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To: Personnel Committee

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Subject: Protecting the vulnerable – an organisational review of our response to government guidance and lessons learnt elsewhere.

Classification: **Unrestricted**

SUMMARY: This report updates Personnel Committee on actions in place to support KCC's compliance with Government guidance in regard to Child Sexual Exploitation (CSE); other protections for vulnerable people and lessons to be learnt from the Authority's own reviews of practice and lessons learnt elsewhere. It includes consideration of additional actions that will further strengthen our response.

1. INTRODUCTION

- 1.1 This report follows on from 'Developments and implications of recent government action on statutory post holders, organisation design and employment policies' presented to Personnel Committee on 30 April 2015, which recommended that Members commission a further report from the Corporate Director Engagement, Organisation Design and Development into any changes to the current operating framework and employment policies which might be required to further strengthen KCC's compliance with government guidance in regard to Tackling Child Sexual Exploitation (March 2015). The paper deals with the employment aspects of the guidance – the professional service response is clearly outside the scope of this paper.
- 1.2 It should be noted that significant progress has been made to support front line services in responding to day to day and strategic challenges, including the design of workforce development frameworks delivering robust and effective development opportunities, and leadership development that supports the strategic aims of the authority. However, the critical importance of effective leadership and management oversight should not be overlooked. The existence of frameworks and standards alone will not ensure the full extent of the measures proposed by government in tackling CSE will be achieved in Kent. It is the purposeful adherence to these requirements across the Authority, and particularly within the professional services, together with the importance of actively engaged leadership at all levels in the setting the tone, seeking continuous improvement and ensuring compliance is effectively monitored that will make the difference.
- 1.3 It is also true to say that whilst there are options for our operational framework and changes could be considered, it is the relationship between

managers and front line staff; the culture in the services/organisations that need to work together and the effectiveness of leadership that will determine success rather than any structural changes – form must follow function. It is very clear that as learning across the public sector develops on how to avoid the mistakes of the past, sustainability is as important as improvement. Planning for the future in terms of skills development, role definitions and employee mindset is crucially important. We must have robust workforce planning across services together with clear and well developed succession planning techniques and outcomes.

- 1.4 This paper outlines the current position and future developments against the areas under review included in section 4.6 of the April Personnel Committee paper.

2. Whistleblowing

- 2.1 The government guidance in March 2015 on Child Sexual Exploitation included the proposal to establish a new whistleblowing national portal for child abuse related reports to help to bring child sexual exploitation to light and spot patterns. The expectation is that the principles in the Francis review (Freedom to Speak - 11 February 2015) into creating an open and honest culture in the NHS are followed in terms of local government's response to the issue of CSE.
- 2.2 Kent County Council has an established whistleblowing policy and procedure which has been previously communicated and promoted to staff. The Authority was one of the first 100 employers to sign up to Public Concern at Work's standards and principles. Public Concern at Work is the leading Whistleblowing charity.
- 2.3 Our robust approach ensures the Francis principles covering policy and its application are supported by KCC's procedure and by the PCAW standards. It is imperative that we continue to publicise and raise awareness of KCC's procedure through all available mediums to ensure staff are fully aware of the expectation to raise concerns and the process to be followed. Such an established approach provides an excellent base to extend to the national portal once it is in place.
- 2.4 At the meeting of Personnel Committee in April, Members asked that thought be given to whether KCC should extend its Whistleblowing procedure to other organisations. It is recommended that any such approach should wait until after the new national portal is in place. Discussions could then be taken forward through the Kent Children's Safeguarding Board.

3. "Wilful neglect"

- 3.1 The amendment to the Criminal Justice and Courts Bill as recommended by Robert Francis QC following the public inquiry into poor care at Mid Staffordshire Foundation Trust extended the offence of "wilful neglect" to healthcare and social care settings dealing with vulnerable adults and children, covering public and private sectors in England and Wales.

- 3.2 In the Queen's speech in May 2015, a consultation on a change to the Policy and Criminal Justice Bill was announced to extend the offence further to **include children's social services, education, and elected members**. At this stage there is no firm detail as to the shape and timing of the consultation. Immediately the consultation is open, KCC will provide a full response. The Authority will then be in a position to determine the impact of 'wilful neglect' in terms of employment.
- 3.3 Some outcomes of the extension of the offence can be relatively easily dealt with – for example, if introduced as is likely, "wilful neglect" can be explicitly included in the examples of gross misconduct within the disciplinary procedure. Whilst such an explicit reference will make a very clear statement to all staff, in practice any staff who fail their professional responsibilities are quickly dealt with and dismissal proceedings enacted under our current procedures.
- 3.4 Other impacts on attraction and retention of people in the professions impacted may be more difficult to predict and further work will need to be done once the exact nature of the extended offence is known.

