

KENT COUNTY COUNCIL – RECORD OF DECISION

DECISION TAKEN BY:

Clair Bell, Cabinet Member for Adult Social Care and Public Health

(in consultation with the Deputy Leader and Cabinet Member for Finance, Corporate and Traded Services

DECISION NO:

22/00075

For publication

Key decision: YES

Title of Decision: Kent Homeless Connect - Termination of Service

Decision: As Cabinet Member for Adult Social Care and Public Health, and in consultation with the Deputy Leader and Cabinet Member for Finance, Corporate and Traded Services, I agree to:

- a) the ending of the Kent Homeless Connect service from 30 September 2022;
- b) The variation of the current Kent Homeless Connect Service Contract to include a transitional period of up to 18 months, ending no later than 31 March 2024;
- c) Delegation of authority to the Corporate Director Adult Social Care and Health, after consultation with the Cabinet Member for Adult Social Care and Public Health and the Corporate Director for Finance, to agree the relevant contract variations as required.

This decision should be read in conjunction with 22/00076 (Kent Homeless Connect Service – funding of transition phase through reserves) which agrees to transfer £4,653k from the council's reserves to fund the transition period.

Reason(s) for decision:

The Kent Homeless Connect (KHC) service was commissioned by the Council in October 2018 to support adults with complex support needs who are facing homelessness. To meet the financial challenge posed by the budget this year and in years to come, the Council's budget, agreed on 10 February 2022, included the proposal to allow the service to end when the contract expires on 30 September 2022.

After this date, the Council agreed to provide protection funding, drawn from its reserves, to ensure continued support for people who use the service for at least the remainder of the financial year (2022/2023) whilst transitional plans are drawn up with city, district and borough authorities and other stakeholders, in order that alternative arrangements for support in the future can be put in place.

Financial Implications

A model of a phased transition to new arrangements over three six-monthly stages recognises the challenges of a change in arrangements in supported housing, allowing a longer time to achieve this. The costs of this approach over an 18-month transition period would be £4,563k, as set out in Decision number 22/00076.

Savings from the termination of the contract were included in the Budget Book 2022-23:

Appendix G – Final Draft County Level 2022-25 Revenue Changes	2022-23	2023-24
Expiry of Homelessness contract from September 2022. Review services currently provided and develop suitable transitional arrangements which will be funded from reserves to mitigate the adverse impacts.	-£2,300k	-£2,300k

Legal Implications

The current framework contract ends on 30 September 2022. In order to transfer to new arrangements in a safe manner, it is proposed to vary the contract for up to 18 months, ending no later than 31 March 2024. The Council is satisfied with the legal advice it has received that shows there is sufficient justification under S.33(3) of the Public Contract Regulations to take this approach and that the necessary exemptions under Regulation 72 apply.

During the consultation the Council received three responses that suggested it had a legal duty to continue to provide these services. An example is given below
“KCC has not addressed how it intends to address the divergence from those duties placed on it and set out in the Homelessness Code of Guidance that places responsibility for the provision of housing related support on upper-tier authorities. This places KCC open to legal challenge for not fulfilling those duties placed on it by government policy.”

The Council has investigated this matter thoroughly and has established that it does not have a duty in terms to provide these services arising from the Code of Guidance as the respondents have suggested. KCC is of the view that both the Housing Act 1996 and the Care Act 2014 impose a mutual obligation to co-operate in the exercise of the respective functions of the Local Housing Authority and the County Council, as the relevant social services authority, concerning its responsibilities relating to adults with needs for care and support and the obligation to have regard to the homelessness strategies. KCC’s policy position is that where it is asked by a district council to assist the housing authority with the exercise of its functions under the Housing Act 1996, it will offer such co-operation and assistance where it is deemed reasonable to do so and, it does not result in the county council doing anything which another local authority is required to do under the Housing Act 1996.

KCC continues to carry out its adult social care responsibilities in accordance with the Care Act 2014, including s.2, and relevant regulations, statutory and good practice guidance. It conducts its assessment of need for care and support and prevention functions with regard to the homelessness strategies of district councils and the ‘duty to refer’ responsibilities placed on the County Council by the Homelessness Reduction Act 2017. Where the County Council is not able to comply with a request to co-operate from a district council, it will give a written reason for its decision. Following a transition period that will close on 31 March 2024, the Council intends to end its provision of housing related support in Kent Homeless Connect where it does not have statutory duty. The Council will ensure it exercises its duties to ensure those who need an assessment under the Care Act receive one and to consider how care and support needs can be met. The Council will work closely with the city, district and borough councils to develop and support transitional plans to meet the needs of individuals.

Equality Implications

An Equality Impact Assessment (EQIA) was drafted to accompany the consultation. The assessment found that should alternative support not be put in place, the decision to allow the contract to end may have a greater impact on some people with protected characteristics. It is envisaged that this

will be addressed through transition planning with the city, district and borough authorities and other stakeholders. The findings of the EQIA were supported by respondents to the consultation, who pointed to the increased impact experienced by younger people aged 18-35 and the information shared at the in-person events by people from the transgender community.

Data Protection Implications

A Data Protection Impact Assessment was completed for the service when it was commissioned. There are no anticipated data implications associated with these decisions, as the data collected will be covered under existing contract clauses.

Cabinet Committee recommendations and other consultation: A report setting out the proposals was discussed at the Adult Social Care Cabinet Committee on 13 July 2022.

Views from members were sought as part of the decision-making process and no comments were received.

Public Consultations were undertaken between 27 April 2022 and 6 June 2022.

www.kent.gov.uk/homelessnessconsultation.

Any alternatives considered and rejected:

Alternatives considered included:

1. Continue the current service

This option was discounted as it does not meet the council's budget requirement, agreed in the February 2022; the cost to re-commission the same service, after the contract ends in September 2022, is likely to be significantly higher than the current contract value, which was set in 2018.

This option also fails to make the most of the new funding that has been made available to the Kent housing authorities, such as the Rough Sleeper Initiative Funding and Homelessness Prevention Grant to assist with their statutory duties to this cohort.

The council is satisfied that it does not have a duty in terms to provide these services and has set out it will discharge the responsibilities it does have, for example those under the Care Act.

2. Allow the contract to end without a transition period

This option was discounted due to the significance of the impact on both those drawing on the service and on stakeholders and partners, if there was no opportunity for effective planning and management of such a change.

3. Run a competitive procurement for the transition period

The option to run a competition for the transition work to be undertaken rather than vary the existing contract was discounted as being unviable, more expensive and disruptive to those who are using the service currently. The council has taken legal advice on the vehicle to be used to facilitate the extension period and is satisfied that there is sufficient justification under S.33(3) of the Public Contract Regulations to take this approach.

A competition could lead to a change in provider. Such a change across all three areas of service would be impractical in the time before the 30 September, when the current contract ends, especially in supported housing, where new legal agreements between the landlords and support provider would need to be reached, and for the short duration proposed.

Any new provider is likely to charge a higher premium for taking on this short-term work when services are due to be phased out.

The short-notice transfer to a new provider of the several hundred people who are currently supported, is likely to be disruptive to those people, and interrupt their recovery from homelessness.

Additionally, this would lead to a duplication in costs for the period of the transfer.

Any interest declared when the decision was taken and any dispensation granted by the

Proper Officer:

None

Clair Bell

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signed

19 August 2022

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date