

From: Sue Chandler Cabinet Member for Integrated Children Services

Sarah Hammond-Corporate Director Children Young People and Education

To: Children's, Young People and Education Cabinet Committee-
16th January 2025

Subject: *In-House Provision*

Key Decision : *Yes, under the following criteria:*

- *Savings or expenditure of more than £1m*
- *Involves significant service development, either County-wide or in a particular locality.*

Classification: *Unrestricted (Appendix 4 – Business Case is restricted)*

Past Pathway of report: *None*

Future Pathway of report: *Cabinet Member Decision*

Electoral Division: *Should the decision proceed into implementation, the project will scope where in the County in-house provisions will be located so at this time could affect all divisions.*

Summary: Increasing residential placements costs within children's services was identified as a critical area within 'Securing Kent's Future' (2023). As part of our long-term financial sustainability planning for Children's High-Cost Placements, investment in Kent County Council's own in-house provision is considered as part of a range of options to deliver best value and better outcomes for children.

The proposed decision is an invest to save proposal by KCC to develop and offer its own Ofsted registered children's residential homes to address high-cost placements, for children whose needs require support in such provision.

Investing in our own in-house provision will achieve better outcomes for children through positive behaviour approaches, deliver revenue savings over the Medium-Term Financial Plan period and enhance financial sustainability of service delivery, as part of our longer-term strategy for mixed provision (both in-house and commissioned).

Recommendation(s):

The Children's, Young People and Education Cabinet Committee is asked to **consider** and **endorse** or make **recommendations** to the Cabinet Member for Integrated Children's Services on the proposed decision as detailed in Appendix A

1. Introduction

KCC's current policy is to commission placements from private providers, in spot purchasing arrangements given the immediate and complex needs of children. This means our costs are determined by market forces and pricing decisions by providers, which whilst influenced through our commissioning approach, limits our financial control. Having an element of in-house provision would enable the Council to control costs more directly (e.g. property and staffing costs).

Children with complex needs require different types of care and support placements, which can lead to significant costs. These types of placements can often involve intensive ratios of staff support to keep the child safe and can involve specialist residential settings (in or out of county), with limited options available in the market. KCC is actively working to reduce the use of unregistered accommodation (i.e. accommodation which is not registered with OFSTED). Unregistered placements are used only exceptionally in an emergency when no alternative is available, in circumstances of imperative necessity and where the placement is essential to avoid a breach of the child's Convention rights.

Emergency unregistered provisions can sometimes be the highest costing placements where the providers may not have the necessary skills, experience and knowledge to work with the child and network to improve the child's experiences and outcomes.

Nationally, other local authorities have made the decision to invest in their own in-house provision, as well as commissioned provision, as part of a longer-term sustainable strategy for managing placement costs and rising demand for placements of children with complex needs. Many local authorities are already operating, or are in the advanced stages of delivering a range of types of accommodation, including in-house children's residential homes.

The proposal is to develop a short/medium term service (emergency provision) to support stabilisation of the child's complex behaviours and step down their needs whilst suitable longer-term provision in more 'home like' settings is secured to achieve better long-term outcomes. This aims to avoid the number of children being placed in expensive commissioned placements, and/or emergency unregistered placements.

2. Key Considerations

There are a number of key areas which the proposed decision aims to address including:

- Enhance outcomes and service quality for children
- Transition children to better matched and best value registered placements
- Enhance our social work offer for children, young people and families
- Mitigate risk to KCC and our children by reducing the likelihood of unregistered placements, poor continuity of care or inappropriate settings
- Use KCC's commissioning arrangements to further negotiate improved costs across the market

- Using strengths-based models, increase likelihood of future cost avoidance by increasing independence and stability, better outcomes and emotional toolkits for children accessing the service.
- Ensure KCC is acting lawfully in only placing children in registered children's homes under section 22C(6)(c) of the Children Act 1989

The proposed decision aims to achieve best value for the Council, which includes financial viability, cost-effectiveness, whether sustainable outcomes for children are likely to be enhanced and to increase quality of life and every day independence, skills, choice, control and personal agency.

