the Helping Hands Support scheme for Residents and Businesses	£10m	21/0024 - COVID Emergency Grant Funding the Helping Hands Support scheme for Residents and Businesses
21/00031	Council Tax Hardship Relief Support Scheme	£6m	21/00031 - Council Tax Hardship Relief Support Scheme

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From: Ben Watts, General Counsel
To: Scrutiny Committee, 11 March 2021
Subject: Local Authority Coronavirus Enforcement Powers
Status: Unrestricted

Summary:

This report summarises the legislative framework as it concerns Kent County Council's powers of enforcement in relation to Covid-19.

Recommendation:

Members are asked to NOTE the report.

1. Introduction

- a) The cornerstone of the emergency and enforcement powers relating to Covid-19 and health protection in England are set out in the following:
 - a. Coronavirus Act 2020.
 - b. Public Health (Control of Disease) Act 1984.
- b) The well-established powers in the latter, along with the trading standards powers available to local authorities gave Kent County Council (KCC) a firm foundation in the early stages of the pandemic and Officers across the authority have worked diligently to put them into effect to protect the people of Kent.
- c) The primary legislation has been supplemented by literally hundreds of pieces of secondary legislation, with 308 UK Statutory Instruments passed containing the word 'coronavirus' in the title to date. In addition, there have been many sets of official guidance from Government and other official bodies.

2. Health Protection Powers

- a) Out of all this information and regulation, it is possible to highlight some regulations as being of more strategic importance than some of the more technical ones. For example, the four 'Tiers' that applied across England were set out in:
 - a. The Health Protection (Coronavirus, Restrictions) (All Tiers) (England) Regulations 2020 (S.I. 2020/1374).
- b) The six main health protection regulations that apply to everyone in England are:
 - a. The Health Protection (Coronavirus, International Travel) (England) Regulations 2020 (S.I. 2020/568)

- b. The Health Protection (Coronavirus, Restrictions) (No. 3) (England) Regulations 2020 (S.I. 2020/750).
- c. The Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place) (England) Regulations 2020 (S.I. 2020/791).
- d. The Health Protection (Coronavirus, Collection of Contact Details etc. and Related Requirements) Regulations 2020 (S.I. 2020/1005).
- e. The Health Protection (Coronavirus, Restrictions) (Self-Isolation) (England) Regulations 2020 (S.I. 2020/1045).
- f. The Health Protection (Coronavirus, Restrictions) (Local Authority Enforcement Powers) (England) Regulations 2020 (S.I. 2020/1375).

3. Enforcement Powers

- a) In terms of local authority enforcement, the two that I would like to focus on are b and f above in 2b.
- b) The Health Protection (Coronavirus, Restrictions) (No. 3) (England) Regulations 2020 (S.I. 2020/750) will be familiar to Members in practice. These came into force on 18 July 2020 and were the ones that gave local authorities, including KCC, the ability to issue directions relating to individual premises, events, and public outdoor places. KCC put in place clear governance arrangements around the use of these powers that ensured there would be a clear decision-making process whilst recognising the need to act swiftly. Part of the arrangements were to report each instance of these powers being used to the Scrutiny Committee for review. Doing so contributed positively to ensuring the right lessons were learned.
- c) These regulations are due to expire at the end of 17 July 2021. Directions have been issued on three occasions:
 - a. Decision 20/00105 – Hop Farm, Paddock Wood.
 - b. Decision 20/00125 – Broadstairs Christmas Market.
 - c. Decision 20/00131 – Pantiles.
- d) The details of The Health Protection (Coronavirus, Restrictions) (Local Authority Enforcement Powers) (England) Regulations 2020 (S.I. 2020/1375) are set out in the Appendix to this report. It came into force on 2 December 2020 and remain in force for six months from this date.
- e) These regulations were brought in under the 1984 Act following engagement with local authorities. It is designed to give additional powers to local authorities to assist in the control of the spread of Covid-19. In summary, they gave KCC additional powers to enforce safety measures in businesses by being able to quickly request improvements, and close or restrict unsafe activities that do not meet Covid-19 secure requirements.

4. Looking Forwards

The Government set out its 'roadmap' out of the current lockdown across England on 22 February 2021. Local authorities will have a key role to play in this. No enforcement powers have been mentioned as part of this roadmap in addition to the ones set out above and described in the appendix. I will keep Members updated if this changes.

5. Recommendation

Members are asked to NOTE the report.

6. Background Documents

None.

7. Contact details.

Ben Watts, General Counsel
03000 416814
benjamin.watts@kent.gov.uk

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Appendix: Additional COVID-19 Local Authority Enforcement Powers

Adapted from Government guidance published on 4 December 2020:

<https://www.gov.uk/government/publications/additional-covid-19-local-authority-enforcement-powers/additional-covid-19-local-authority-enforcement-powers>

1. Introduction

- a) The new tools provided to local authorities consist of the following:
 - Coronavirus Improvement Notice (CIN).
 - Coronavirus Restrictions Notice (CRN).
 - Coronavirus Immediate Restrictions Notice (CIRN).
- b) The notices are based in part on the existing health and safety regime under the Health & Safety at Work etc. Act 1974 (HSWA). The HSWA regime has been used so that local authority Officers will have some familiarity with the new regime. Proportionality and the principles set out in the Regulators Code¹ should be followed, so that local authority Officers should attempt to engage with a business before issuing a notice where possible.

