

From: David Cockburn, Corporate Director of Strategic & Corporate Services

To: Roger Gough, Leader of the Council

Subject: **Domestic Abuse Act – New Burdens Funding: 21/00040**

Key Decision: *Affects more than 2 Electoral Divisions and involves expenditure of over £1m*

Classification: Unrestricted

Past Pathway of Paper: None

Electoral Division: All

Summary: The Government has provided £3.1m to implement the Domestic Abuse Act in 2021/22.

Recommendations: The Leader is asked to:

- 1) Accept the £3.1m Domestic Abuse Act funding for use in line with the Memorandum of Understanding issued by the Ministry of Housing, Communities and Local Government (MHCLG).
- 2) Delegate authority to the Corporate Director of Strategic and Corporate Services, in consultation with the Corporate Director of Adult Social Care & Health and the Corporate Director for Children, Young People and Education to take other necessary actions, including but not limited to entering into contracts or other legal agreements, as required to implement this decision.

1. Introduction

1.1 The Domestic Abuse Bill is still going through parliament, but it is anticipated that it will become law in April or soon afterwards. MHCLG has already notified us that KCC will receive £3.1m via a S31 Grant to cover the costs of implementing the new Act. Domestic Abuse is an issue that impacts on and is addressed by all the Directorates across KCC, so most of this funding will be used to commission adults and children's services but will be hosted in Strategic & Corporate Services.

2. The Domestic Abuse Act 2021

- 2.1 The Domestic Abuse Act is expected to be in place from April 2021, subject to the successful passage of the Domestic Abuse Bill. As part of the Act, MHCLG is introducing a new duty on local authorities in England to provide support for victims and their children in domestic abuse safe accommodation. The new Act is multifaceted and impacts service provision across partners delivering support

to survivors, including children and young people, and perpetrators. Highlights from the Act include.

- establishing a Domestic Abuse Commissioner for England and Wales (Nicole Jacobs was appointed Designate Domestic Abuse Commissioner in September 2019) As a statutory office holder, the commissioner will prioritise a number of areas of work including mapping domestic abuse services nationally (to end the postcode lottery for survivors), increase the recognition of children as survivors, and to improve the development and availability of programmes which reduce offending behaviour.
- a statutory definition of domestic abuse (which includes coercive and financial control). This statutory definition is broad; however, it ensures that all agencies work from the same understanding of domestic abuse. Work to understand how definitions of domestic abuse and adult safeguarding may interact is ongoing in Adults services.
- provision for a new Domestic Abuse Protection Notice and Domestic Abuse Protection Order.
- creation of the statutory presumption that victims of domestic abuse are eligible for special measures within courts (this is a two-part protection so it must also be viewed as necessary by the courts) and provides for several safeguards for victims within the court process including around cross examination of a victim by a perpetrator. It also prohibits the use of the 'rough sex' defence.
- the domestic violence disclosure scheme ('Claire's Law') on a statutory footing to ensure consistency of use. The scheme includes the
 - 'right to ask' - this enables someone to ask the police about a partner's previous history of domestic violence or violent acts
 - 'right to know' - police can proactively disclose information in prescribed circumstances.
- **a duty on local authorities to conduct a needs assessment and, based on its findings, provide support to victims and survivors of DA in refuges and other safe accommodation. This includes through developing the Local Partnership Board which will oversee the commissioning and decommissioning of accommodation-based services.**
- automatic 'priority need' housing status to all eligible homeless victims of domestic abuse.

2.2 Within the Domestic Abuse Act definitions of domestic abuse safe accommodation includes

- Refuge,
- Dispersed accommodation (non-communal supported accommodation),
- Sanctuary schemes (security provision within a survivor's home – these schemes are currently managed by a variety of organisations),
- Move-on accommodation where some levels of support are still required.

It does not include provision in Bed and Breakfasts or other emergency provision which has not specifically been procured to support survivors.