Best value also considers maximising the value of our staffing and contract value to achieve better outcomes, maintaining support levels and our ability to flexibly deploy staff and offset emergency placement costs.

3. Background

The increasing costs of children placements was identified as a critical area within Securing Kent's Future - Budget Recovery Strategy (2023). In 2024, the Children's High-Cost Placement programme was developed to progress the key activities that are needed to strengthen financial sustainability over the MTFP period, which included exploring in-house provision.

It is in our interest to support children to step down their needs to greater independence as when we do this it creates capacity for other children in the provision and enhances the longer-term outcomes for the children and less dependence on the Council's services. Stepping down a child's needs also builds up specialist knowledge and expertise in specialist provision, increased training for staff and continuity of staffing. With such a strong market influence on pricing in Kent, KCC has little leverage in influencing new provision or securing reasonable rates in existing external settings.

National and Local Context

The unique situation of Kent as geographically the largest county, numerically with the most looked after children and on the edge of London means we draw heavily on the local placement market. In-house provision could be part of our future strategy to influence the market. Research indicates that a number of local authorities nationally and regionally are investing in their own in-house provision, as part of a longer term sustainable strategy to manage cost and demand.

Children placed in Kent are more likely to find a placement within the county than in comparators, and this is significantly the case in comparison to the region and wider country. This means that we are likely to have sufficient demand and a future pipeline of appropriate placements for the type of in-house provision being considered.

Additionally, Department for Education (DfE) capital funding has been offered to local authorities for development of a range of provision. This funding is equally open to Regional consortia (such as the Regional Care Co-Operative (RCCs)) although there is a risk that provision developed via regional groups would not assure delivery of places exclusively to the specific local authorities which are developing them.

Service Context

Emergency unregistered provisions can sometimes be the highest costing placements. However, registered placements are also seeing expensive provision set up.

A deep dive into the increase in costs in residential provision for children was completed in 2019 and refreshed in 2024. This highlighted that the increase has been driven by regulation changes, increasing numbers of Looked after Children, risk and complexity of children's needs, limited availability of suitable foster placements, along with other local authorities placing in Kent in high numbers, usually paying more than KCC. Placing children out of the county and sometimes at significant distance has added to the cost of staff time and travel, supported family time and contact and the undertaking of reviews.

Developing an in-house offer by KCC is an opportunity to respond to rising demand of placements for children with complex needs, take some control back from a competitive and expensive private provision market whilst reducing the number of children within emergency unregistered placements. An investment in development of such services would enhance service quality for children and young people we support and offer substantial cost reduction/avoidance opportunities by having adequate provision in place and reducing the need for unregistered private provision.

Strategy Dependencies

- **Sufficiency Strategy** - Kent County Council (KCC) has high aspirations for children, young adults and their families/carers and are committed to achieving permanency and stability for all children and young adults through our services and those of our partners. The strategy is in the process of being refreshed and will need to be aligned with the Council's position on in-house provision.
- **Framing Kent's Future**- The proposal aligns to the key priorities set within Framing Kent's Future through:
 - Priority 1, Levelling up Kent - In-house provision in Kent could support the Kent economy to be resilient with market changes as part of a long-term strategy with providers, whilst using preventative approaches to improve outcomes for children in Kent.
 - Priority 4, New Models of Care and Support - In-house provision could support some of the most complex and vulnerable children within Kent whilst enhancing commissioning practice, using innovative and alternative methods to deliver care and building on partnerships to deliver best outcomes.
- **Securing Kent's Future**- The proposal sets out a strong case for investment to create in-house provision as part of a longer-term financial sustainability strategy of mixed provision that will support the council in achieving its strategic objectives in Securing Kent's Future.

