

## KENT COUNTY COUNCIL – PROPOSED RECORD OF DECISION

### DECISION TO BE TAKEN BY:

Sue Chandler

Cabinet Member for Integrated Children Services

### DECISION NUMBER:

24/00105

**For publication** [Do not include information which is exempt from publication under schedule 12a of the Local Government Act 1972]

### Key decision: YES

*Key decision criteria. The decision will:*

- a) *result in savings or expenditure which is significant having regard to the budget for the service or function (currently defined by the Council as in excess of £1,000,000); or*
- b) *be significant in terms of its effects on a significant proportion of the community living or working within two or more electoral divisions – which will include those decisions that involve:*
  - *the adoption or significant amendment of major strategies or frameworks;*
  - *significant service developments, significant service reductions, or significant changes in the way that services are delivered, whether County-wide or in a particular locality.*

### Subject Matter / Title of Decision: In House Provision

### Decision:

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

- (a) APPROVE the establishment of in-house provision for children and young people
- (b) Note that the progression of establishing an in-house model will require £3.8m capital funding to be allocated through the 2025 budget setting process and
- (c) AGREE that progression will be subject to Full Council's approval of the budget.
- (d) DELEGATE authority to the Corporate Director of Children, Young people and Education to design and implement the staffing and asset utilisation model to support the establishment of in-house provision for children and young people
- (e) DELEGATE authority to the Corporate Director of Children, Young people and Education, in consultation with the Cabinet Member for Integrated Children's Services, to initiate and progress the OFSTED registration process
- (f) DELEGATE authority to the Corporate Director of Children, Young people and Education to take other relevant actions, including but not limited to finalising the terms of and entering into required contracts or other legal agreements, as necessary to implement the decision
- (g) DELEGATE authority to the Director of Infrastructure, in consultation with the Deputy Leader and Cabinet Member for Finance, Corporate and Traded Services, Corporate Director for Finance, and General Counsel, to approve and execute all relevant property matters as required to implement the decision.

### Reason(s) for decision:

Decision required because total value of expenditure/savings will exceed the threshold for a Key Decision and will have significant service developments.

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).

## **Background**

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 accommodation is used only 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.

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 in the advanced stages of delivering a range of types of accommodation, including in-house 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 unregistered placements.

This aims to:

- 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

## **Options**

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 an in-house service, 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 and young people. The homes would be Ofsted registered and staffed by KCC staff. The placements would be targeted at children and young people in high costing placements, including those placed in 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.

## **How the proposed decision supports the [Framing Kent's Future - Our Council Strategy 2022-2026](#)**

The proposal aligns to the key priorities set within Framing Kent's Future through Priority 1, Levelling up Kent and Priority 4, New Models of Care and Support.

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 and young people in Kent.

Priority 4, New Models of Care and Support - In-house provision could support some of the most complex and vulnerable children and young people within Kent whilst enhancing commissioning practice, using innovative and alternative methods to deliver care and building on partnerships to deliver best outcomes.

## **How the proposed decision supports [Securing Kent's Future 2022 -2026: Securing Kents Future - Budget Recovery Strategy.pdf](#)**

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.

Achieving best value from in-house provision is not just about financial viability and cost-effectiveness but is also about considering whether sustainable outcomes for children are likely to be enhanced and to increase quality of life and everyday independence skills, choice, control and personal agency.

## **Financial Implications**

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.

This revenue saving relates to KCC's agreed 2024-2027 budget (approved by County Council in February 2024) which set out 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 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.

As required in the Council's new Asset Management Strategy full lifecycle costings will be 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 provision to be Ofsted registered. The registration process decision 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 and also assume contingency for occupancy.

### **Legal Implications**

This proposal will continue to support children and young people within KCC's statutory framework and Ofsted registered provision.

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. The children’s homes and the manager(s) will then be subject to Ofsted’s regulatory regime.
- It is anticipated that the effect of the proposal will be that there will be a reduction in the number of placements in unregistered accommodation.

**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 published as part of the Cabinet Committee papers and Record of Decision and Decision report, when the decision is taken. This will be reviewed and updated as the proposal progresses and more detail is known, for example the type and location of the buildings.

**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.

**Cabinet Committee recommendations and other consultation:**

Children, Young People and Education Cabinet Committee considered and endorsed this decision at its meeting on the 16 January 2025.

**Any alternatives considered and rejected:**

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.
- 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.
- 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 unregistered) and commissioning solutions such as developing a framework of providers, block contract with private providers or commissioning a private provider.

**Any interest declared when the decision was taken and any dispensation granted by the Proper Officer: No**

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signed

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date