

By: Oliver Mills, Managing Director, Kent Adult Social Services

To: Graham Gibbens, Cabinet Member, Adult Social Services

Subject: **OUTCOME OF THE FORMAL CONSULTATION ON THE VARIATION OF SERVICES AT BLACKBURN LODGE REGISTERED CARE CENTRE, SHEERNESS**

Classification: Unrestricted

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Summary: This report considers the proposal to transfer services at Blackburn Lodge into a partnership with an independent sector provider and summarises the responses to the consultation. The report asks the Cabinet member to approve the proposal to transfer services at Blackburn Lodge into a partnership with a private organisation that will continue to deliver services but develop, modernise and tailor services under separate arrangements and possibly at a different locations in Sheppey

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## 1. Background

(1) Kent County Council (KCC) is modernising the way older people are supported and cared for in the county.

(2) On Monday 14 June 2010, Kent County Council's Cabinet agreed for Kent Adult Social Services (KASS) to begin a formal consultation on the future of its Older Person's Service Provision. From Monday 21 June 2010, KASS officers met with members of staff, service users, relatives, trades unions and other key stakeholders to talk about the proposals.

(3) The full consultation covered 11 of the 16 homes owned and managed by KASS.

<b>The main drivers for the full consultation are:</b>
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| <ul style="list-style-type: none"><li>• <b>More people are living longer and living with dementia. People rightly expect more choice in care.</b></li><li>• <b>High quality care is a continuing priority. Dignity in care is crucial and more people want care at home.</b></li><li>• <b>Residential care should be in high quality buildings. Some KCC buildings have reached the end of their useful life and don't meet expectations or standards for new builds.</b></li><li>• <b>Good quality care can be commissioned for less money. The private and voluntary sector is set up to care for more people.</b></li></ul> |
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(4) The considerations and options evaluated to determine the proposals for each home included:

- a) The range of alternative local services for older people
- b) The opportunity for developments with partners in the local area
- c) The condition of the buildings and likely capital expenditure required to maintain services
- d) The appropriateness of the design of the buildings for the services delivered and required
- e) The need to release money that is tied in to services that could be used to deliver equivalent services to more people

(5) The proposals combined across Kent will generate savings of £1m in 2011/12 and £1.2m in 2012/13.

(6) This report covers Blackburn Lodge Registered Care Centre in Sheerness. The proposal in the consultation is for the services in the home to be transferred into a partnership with a private organisation, which would continue to deliver services and/or develop, modernise and tailor services under separate arrangements and possibly at different locations in Sheppey. A similar proposal has been made for Doubleday Lodge, Sittingbourne and Kiln Court, Faversham.

(7) Blackburn Lodge is a detached 34-bed unit (33 single rooms and one double with no ensuite facilities) built in 1982. It offers residential care, respite care, intermediate care and day care. The land is freehold and subject to a restriction in favour of the Secretary of State for Defence to use for local authority educational purposes which was amended in 1982 to permit Kent County Council "to use for local authority purposes which the Council deem necessary to enable the council to discharge its social function as carried out under the auspices of its director of Social Services". If the above purpose of use ceased, a right to buy for £2,100 in addition to the value of any buildings erected on the property is triggered in favour of the Secretary of State.

(8) Blackburn Lodge was purpose built and is positioned on the seaward side of a busy main road in Sheerness on the Isle of Sheppey. The accommodation is on the first floor and is registered for older people with general frailty. The building would not meet the national minimum standards of the Care Standards Act 2000 as regulated by the Care Quality Commission if it were to be built today. There is, however, protection against these standards being applied for as long as significant structural improvements are not required. The building will, very soon because of its age, require considerable investment to maintain services and meet future needs and expectations. In 2007, a survey was undertaken which identified works needed totalling £273,560. The majority of the quoted cost was in relation to external areas but internally was around floors and stairs, walls and doors, ceilings, windows and mechanical services.

(9) The unit cost (gross), based on 100% occupancy for one bed, was £637.51 per week for 09/10, in the day centre was £39.96 per day for 09/10. The annual gross expenditure for 09/10 is £1,130,300 for residential and £298,500 for day care – totalling **£1,428,800**.