- **‘Keeping Children Safe, helping families thrive’ government strategy-** The strategy sets out plans to reset the children’s social care system including delivering a whole system and child centred approach to reform, resetting how national government works in collaboration with local government and local partners. This seeks to achieve:
 - Greater transparency on the costs of placements to support local authorities in commissioning and national government in oversight of the market
 - A new financial oversight scheme, led by the Department for Education, which will include development of a criteria for “difficult to replace” providers, new requirements on cash reserves to support transition to new ownership or closure and reduce the impact on children
 - Backstop power for the Secretary of State to set profit caps if the above measures do not have the desired effect
 - Introduction of a regulation making power for future use to govern local authority use of agency social workers within children’s social care, building on recent work in this area.
 - Introduction to a new provision to meet complex needs of children with challenging behaviour.

4. Options considered and dismissed, and associated risk

A wide range of options were considered in an options appraisal, informed by key stakeholders and subject matter experts. This included consideration of best value, the opportunities (e.g. potential benefits and ability to deliver critical success factors) and risks, impacts and potential challenges for each option.

The proposed recommended option is to develop four small children’s homes with two beds each, operating from C2 residential homes owned and operated directly by Kent County Council. The service would use positive behavioural approaches and therapeutic community support to stabilise and step down the needs of children. The homes would be Ofsted registered and staffed by KCC staff. The placements would be targeted at children with complex needs and in high-cost placements, including those placed temporarily in emergency unregistered provisions. Whilst KCC would continue to progress with developing its own provision, joint working with Health and Medway Council would be pursued alongside this option.

Whilst the risks of this option have been robustly considered, this small-scale provision is unlikely to risk the wider market retreating from developing specialist capacity in this area, or to be highly vulnerable to occupancy challenges. The service is being advised by Infrastructure on flexible property options where self-contained support can be managed within the premises.

It is recommended that the proposed decision is not the only approach as part of our longer-term strategy to meet our MTFP commitments and other workstreams within Children’s High-Cost Placements should be completed in tandem.

Other options which were explored but discounted in the options appraisal included:

- Do nothing and continue to utilise existing external providers and commissioning arrangements to lower placement costs including spot purchase from private providers. It was agreed that more needed to be done to reduce costs of higher costing placements for children (thereby ruling out the do-nothing approach).
- Jointly invest with Health and Medway Council in KCC's own residential property assets for short/medium term use with the intention to set up further provisions for long term care, developing support from therapeutic communities. Whilst it was recognised that this option was the most ambitious option and would result in the most benefits, due to the engagement with Health this would lengthen the timelines for the project considerably which would not align to the critical success factors of the project and the constraints of when the project would need to be delivered by.
- Use a phased approach with the initial focus on setting up targeted intervention (for example, therapeutic support for a set amount of time to reduce need and cost) for children who are high cost or who are likely to become high cost (including those in emergency unregistered placements) and commissioning solutions such as developing a framework of providers, block contract with private providers or commissioning a private provider. This option is the least risky as it does not require capital upfront to purchase provisions, however it was agreed this option should be completed as part of core business working in parallel with the proposed decision.

5. Financial Implications

Total spend on residential care for Looked After Children (LAC) is forecast to be £52m in 2024-25. Spending on these externally purchased placements has increased by 57% (or £19M) in the past 2 years (£33m). In addition, current forecast spend on semi-independent placements is £14.5m this financial year. The majority of placement costs are funded from the General Fund, with a small contribution from health and/or Education where eligible.

The recommended option presents best value and is affordable and financially viable. The £3.8m capital investment was agreed in principle through KCC's Capital Funding governance arrangements but is subject to final approval of the budget at County Council in February 2025. Accounting for a range of revenue costs (including property, staffing and supported borrowing costs), the financial case shows that in-house provision is substantially more cost effective than private provision (£9.98m compared to £15.19m), with an overall net revenue saving of -£5.21m in the next 5 years, delivering savings over the Medium-Term Financial Plan (-£1.526m per annum from 2027/28 onwards). The savings are based on the assumption of minimum occupancy level, if higher levels of vacancies are experienced this will reduce the saving that can be achieved.

This revenue saving relates to KCC's agreed 2024-2027 budget (approved by County Council in February 2024) which set out the intention for delivering policy savings for Children's Residential Care (development of in-house residential units to provide an alternative to independent sector residential care placements – invest to save).