4. Culture of Denial

- 4.1 Kent County Council will build upon a strong record of safeguarding and protecting children, ensuring we remain vigilant to the threat of a 'culture of denial'. Our values - **open, invite contribution and challenge, accountability** - provide us with an effective base on which to build our response. Until now, there has been no specific cultural intervention with employees focusing on 'culture of denial'. It is clearly an imperative that further work is undertaken to develop a strategy and policy (and more importantly interventions), working closely with our Kent Children's Safeguarding Board (KCSB) colleagues, that will enable a culture to flourish where every opportunity is taken to protect the welfare of vulnerable people in Kent. The message should be that we must remain alert at all times and not be complacent.
- 4.2 Defining a 'culture of denial' is a critical step in ensuring we remain vigilant. To avoid ambiguity and to provide KCC with additional challenge a piece of work has been commissioned that will express clearly how a 'culture of denial' is defined and therefore how it can be avoided. This will enable the organisation to move quickly to a position that establishes absolute transparency in order to recognise behaviours and attitudes that contribute to a 'culture of denial' and as a result leave the service users vulnerable. This will provide a firm foundation upon which to make any necessary improvements which are likely to include transparency of service performance data and trends as well as the more "HR" focussed measures around recruiting people with the right attitude, individual performance monitoring and clear and consistent leadership.

5. 'Strengthen accountability arrangements'

- 5.1 To meet this government challenge, we need to consider strengthening leadership in a number of different ways – skills development; setting clear accountabilities and responsibilities through job design and performance target setting and ensuring our organisation design mechanisms and operating framework are fit for purpose.
- 5.2 A number of frameworks and tools are available to support managers designing services that put customers/service users/clients at the heart of service redesign. In particular the organisation design canvas supports managers to ensure the people we employ, what they do, how they do it and how it is organised are compatible with each other, so that it supports the business strategy and successful performance.
- 5.3 This approach is underpinned by the principle that service redesign removes layers of bureaucracy associated with too many layers of decision makers, enabling clearer accountability. A layer of management is only added where it provides added value and has different accountabilities. This supports the premise that accountability is personal and not shared. The introduction of flatter structure ensures front-line staff are never far removed from the senior management, which supports greater responsiveness and better outcomes for customers and communities.
- 5.4 All Corporate Directors, Directors and Heads of Service have an explicit responsibility to deliver the collective agenda of the County Council. The Corporate Responsibilities are included in all job descriptions KR12 and above. They include promoting and ensuring the Council's responsibilities for safeguarding are met for adults and children, together with a responsibility to act as corporate parent to the Council's looked after children and create an open, challenging, learning environment for staff.
- 5.5 Additional work is also being undertaken to review the content of social care job descriptions in line with the Social Care Capability Framework (see below), this will also provide an ideal opportunity to include a statement of accountability regarding legal duties to protect the vulnerable.
- 5.6 It is recognised that our organisational structure for the delivery of children's services is unusual. Following on from the changes made as a result of the April Personnel Committee paper, it is important that we keep our overall operating framework under review to ensure that the DCS, DASS, HoPS and other senior postholders can fulfil their responsibilities effectively. It is also critically important that we have effective workforce planning in place for the medium and long term and clear succession plans for our key posts. Continuity and consistency of leadership are known to be essential components of sustained effective performance for any group of staff. It is therefore important that all Corporate Directors have clear succession plans in place for their management teams and this will be an explicit requirement for all of them in this year's performance targets. In some areas, this is going to be more challenging than others as there are some services where the current age profile, changing requirements of the roles and depth of talent

already in place require urgent concerted action to ensure a managed and effective transition.

- 5.7 A critical success factor in the Authority's further move to a Commissioning Authority is to ensure robust intelligent client functions and contracts which clarify where accountability in terms of service outcomes rest. This imperative is being considered by Portfolio Boards when making decisions on service delivery models and will also be a key focus of the work of the Strategic Business development and Intelligence Division.

6. The expectation that Local Authorities meet the guidance on the use of settlement agreements

- 6.1 As part of ensuring that organisations do not cover up examples of under-performance and organisational failure, it is clear that local authorities should adopt the Cabinet Office guidance on settlement agreements. The guidance is very clear that the use of settlement agreements should not be used to:
- Avoid taking performance/attendance management or disciplinary action
 - Cover up individual or organisation failure
 - Prevent any employee from speaking out
 - Terminate a person's employment because they have made a protected disclosure (whistleblowing).
- 6.2 Settlement agreements are used to facilitate and support people leaving the organisation when the employment relationship has broken down. They can provide, where appropriate, an end to employment that is mutually acceptable to both the employee and the organisation. In taking this approach the Council is clear that they are used in a way that supports the principles in the Cabinet Office's guidance, published in February this year. KCC does use confidentiality clauses within our settlement agreements but these are used exclusively to ensure that the content and details of **the agreement** cannot be revealed, not to restrict an employee's ability to raise performance issues and organisational short comings.