- 2.3 At present (until April 2021) local authorities are not under any statutory duty to provide support in safe accommodation. In some areas, local authorities are commissioning no, or insufficient, services with refuge provision in these areas thus dependent on short term charitable and grant funding. This is not the case in Kent, where the authority has been commissioning support to refuges since 2003. Further, in 2016 KCC brought together partners, including KCC Adult Social Care, KCC Public Health, Office of the Police and Crime Commissioner, Kent Fire and Rescue Service and nine District and Borough councils to pool budgets and collaboratively commission the Kent Integrated Domestic Abuse Service (KIDAS) contract. This partnership work aligned disparately commissioned services into a flexible, holistic service model, designed to create clear client pathways and outcomes, offer greater consistency to victims, deliver operational efficiencies, and facilitate improved strategic oversight of the sector to inform future strategic, tactical and operational decision-making.
- 2.4 As set out above, the Act places a new statutory duty on upper tier local authorities to provide support to victims of domestic abuse and their children in safe accommodation services. The recently-published definitions for support within DA safe accommodation services are defined as.
- Advocacy support, including the development of safety plans,
 - Prevention and advice,
 - Specialist support,
 - Support for young people and children including through play therapy and child advocacy,
 - Housing related support (supporting movement to permanent housing),
 - Legal advice including on benefits
 - Counselling therapy for both adults and children.
- 2.5 The KIDAS current contract provides much of this support for adults (16+). Support for children within safe accommodation is not part of the KIDAS contract and this is an area that will need to be enhanced using the new burdens funding. Currently, providers seek charitable and grant funding outside of the contract to deliver support to children such as counselling and play therapy.
- 2.6 There is already a well-established set of Domestic Abuse governance arrangements across Kent and Medway. There is a multi-agency Domestic Abuse and Sexual Violence Executive Board, a Tactical Group, and the Domestic Abuse Forums Chairs meeting. The new Local Partnership Board will be incorporated at the Tactical level, and chaired by an Assistant Director of Adult Social Care. Arrangements are being put in place, in consultation with partner organisations, and we are confident that our plans will meet the requirements of the new Act.

3. New Burdens Funding

3.1. KCC is the responsible body for the delivery of the duty in Kent and will receive £3,103,909. The assumption is that this will be recurring in future years. Districts and Boroughs within Kent will be awarded a total of £400,245 to support them in their duty to co-operate under the Act. Medway Council will receive £592k.

3.2 The Memorandum of Understanding sets out the expectations of Government for how this money should be spent:

- a) *to 31 March 2022 for the purpose of and the expectation that they start to prepare and fulfil their relevant functions under the duty from that date as if the new duty were in force and continue to fulfil these functions in line with the duty once it is commenced (subject to Parliamentary approval).*
- b) *The Bill will put in place a statutory framework for the delivery of support to victims of domestic abuse and their children residing within safe accommodation. Tier 1 Local Authorities will be required to appoint a multi-agency Local Partnership Board (LPB) to support them in performing certain specified functions. These will be:*

- *Assess the need for accommodation-based support for all victims and their children, including those who require cross border support.*
- *Prepare and publish strategies for the provision of support to cover the locality and diverse groups of victims.*
- *Give effect to strategies by making commissioning/de-commissioning decisions to meet the support needs of victims and their children.*
- *Monitor and evaluate local delivery of the strategy.*
- *Report back to Central Government; expected to include:*
 - *Reporting on local delivery – setting out how the functions have been executed under the new duty (including reporting on strategy, as well as how partnership working has been approached working across key agencies and across neighbouring areas;*
 - *Evidence that adequate needs assessments have been undertaken;*
 - *Evidence that local strategies are in place and working effectively;*
 - *Evidence that local commissioning decisions have been informed by needs assessments and that there is adequate suitable provision;*
 - *An evaluation of the impact of decisions locally including service delivery outcomes;*
 - *Evidence on spend and feedback on delivery, including challenges faced and best practice.*

(d) Tier 2 authorities will be required to cooperate with the Tier 1 authority, so far as is reasonably practicable.

