

# KENT COUNTY COUNCIL – URGENT RECORD OF DECISION

## DECISION TAKEN BY

Sue Chandler, Cabinet Member for Integrated Children's Services

## DECISION NO:

23/00110

For publication

Key decision: Yes

Subject: Unaccompanied Asylum-Seeking (UAS) children Support and Accommodation

### Decision:

As Cabinet Member for Integrated Children Services, I agree to:

- a) **APPROVE** the policy approach to securing and delivering additional accommodation and support for Unaccompanied Asylum-Seeking (UAS) children, as detailed in the report;
- b) **CONFIRM** the revised property and infrastructure requirements for the service in light of the updated UAS children accommodation approach;
- c) **NOTE** the current position and the measures already taken by the Council.
- d) **NOTE** that the capital costs and operating costs are expected to be reimbursed by Central Government;
- e) **DELEGATE** authority to the Corporate Director of Children, Young People and Education to take required actions, including but not limited to agreeing funding arrangements in consultation with the Corporate Director of Finance and entering into contracts or other legal agreements and undertaking relevant service review or redesign, to establish and enter operational arrangements both in relation to existing and new arrangements, as noted in the report, to implement the policy decision and ensure lawful compliance of the Councils statutory duties relating to UAS children service provision; and
- f) **DELEGATE** authority to the Director of Infrastructure to, in consultation with the Deputy Leader and Cabinet Member for Finance, Corporate and Traded Services and the Corporate Director for Children, Young People and Education, implement the relevant building works, finalise and enter into necessary contracts, funding or other legal agreements (including the completion of land transfers and acquisitions), and reallocate properties from the disposal list, to implement this decision.

### Reason(s) for decision:

1. This decision sets out the Executive Policy choice to take steps to secure the required UASC accommodation and establish relevant service provision to meet the Council's statutory obligations to all UAS children notified to it.
2. The decision is necessary to provide authority for the mobilisation of significant resource and

Council activity toward delivering an expanded service in this area, to comply with legal duties arising under statute (including the Children Act 1989), and a number of court judgments and orders.

3. The financial implications exceed £1m. All costs are expected to be reimbursed in full by Government. The costs represent substantial service development, including amending the estate requirements for the service, which has implications for properties currently marked for disposal. The decision confirms the policy requirement to direct the relevant KCC resources to support the policy objective to ensure sufficient accommodation and support is in place to meet legal requirements.
4. For the Council to comply with its statutory duties and the most recent requirements confirmed by the courts, it must continue to move at pace to secure the additional UAS child accommodation and put relevant service provision in place.
5. It is in the interests of the relevant UAS children to have access to the accommodation and support being arranged by this decision as quickly as possible.
6. To deliver the service accommodation requirement to meet its statutory duties, the Council must enter into contracts as soon as possible to enable the necessary works to be completed and in time for when greater numbers of UAS children are expected to require support in spring/summer 2024. As other funding arrangements are confirmed it will be necessary to progress at pace.

#### **Reason for Urgency:**

The Court has ordered the Council to take all possible steps to increase its capacity to safely accommodate and care for all UAS children who arrive in Kent and are notified to it. Directions have also been made requiring the Council to agree an action plan with Central Government with steps to achieve that objective. Since the court direction, the Council has been developing a plan subject to funding by Central Government, to increase accommodation and support for UAS children in Kent. Discussions have been progressing with the Home Office to agree a revenue and part-capital funding package, which is significantly progressed albeit not yet agreed in full. An element of additional capital funding was finalised on 8 December 2023 through a grant agreement with the Department of Education (DfE). It has been necessary to progress the decision via urgency procedures as the alternative would involve a significant delay of between 2 and 6 weeks, reducing the Council's ability to comply with its legal requirements and bring the accommodation at the soonest opportunity, which is necessary given that the accommodation will be needed when UAS children numbers in Kent start to increase in the Spring.

Due to the constantly changing situation with regards to various Court proceedings and negotiations over funding, it has not been possible to take this decision via KCC's normal governance route.

#### **Financial Implications:**

The Financial implications are set out in detail within the report accompanying the decision.

The financial implications set out the estimated capital and revenue costs, both one off and recurring and the need to ensure that the Council's costs are fully funded by Central Government.

The latest estimated capital costs total £32.93m, the revenue costs total £20m to £23m in 2023-24, up to £60m for 2024-25 and annually going forward. Initial funding of £9.2m for revenue costs has been provided by the Home Office and discussions are on-going regarding the remainder of the revenue funding requirement and the funding model. The Department of Education has confirmed £10.39m capital funding, with the Home Office confirming in principle £16.8m capital funding, leaving a shortfall of just under £6m. The shortfall in capital funding is included in the funding discussions

with the Home Office.

The forecast out-turn for 2023-24 and the budget for 2024-25 assume that the costs incurred by the Council will be fully funded. Any shortfall in funding will impact on the Council's financial sustainability and is highlighted as a key risk.

**Legal Implications:**

Legal advice has been provided by the Council's legal advisors in relation to the ongoing litigation and the context and impacts it has to the proposal and decisions required. This includes operational activity required under the decision, including the management and instruction of works to make properties fit for purpose, and the development and implementation of the required UAS child service provision to provide appropriate support to this vulnerable group, will be progressed via delegated authority as set out in the decision.

The scale of the activity approved is detailed in the report and authority to implement is limited to the level determined by the policy position, to ensure the Council's compliance with the court orders and its statutory obligation. The legal risks to the Council of not undertaking the approved activity and/or fully discharging its statutory obligations are set out in the report.

If the level of works and support change to a substantially beyond the core policy decision to meet legal requirements, or funding should cease to become available from Central Government or is insufficient to fund this activity, it is recommended that further decisions are progressed through normal governance procedures.

**Equality Implications:**

An Equalities Impact Assessment (EQIA) has been undertaken and no negative impacts have been identified. The EQIA will continue to be developed and reviewed as this project progresses.

**Data Protection Implications:**

There are no Data Protection implications in respect of this decision. The programme of work following the decision will be screened as required to determine whether this status changes.

**Cabinet Committee recommendations and other consultation:**

No Cabinet Committee consultation possible due to urgency process.

**The Chair of the Scrutiny Committee, in addition to agreeing that the decision could not be reasonably deferred provided the following comments:**

In my capacity as Chairman of the Scrutiny Committee I confirm that I am content that appropriate consideration has been given and I am happy to agree with the necessity for the Key Decision.

**The Group Spokespeople of the Scrutiny Committee providing the following comments:**

**Mr Lehmann:**

I wish to note my concern regarding the fact that the reimbursement of costs is not yet confirmed, only expected. I hope that we are able to resolve this with the Home Office swiftly.

**Dr Sullivan:**

This is a national issue that is concentrated in Kent. With the Government policy assuring the public

that their approach will lead to fewer crossing it is strange that on the other hand a further 9 properties are being sort for, for the purpose of housing UAS children.

I have concerns over the National Transfer Scheme and other Local Authorities accepting the looked after children in a timely fashion as described in the paper work. Will the Government enforce this power.

I have concerns for the wrap around services, such as doctors, dentist and education places that are stretched currently and need more support.

**The Chair and Group Spokespeople of the Children's, Young People and Education Cabinet Committee provided the following comments:**

No specific comments provided.

**Any interest declared when the decision was taken and any dispensation granted by the Proper Officer:**

None



21 December 2023

Signed .....

date.....