At this stage, whilst continuing to closely monitor potential options available in the property market, KCC has not identified specific properties which may be acquired. This is due to the limited C2 use class market and time sensitive nature of decision taking around property acquisitions. The decision therefore delegates authority to the Director of Infrastructure to identify and acquire property(s) to meet the service needs subject to this being within the capital envelope of £3.8m to facilitate the provision of four units and two beds each, or similar suitable provision to meet the needs of children and young people accessing this type of support.

As required in the Council's new Asset Management Strategy full lifecycle costings have been factored into the financial appraisal. This will ensure the acquisition of properties does not lead to additional pressures on the Council's limited maintenance budgets and to ensure the long-term financial sustainability of the service.

Should the proposal proceed into implementation this necessitates the requirement for the person carrying on and managing the children's home to be Ofsted registered. The decision whether to register is made by Ofsted and the time this process takes is outside of KCC's direct control, in other local authorities this has taken up to a year. There is a financial risk a delay in registration approval delays the operational start date and could impact the financial year when revenue savings could be achieved. The revenue costs take into account contingency that staff employed could be redeployed flexibly on other work whilst we await registration. The savings assumption includes an underoccupancy rate of 5% per annum once fully operational.

6. Legal Implications

Children with complex needs need different types of care and support placements, which can be at significant cost to KCC. The definition of complex needs can mean different things, but often refers to people with complex behaviour support or health needs in the context of social care. We are not anticipating these services having significant physical health needs; however, many may have mental health needs, some behaviours of concern which could range from self-harm, high levels of violence, exploitation by others, drug or alcohol misuse. Other types of behaviours could be disengagement, or isolation, and so we work with children to reduce and replace these behaviours over time and build independence.

These types of placements can often involve intensive ratios of staff support to keep the child safe and can involve specialist residential settings (in or out of county), with limited options available in the market. This can sometimes lead to children exceptionally being placed in unregistered accommodation in an emergency when there is no alternative in circumstances of imperative necessity and where the placement is essential to avoid a breach of the child's Convention rights.

The further struggle for registered independent providers is their concern of losing their Ofsted registration due to statutory responsibilities to match children within placements. It is more difficult to match children with more complex needs with other children. Alternatively, providers may limit the number of children they care for reducing capacity and passing this cost to the Local Authority whilst operating at diminished capacity.

The key legal considerations associated with the development of registered children's homes by KCC are as follows:

- KCC has the power to develop and establish registered children's homes under section 53 of the Children Act 1989 and/or further to the general power of competence set out in section 1 of the Localism Act 2011.
- The ways in which looked after children are to be accommodated are set out in section 22C of the 1989 Act. Generally, local authorities must not place a child in an unregistered children's home. The only caveat to this is that unregistered accommodation may be used exceptionally in an emergency when there is no other alternative in circumstances of imperative necessity and where the placement is essential to avoid a breach of the child's Convention rights.
- Further to the Supported Accommodation (England) Regulations 2023, as of 28 October 2023, local authorities can accommodate a child aged 16 or 17 in supported accommodation only in circumstances where the owner/provider applied for Ofsted registration prior to that date. Given that any such application should now have been processed, the practical effect of this is that local authorities must not place children in or arrange supported accommodation if it is not registered with Ofsted.
- In accordance with the Care Standards Act 2000 and the Care Standards Act 2000 (Registration) (England) Regulations 2010, KCC will therefore need to seek registration of its children's homes and the manager(s) of the homes from Ofsted. If Ofsted is satisfied that (a) the requirements of regulations made under section 22; and (b) the requirements of any other enactment which appears to the registration authority to be relevant, are being and will continue to be complied with in relation to the establishment, it must grant the application. The relevant regulations are the Children's Homes Regulations 2015 ("the 2015 Regulations"). The Secretary of State has also published minimum standards under section 23 of the 2000 Act, which explain/supplement requirements imposed by the 2015 Regulations. These are the Guide to Children's Homes Regulations, including the Quality Standards"
- Assuming registration is granted, the children's homes and the manager(s) will then be subject to Ofsted's regulatory regime.
- It is a criminal offence for a person to carry on or manage a children's home (or supported accommodation) without being registered under the Care Standards Act 2000 in respect of it (section 11 of the Care Standards Act 2000).
- It is anticipated that the effect of the preferred option will be that there will be a reduction in the number of placements in unregistered accommodation.