(10) Blackburn Lodge offers 21 permanent general frailty beds and six respite beds for general frailty. At 11 November 2010, there were 20 permanent residents. In 2009/10, the building was running at 85% of its residential capacity. This made the bed unit cost £752.53 per week. The day care centre has a capacity of 30 people per day

Monday to Friday, and was running at 69% capacity in 2009/10 which made the unit cost £57.64 per day.

(11) The maximum charge for individuals accessing the beds in the units is currently capped at £407.92 per week. Everyone that accesses residential and respite services is financially assessed for a contribution towards their care in line with the Charging for Residential Accommodation Guide (CRAG). This means that individuals who have savings of more than £23,250 are charged £407.92 per week and anyone with less than £23,250 is assessed against their means to determine their level of payment. A snapshot undertaken in the summer of 2010 indicated at that time there were 51 people living in the in house residential services being charged £407.92 per week.

(12) KASS has a guide price for the independent sector and can buy services in Sheppey for £342.85 per week for standard residential care.

(13) The Care Quality Commission (CQC), in its last inspection in April 2010, rated the service as good. There was very positive feedback about the services both from inspectors and service users. CQC reported that "The home continues to let us know about things that have happened since our last key inspection and they have shown that they have managed issues well. They work well with us and have shown us that their service continues to provide good outcomes for the people who use it."

(14) Local commissioners recognise that Blackburn Lodge offers some services that they would be looking to continue to provide in partnership. This would be with an independent organisation that has a good track record, access to capital funding and long term viability. This may not be on the same site as Blackburn Lodge but will be on the Isle of Sheppey.

## 2. Consultation Process

(1) The county council has a duty to undertake formal consultation on any proposed changes to services. The procedure for consultation on modernisation/variation or closure of establishments in KASS was followed as below:

Process	Date Action Completed
Obtained agreement in principle from the Cabinet Member for Adult Social Services.	14 June 2010
Cabinet member chaired a meeting to discuss the proposals and information packs were sent to those who were invited and who attended:	
The Chairman of the Adult Social Services Policy Overview Committee (ASSPOSC)	10 June 2010
Vice Chairman	10 June 2010
Opposition spokesman	10 June 2010
Local KCC member(s)	28 June 2010
Elected members	14 June 2010
Responsible member of KCC adult social services Strategic Management Team	10 June 2010
Heads of Services (updated to reflect new title)	14 June 2010
Area Personnel Manager	14 June 2010

<p>Stakeholders were informed in writing and invited to comment: -</p> <ul style="list-style-type: none"> <li>Users, relatives and carers</li> <li>Head of Service</li> <li>Staff</li> <li>Trades Unions</li> <li>Local KCC member(s)</li> <li>District Council</li> <li>Parish/Town Council</li> <li>Relevant NHS bodies</li> <li>Any other relevant person or organisation and the Local MP</li> </ul>	<p>Letter sent 14 June 2010. Consultation period ended 1 November 2010 (19 weeks from 21 June 2010).</p> <p>Summary of meetings and correspondence received as a result of the consultation</p> <p>Informed MP and answered questions</p> <p>Held individual meetings and group meetings with local councillors, county councillors, MPs</p>
<p>Directorate issued a Press Release</p>	<p>The press officer responded to 49 enquiries from the press across the county for all proposals during the consultation period.</p>
<p>A wide range of stakeholder meetings were held</p>	<p>Meetings with staff and union representatives held on 28 June 2010.</p> <p>Stakeholder Roadshow held for Swale on 20 October 2010</p> <p>Individual meetings with permanent residents and carers offered but not requested for those accessing Blackburn Lodge</p> <p>Meeting with permanent and respite users and carers on 28 June 2010.</p> <p>East Kent Area Management Team Commissioning Board on 6 September 2010 and 1 November 2010.</p> <p>Presentation at members' briefing on 26 July 2010 on proposals.</p> <p>Presentation to NHS Eastern and</p>