2. Coronavirus Improvement Notice (CIN)

- a) A Coronavirus Improvement Notice can be issued by a local authority when a business is failing to fulfil a provision set out in the relevant coronavirus regulations. This will often be the first step for local authority enforcement Officers to encourage businesses to remedy unsafe practices. A CIN will be applied for a minimum of 48 hours. Its actual duration will be at the discretion of the local authority enforcement Officer.
- b) An early review can be requested by the recipient of the notice if early compliance is achieved. Failure to comply with a CIN by the end of its operational period could lead to a fixed penalty notice (FPN) of £2,000 and/or a Coronavirus Restriction Notice being issued.

3. Coronavirus Restriction Notice (CRN)

- a) A Coronavirus Restriction Notice will be issued by a local authority when there has been a breach of the provisions of the relevant coronavirus regulations, and a premises has failed to comply with the terms of a Coronavirus Improvement Notice, where this non-compliance creates a risk of exposure to coronavirus.
- b) Following the 7-day period of application, a CRN can be withdrawn or allowed to expire where the premise has taken necessary steps to remedy unsafe practices.

¹ <https://www.gov.uk/government/publications/regulators-code>

- c) An early review can be requested by the recipient of the notice if early compliance is achieved. Failure to comply with a CRN during its operational period will result in an FPN of £4,000 being issued.

4. Coronavirus Immediate Restriction Notice (CIRN)

- a) A Coronavirus Immediate Restriction Notice can be issued by enforcement Officers where rapid action is needed to close a premises or restrict an activity to stop the spread of the virus, without first issuing a CIN to stop the spread of the virus. Closure will be for a 48-hour period initially. The local authority will be required to review the notice. A CIRN can be withdrawn or allowed to expire where the premise has taken necessary steps to remedy unsafe practices.
- b) Where necessary, a local authority can decide to issue a CRN at the end of the 48 hours, so that the premises is required to close for a further 7-day period, or where it is assessed that the premises is causing a serious and imminent threat to public health, a direction can be issued under separate regulations.
- c) Failure to comply with a CIRN will result in an FPN of £4,000 being issued.

5. Reviews

- a) A review will occur at the end of each notice or where an early review is requested for a CRN. A local authority Officer will apply their judgement to determine whether action taken by the recipient has complied with the notice. The relevant review periods are set out in each of the notices.

6. Appeal and withdrawal

- a) A notice can be appealed by the claimant in accordance with the Magistrates' Courts Act 1980. Where an appeal is made and is successful, compensation may be awarded by the magistrates' court. Following review or at challenge via the magistrates' court, a notice may be varied or withdrawn. The period of appeal is limited to 28 days.

7. Investigative powers

- a) The relevant powers of entry and investigation for local authority Officers to support the issuing of a notice, are set out in section 61 and 62 the Public Health (Control of Disease) Act 1984 (PH(CD)A), which is the enactment under which coronavirus regulations have been made in England to date.
- b) The powers are available to a "relevant health protection authority", but the local authority specified at section 1 of that act is extended, so that the powers are also available to county councils in 2-tier areas.

8. Relevant obligations on businesses

- a) These notices enforce rules to:

- take reasonable steps not to accept bookings, admit groups or allow persons to join groups or interact, in a way that offends the gatherings rules.
- keep appropriate distance between tables in hospitality premises.
- display a notice or otherwise ensure persons entering the relevant area are given the relevant information about the rules on face coverings, that information being that they need to wear one unless an exemption applies.
- prohibit a person responsible for a business from preventing or seeking to prevent any person at their premises from wearing a face covering where they must do so.
- restrict any business from providing a waterpipe for the consumption of tobacco or other substances or a device for the inhalation of nicotine or other substances (including for shisha).
- ensure that orders for food or drink for consumption on the premises between 10pm and 11pm are not accepted and require that the carrying on of that business or the provision of that service is not provided between 11pm and 5am in Tier 1 and Tier 2 (the sale of food or drink for consumption off the premises by delivery, click and collect and drive-through services is allowed between 11pm and 5am).
- restrict the opening hours for drive-in cinemas, drive-in theatres, outdoor concert venues and outdoor attractions at theme parks and fairgrounds and funfairs in Tier 3 so that they must close at 11pm save for the purpose of concluding a performance which began before 10pm.
- restrict service of food and drink for consumption on the premises in Tier 1 and Tier 2 so that where alcohol is served for consumption on the premises, any food or drink is ordered by and served to a customer who is seated on the premises and require that all in hospitality businesses serving food or drink for consumption on the premises, reasonable steps are taken to ensure that customers remain seated whilst consuming the food or drink.
- require the closure of any premises or part of the premises where food or drink is provided for consumption on the premises and restrict the provision of food or drink for consumption on the premises in Tier 3 (the sale of food and drink for consumption off the premises is allowed, however between 11pm and 5am only delivery, click and collect or drive-through services are allowed).
- close businesses providing alcohol for consumption on the premises without a substantial meal in Tier 2.
- display an NHS QR code in a relevant premises for the collection of contact details.
- request certain details from an individual, or at least one member of a group, when they seek to enter a relevant premises and have not scanned the NHS QR code.

- request the details of an individual and the one member of staff, volunteer or person providing the service, where an individual will only come into contact with that person.
- require hospitality businesses or premises to refuse entry to individuals or groups who do not provide the required details.
- require businesses or premises to retain this information securely for 21 days and disclose those details when requested to do so by a public health Officer.
- require an employer not to knowingly allow a worker who must self-isolate to attend work other than at the designated place of isolation, during the period of isolation.

9. Additional Information

- a) There are exceptions to these rules and the above summary does not contain all the relevant detail. The specific guidance as it applies would need to be consulted in specific cases.