The proposed decision includes delegations to the Director of Infrastructure to authorise the acquisition and alterations of properties required to implement the

service model. Property related legal advisors will be arranged and appointed via the Office of General Counsel as required to support transactions.

7. Equalities implications

An Equality Impact Assessment was completed and found low level negative impacts on the protected characteristics at this stage of the proposal. Positive impacts were identified for the protected characteristics of age, disability and sex. This will be reviewed and updated as the proposal progresses and more detail is known, for example the type and location of the buildings.

8. Data Protection implications

A Data Protection Impact Assessment screening was undertaken and found to have low level negative impacts to data protection with a full DPIA not required at this time. The DPIA will be maintained and updated as a live document throughout the duration of the proposal.

9. Other corporate implications

The proposed decision is to progress to service implementation, working with Infrastructure to identify suitable property(s) for the delivery of the service. Until we identify the suitable properties, it is not possible to be specific about the district/area/community which the in-house provision may be located in. Once locations are identified, relevant Elected Members and District/Borough Councils within those areas will be engaged.

Infrastructure will need to review and agree all decision documents to ensure the necessary delegations are provided, that decisions are in line with adopted policy, and decisions are capable of implementation

10. Governance

The appropriate governance processes of the council will be followed for the proposal.

If the decision is endorsed, the Director for Integrated Children's Services and Director of Children's Countywide Services will have delegated authority for operational implementation and the Director for Infrastructure will inherit main delegations via the officer scheme of delegation to purchase properties to set up provisions.

Progress on the In-House Provision project is overseen by the In-House Provision Project Steering Group and will be reported into the Children's High-Cost Placement Programme Board is within scope of the Strategic Reset Programme, with regular updates and exception reporting to the Strategic Reset Programme Board.

11. Conclusions

KCC's current policy is to commission placements from private providers, in spot purchasing arrangements given the immediate and complex needs of children. This means our costs are determined by market forces and pricing decisions by providers,

which whilst influenced through our commissioning approach, limits our financial control. Having an element of in-house provision would enable the Council to control costs more directly (e.g. property and staffing costs).

Developing an in-house offer by KCC is an opportunity to respond to rising demand of placements for children with complex needs, take some control back from a competitive and expensive private provision market whilst reducing the number of children within unregistered placements. An investment in development of such services would enhance service quality for children and young people we support and offer substantial cost reduction/avoidance opportunities by having adequate provision in place and reducing the need for unregistered private provision.

As outlined in the document the proposed decision is not the only approach as part of our longer-term strategy to meet our MTFP commitments and includes other workstreams within Children's High-Cost Placements to be completed in tandem. The proposed decision is a pilot for in-house provision and if successful could be part of our longer term strategy to increase in-house provisions and enhance financial sustainability of service delivery.

The proposed decision is to progress to service implementation, working with Infrastructure to identify suitable property(s) for the delivery of the service. Until we identify the suitable properties, it is not possible to be specific about the district/area/community which the in-house provision may be located in. Once locations are identified, relevant Elected Members and District/Borough Councils within those areas will be engaged.

12. Recommendation(s):

The Children's, Young People and Education Cabinet Committee is asked to **consider** and **endorse** or make **recommendations** to the Cabinet Member for Integrated Children's Services on the proposed decision as detailed in Appendix A

13. Background Documents

- [Care Standards Act](#)
- [Securing Kent's Future](#) and [Framing Kent's Future](#)
- [Keeping Children Safe, Helping Families Thrive](#)
- [The Children Act 1989](#)

14. Appendices

- Appendix 1 - Proposed Record of Decision
- Appendix 2 - EQIA
- Appendix 3 - DPIA
- Appendix 4 Business Case as exempt appendix

15. Contact details

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