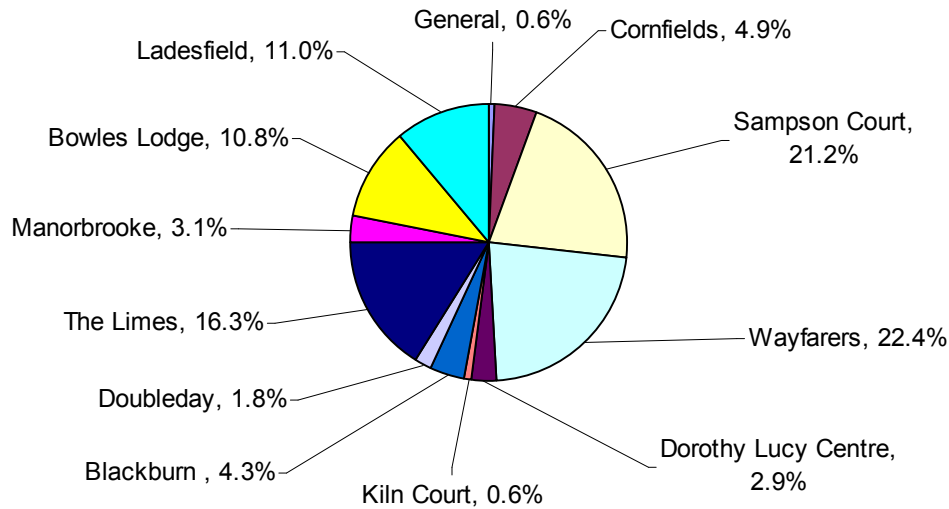
	<p>Coastal Kent Commissioning Strategy Committee (Swale, Dover and Whitstable PBC) Meeting on 25 August 2010</p> <p>Sheppey Community Engagement Forum on 19 October 2010</p> <p>Adult Social Services Policy Overview and Scrutiny Committee Chair and Vice-Chair visit to Blackburn Lodge 26 October 2010</p>
Report to Cabinet member for decision making on the closure/variation proposal.	This report dated 30 December 2010
The Cabinet member or the Chairman of the Adult Services Policy Overview Committee will decide if a meeting between him/themselves, KCC Members and consultees is necessary.	In addition to the extensive consultation, these matters will also be discussed at Adult Social Services Policy Overview Committee on 12 January 2011
Instigate any change programme	From January 2011.

(2) The 19-week consultation period for the modernisation of our Older Person's Provision concluded on 1 November 2010. Residents, carers, staff, unions and relevant bodies have been involved with meetings and their views have been considered. Clients and their carers were consulted about the alternative options of service provision.

(3) The overall consultation received **490** letters; most were relating to specific units. A number of letters were copied to the local MP, local councillor, Councillor Gibbens and officers within KCC. Each letter was responded to either by a standard acknowledgement or a more detailed letter responding to any queries or inaccuracies in their statements. Of the total number of responses, **4.3%** related directly to Blackburn Lodge.

The chart below shows the responses for all units consulted on.

### Consultation Responses - Letters/Emails/Telephone



(4) KCC developed a questionnaire as an additional method for people to contribute to the consultation. This questionnaire was available either by responding directly on line, downloading from the website or through a hardcopy with postage paid.

### 3. Future Service Delivery

(1) Commissioners in the Swale district are developing a Commissioning Needs Schedule for the future. This will include a range of residential care services; long term, short stay, dementia care, intermediate care, day care and other services.

(2) If the decision is made to go ahead with the transfer of services from Blackburn Lodge into a partnership, a full set of local service requirements will be included for potential partners to bid against.

### 4. Interest Shown in Partnership Arrangements

(1) In order to explore the potential for transferring services delivered at Blackburn Lodge into a partnership with a private organisation a market sounding exercise was carried out. This involved writing to all residential care homes in Kent, contacting key housing providers and placing an advert on the South East Business portal and a Prior Information Notice in the official Journal of the European Union inviting expressions of interest.

(2) By the closing date of 26 November 2010, 14 organisations responded to the expression of interest for Blackburn Lodge.