(e) To ensure continuity in provision, where existing domestic abuse safe accommodation support services (which are meeting a need in that area) are already commissioned by Tier 2 Local Authorities, Tier 1 Local Authorities commit to either contract services directly or pass the appropriate funding to Tier 2 Local Authorities to maintain equivalent commissioned services until the needs assessments have been completed and the new strategies are in place on which future commissioning decisions can be based.

(f) Subject to Royal Assent of the Domestic Abuse Bill, and consultation, MHCLG expects to set out in regulations that Tier 1 authorities should finalise and publish their first strategy, based on a robust needs assessment, by August 21.

- 3.3 Further information and analysis is required to identify the best way to allocate the new burdens funding. MHCLG issued a draft needs assessment tool on 9 March and is aiming to finalise this over the next few weeks. Although we have a Domestic Abuse Needs Assessment that was completed in summer 2020, and provided the basis for the current Strategy and Action Plan, there is further information about housing-related support which is needed before decisions are taken about what to commission and de-commission in the light of the new Act.
- 3.4 The following approach will be taken to determining the final allocation of the new burdens funding:
- A principle of additionality – the funding should be used to expand and enhance Domestic Abuse services, not replace existing funding.
 - The staffing costs associated with implementing the Act, including a Domestic Abuse Coordinator and project and analytical support, to run the Board and undertake the needs assessment will be top-sliced from the funding.
 - The commissioning and de-commissioning of services will be driven by the evidence in the new needs assessment. However, it is already clear, given the requirements of the new Act, that some of the funding must be used to develop services for children who have been impacted by Domestic Abuse. The current needs assessment also highlighted that we need to do more to ensure that those victims/survivors who are men, older people, disabled, from some ethnic minority groups, or who are not heterosexual get appropriate support and advice.

Options considered but rejected

- The option of turning down the grant was discarded as there are many people in Kent who will benefit from this resource.

4. Financial Implications

4.1 The decision is to accept the £3.1m in full, and there should be no direct impact on the council's budget.

5. Legal Implications

5.1 Funding must be used in accordance with the guidance set by government, and the terms and conditions of the grant. KCC will apply appropriate legal mechanisms as part of issuing or deploying any grant monies to ensure any partners or third parties in receipt of grant funding remain compliant.

6. Equalities Implications

6.1 We know from our current needs assessment that a number of groups with protected characteristics under the Equalities Act are more impacted by Domestic Abuse than the general population, as referenced in paragraph 3.4 above. Current services and support are particularly geared towards heterosexual women (often with children) aged under 40, precisely because the vast majority of victims and survivors needing support come into that category. In commissioning and de-commissioning services in response to the new Act it will be vital to ensure that those with protected characteristics are provided with accessible advice and support that is appropriate to their needs.

7. Data Protection implications

7.1 There are no direct DP implications, but a DPIA will be undertaken for the needs assessment to ensure it is conducted in line with data protection regulations.

8. Governance

8.1 By approving the acceptance of the grant and the recommended deployment of the funds according to the principles set out in paragraph 3.4, the Leader of the Council confirms that the responsibility and accountability for management of the funds will sit with Kent County Council.

8.2 The delegations put in place confirm that authority for ongoing management of the grant funding will be vested in the Corporate Director of Strategic & Corporate Services. This delegation includes reviewing the spend arrangements and approving changes in consultation with the Leader, Corporate Director for Adult Social Care & Health, and Corporate Director for Children, Young People and Education.

8.3 All spend will be monitored as part of compliance checks to ensure adherence to the MHCLG guidance (set out in paragraph 3.2) and any terms and conditions associated with the grant.

9. Recommendations

Recommendations: The Leader is asked to:

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10. Background Documents

<https://www.gov.uk/government/collections/domestic-abuse-bill>

11. Report Author

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