(3) There are 14 organisations that would be included in the next phase. Officers are therefore assured and confident that a suitable provider could be secured to progress with this proposal.

(4) If the decision is made to go ahead with the transfer of services at Blackburn Lodge into a partnership with a private organisation, there will be a formal procurement process involving all those who have expressed an interest. The objective would be to sign a contract during the 2011-2012 financial year.

(5) Appendix One details the list of organisations that have expressed an interest in a partnership to re-provide the services at Blackburn Lodge. This is a strictly confidential list and is only shared with limited individuals who require it as part of the decision making process.

## **5. Alternative Proposals**

(1) An Evaluation Panel met on 15 November 2010 to review all alternative proposals that had been submitted. The panel had representation from Commissioning, Finance, Contracting and Standards, Provision and Personnel.

(2) One alternative proposal was received for Blackburn Lodge which was the generic Unison Proposal. Unison's feedback called on the county council to withdraw its proposals and retain its role as a direct provider of social care. This has been considered as an alternative proposal and evaluated by a panel of KASS officers. Unison reports that there is extreme difficulty identifying vacancies in independent sector homes of a satisfactory standard. It does not think specialist services should be provided in an untested market and believes KCC should remain a direct provider in order to help set high standards. The comments from Unison state that the buildings are fit for purpose and that quality of care should be considered above the fabric of the building. Unison argues that reducing council provision reduces choice and that "attrition rates for residents remain high for enforced moves". Unison argues that KCC's cost comparisons with the independent sector have not been made like-for-like and do not take into account transaction costs. For the partnership proposals (Blackburn Lodge, Doubleday Lodge, Kiln Court), Unison argue that TUPE Plus should be a minimum expectation, should these be taken forward. The submission also stated that an independent sector operator would drive to reduce costs, that staff would move on and ultimately that quality would be reduced as a result.

(3) The proposal from Unison is largely asking to maintain the status quo, which does not enable KCC to address the four key reasons for change and therefore is not an option that KCC can support. In response to Unisons issues, the panel made the following observations:

- KCC will retain control of the market as a key purchaser of care and standards.
- There are vacancies in homes rated 'good' or 'excellent' in the independent sector.
- The proposal for the specialist enablement beds at The Limes is for them to be provided at Gravesham Place which has previous experience of this service.
- The buildings will require the investment of significant capital funding that KCC does not have access to – and the long term future of the services could be more uncertain, possibly resulting in emergency closure rather than planned closure.
- There is no statutory duty to directly provide residential care. KCC should be directing resources to further enhance the quality monitoring and contract management responsibilities it has in commissioning services – and providing personal budgets for people who meet KASS eligibility criteria.
- It is KCCs stated long term intention to focus on undertaking a commissioning role with services provided by a plurality of independent sector providers.
- Where moves are necessary, KCC has considerable experience of carefully and successfully moving older people. Each case will be managed and supported on an individual basis to ensure their personal needs are met at an appropriate pace for the individual.

- It is acknowledged that purchasing intermediate care/enablement beds in the independent sector would require a premium above guide price however commissioners are confident they could purchase these beds in the independent sector at less than half the gross unit cost of an in-house enablement bed.

(4) If the proposal to transfer the services at Blackburn Lodge into a partnership with a private organisation was agreed, a key element of the criteria for selecting a partner would be their track record of providing care services and their long term plan for providing both local and good quality services for older people. KCC would also expect them to have experience with TUPE and Pension regulations.

## 6. Issues raised during the consultation

### a) Petitions

(1) A petition was received with 342 signatures. The accompanying statement referred to **Blackburn Lodge currently not being able to accept new day care clients and not extending the number of days people can attend. It mentions that respite has been restricted. It also refers to higher costs in the private sector, quality of care being eroded and livelihoods being threatened.** The petitioners were making representation against both the proposal and the KASS actions in place to manage the budget across all services. A further petition was submitted with 1332 signatures which triggered a debate at county council on 16 December 2010. Attached at Appendix Two is the presentation text provided for County Council.

### b) Letter/Email responses:

(1) **No one can run services better than the local authorities as it is not essential for a profit to be made.** Care homes run by the local authority and by the independent sector are inspected by the Care Quality Commission against the same standards. Blackburn Lodge is rated as 'good' by the CQC and there are others at equal ratings or 'excellent' ratings. Not all independent sector providers are profit making organisations, some are not-for-profit.

(2) **Ensuite facilities are not offered by the private sector and most have to share rooms.** It is correct that the majority of older homes do not have ensuite facilities. This is, however, a requirement for any new build homes or homes that need significant improvements. It will also become a basic expectation for future generations. KCC does not place people in shared rooms unless requested.

(3) **The staff are marvellous at Blackburn Lodge.** The proposals are not a reflection of the staff and the partnership arrangements would mean that affected staff would transfer into the partnership with their same terms and conditions.

(4) **Day care is a vital service and Age Concern does not offer a personal service.** Day care will be part of the future commissioning for Swale and there is a specific requirement for services to be available on the Isle of Sheppey. Commissioners will specify that new services must offer personal services including services for people with dementia not currently provided at Blackburn Lodge.



(5) **Continuity of service is extremely important to older people. Currently those people receiving day care can also get respite care with familiar staff and surroundings.** Respite also remains a vital service and will be part of the future commissioning for the Swale district.

(6) **Not allowing new permanent admissions or day care people is winding down the service, making it non-viable and forcing early closure.** It would be irresponsible for the county council to accept further admissions into homes while the future is uncertain. As a result, beds not occupied on a permanent basis will be used for people needing respite services. During the consultation it was agreed that new referrals for day care would be considered based on the individual circumstances.

(7) **Private providers do not have enough compassion to care for people with dignity.** There have been a number of comments about the quality of staff in the independent sector. These operators are covered by the same care standards and inspection regime as Blackburn Lodge. KCC homes provide a service to 15% of people that are eligible for residential services in Kent. KCC buys 85% of its residential services through the independent sector already and monitors both quality and user satisfaction.

(8) **There is a lack of services on the Isle of Sheppey and these proposals will reduce that further.** The proposals for Swale are very different from others covered by the consultation. One of the reasons for this is that there is a lack of services on the Island. Entering into a partnership with the independent sector could realise the vision to develop services on the Island such as nursing care, which is not currently available on the Island at all and ultimately expand the range of services available.

c) Questionnaire:

(9) A questionnaire was developed in August and distributed in September. It was designed as an additional method to generate feedback not only from key stakeholders but also members of the general public. The Questionnaire asked questions both about the proposal and what was important to people in the future should they need to access support services. There were a number of opportunities for people to enter free text in addition to answering the questions. Key areas of feedback from the Questionnaires received on the Future of Older Person's Provision were:

(10) **The proposals:**  
42% of people, when asked what they thought of the proposals, answered they had mixed views with 24% responding they thought it was a bad idea and 15% that it was a good idea. In the free text field the greatest number of comments (31) acknowledged that planning for the future was a good idea with 27 people saying they were against the proposal because of the disruption to the clients. Other common comments included support for extra care housing, emphasising the importance of day care and concerns about the quality of care in the independent sector.

(11) **Should KCC run its own homes?**  
59% of respondents stated that the council should continue to run its own homes with 20% disagreeing. The largest number of comments wanted to know why KCC homes cost double the price KCC can buy it in the independent sector. 22 recommended that KCC should review staff contracts and KCC processes to reduce the cost. Other comments included concerns about the quality of care in the independent sector. 8 people criticised the question as leading.

**(12) On what basis should KCC make the decision about the proposals?**

80% thought quality of care as an essential factor, 75% continuity of care for the residents, and 47% felt keeping some homes in the management of KCC was essential. Fewer people thought value for money (175) and freeing up resources to care for more people (132) were essential although these issues were considered very important by 41.5% of respondents.

**(13) Thinking about the future**

When asked about their preferred choice of how they would like to receive care most people wanted to be able to live at home for as long as possible followed by a situation similar to extra care housing.

The most important issues to people considering moving into a care home were trained and friendly staff, home cooked nutritious food and being with ones partner. Other factors that were important to people were to remain a respected member of their local community treated with respect and able to exercise choice and control and the ability to have pets.

The top five things that people rated as essential or very important to them when they were older were:

1. help and support available when needed
2. a safe and secure environment
3. being able to maintain links with family, friends and local community
4. ability to remain as independent as possible with own routine and choices
5. accessibility (no steps etc)

**6. Personnel implications**

(1) The affect on staff of the proposal to enter into a partnership will depend on the nature of that arrangement and the services included. However, the likelihood is that the outcome of the tendering process will involve some sort of transfer of some staff with the services being provided. Therefore, the main consideration will be that the Transfer of Undertakings (Protection of Employment) Regulations or TUPE, protects the transferring employees' terms and conditions of service on the day of transfer. Separate legislation covers certain protections for the pension rights of staff. The new employer may also need to give considerations to issues arising over the "Two Tier Workforce". Where the new employer brings in new recruits to work on the service that transferred they must be employed on "fair and reasonable terms and conditions which are, overall, no less favourable than those of the transferred employees". They must also be offered reasonable pension arrangements.

(2) The staffing information for Blackburn Lodge as at 23 November 2010 is as follows:

Head count	No. of contracts	No. of Permanent Contracts	No. of Temporary Contracts	No. of Fixed Term Contracts	No. of Full Time Contracts	No. of Part Time Contracts	No. of Relief Contracts	FTE
64	67	67	0	0	3	55	9	34.70

## 7. Summary

(1) The proposal for services at Blackburn Lodge to be transferred under partnership arrangements is recommended. There were 14 organisations that expressed an interest in developing services at Blackburn Lodge. Officers are confident that there is enough interest for the procurement of an appropriate partner to move forward to the next stage.

(2) Subject to the agreement to proceed, the next steps will be for further details to be sent to Providers who expressed an interest on the homes, its staffing details, maintenance and supply contracts and the Commissioners requirements for the provision of services. This will be by March 2011. Providers will then be asked to submit outline bids and work to progress the procurement will continue into the summer with an estimated completion date of November 2011.

(3) An initial screening as part of the Equality Impact Assessment was undertaken prior to the consultation on the modernisation proposals. This identified the need for a full Equality Impact Assessment to be undertaken on each proposal, which has now been done. The assessment confirms that the proposals can be delivered in a way that adequately takes account of the individual needs of existing residents and of other service users.

## 8. Recommendations

(1) The Cabinet member is asked to **consider** the contents of this report and **agree** that services at Blackburn Lodge should be transferred under a partnership arrangement.

(2) Subject to agreement to proceed, KASS will undertake a full tender process to select a suitable provider or providers to deliver the modernised services required as part of the commissioning strategy for Sheppey.

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### *Background Documents*

- Government White Paper 'Our Health, Our Care, Our Say' – January 2006
- National Dementia Strategy – February 2009
- Active Lives for Adults 2006-2016
- Closure/Variation Policy for the closure/variation in the service use of a Social Services Establishment
- A Vision for Adult Social Care: Capable Communities and Active Citizens
- Think Local, Act Personal: Next Steps for Transforming Adult Social Care
- Locality Commissioning Strategy

## **APPENDIX 1**

Confidential appendix containing details of those who have submitted an expression of interest.

## **APPENDIX 2**

### **Text from the Petitioners to County Council 16 December 2010**

#### **BLACKBURN LODGE**

Keep Blackburn Lodge on the Isle of Sheppey

What UNISON is campaigning to Kent County Councillors.

Blackburn Lodge provides a residential service to the residents who live on the Isle of Sheppey. Local residents who have signed UNISON's position have indicated.

Keeping services on the Isle of Sheppey is important to the local community, local employment as well as the local economy.

Providing good, well run services is promoted by UNISON. Keeping Blackburn Lodge would allow the residents of the Isle of Sheppey have a local KCC run residential home when staff straining is of a high standard which allows good quality care along with assisting the local economy. Travelling on and off the Isle of Sheppey could be difficult for some service users and their carers. In the event of this service going and insufficient provision on the Island, this could result in many difficulties for the local community.