7. Regulations in relation to claw back.

- 7.1 The purpose of the government claw back is to ensure that exit payments for senior staff, including council staff, can be recouped where recipients are quickly re-employed in the same part of the public sector, the belief being that those who failed to protect children should not benefit from "huge pay offs". The concept of claw back originated from MP's concerns at the level of redundancy payments paid to NHS employees who subsequently returned to work in the NHS (in many cases within 12 months).
- 7.2 Claw back is being introduced through the Small Business & Enterprise Bill, which received Royal assent on 24 March. Although there is no detail as to how this will operate, the Bill includes provisions that would allow the Treasury to make regulations requiring public sector employees and office-holders to repay 'exit payments', such as redundancy payments, if they are re-employed in the public sector. The appropriate Secretary of State will be able to waive this requirement in certain circumstances. The regulations may also provide that the amount to be repaid is tapered according to the time

which has elapsed between the employee or office-holder leaving employment or office.

- 7.3 Clarity regarding how this will operate is yet to be established, and the date for implementation is as yet unknown, though it is expected to be introduced in April 2016. There remain a number of critical questions which include what system will be in place to identify who should have their payments clawed back, who will be responsible for recouping the payment, what is included in “the same” public sector, will it be the receiving or the previous employer’s responsibility. It is clear, however, that the repayment requirements apply to those who are high earners; those whose earnings amount to £100,000 per annum or over with emphasis on re-employment rather than the reasons for the original employment ending.
- 7.4 Despite the current lack of detail, we are confident that a system could be put in place in KCC that would ensure compliance for the relatively small number of positions likely to be affected without the need for an overly complex response.

8. Professional training and developing skills and capacity for supporting victims of CSE

- 8.1 The government called on local authorities to update training provision for staff, including induction, and our role in training support for Children’s homes and other providers. Solid foundations are in place to support an appropriate learning and development response, including developing skills and capacity for supporting victims of CSE. Content is constantly under review to guarantee the offer meets the development needs of both registered and unregistered staff and changing national priorities. The main components are outlined below, however the effectiveness of these interventions rely heavily on managers’ proactive engagement in managing team development and assessing impact on practice and outcomes for customers/service users/client once the development has been completed and on an ongoing basis to ensure continuous improvement and challenge.
- 8.2 **E-induction** specifically designed for members of Specialist Children’s Services, which all new starters are expected to complete.
- 8.3 **The Social Care and Education & Young People Services Development Framework**, introduced in 2014, and linked to our statutory and mandatory training requirements including children protection, safeguarding. It provides a consistent approach to development and clearly defines how we will ensure all staff acquire the skills, knowledge and behaviours necessary to meet current and future business need. The framework is specifically designed to be an integral part of target setting and creation of action plans through regular 1:1s, Personal Development Plans and TCP discussions.
- 8.4 In addition, **signs of safety** evidence based systemic model of practice supporting child protection and safeguarding professionals, will shortly be built into the Social Care and Education & Young Peoples Services Development Framework.

- 8.5 **The Social Care Capability Framework** which is designed to provide professional development for all registered practitioners working in social care to ensure they remain registered and which supports continuous professional development align to national professional capabilities framework as recommended in the Munro Review of Child Protection (2011). The capabilities outlined in the framework are used to define good and excellent practice, which informs the TCP appraisal process.
- 8.6 The first level of the capability framework is the Assessed and Supported Year in Employment (ASYE). This ensures all NQSWs in KCC have the required capabilities to practice. It should be noted that the ASYE scheme in Rotherham, notwithstanding its failings, was highlighted in the Jay Report as being an effective intervention to support anti CSE activity.
- 8.7 **Kent Manager** enables leaders and managers in Social Care to demonstrate the Leadership qualities outlined in the National Skills Academy for Social Work.
- 8.8 A range of **Supervision** training has been designed to ensure managers are competent to manage and develop their staff, the content of this training is devised specifically around the type of staff group being managed to ensure the correct approach is taken.
- 8.9 At its meeting on 29 April 2015, the Governance and Audit Committee recommended that appropriate training be provided for all Members of the Council on the implications of the report by Louise Casey into governance at Rotherham Metropolitan Borough Council. The Committee suggested that this training be provided on a date when most Members would find it convenient to attend, such as a County Council meeting day. The importance of providing effective Member training was reinforced by Personnel Committee on 30 April. The Council's cross-party Member Development Group is considering how best to deliver this training and the Head of Democratic Services will be writing to all Members in due course to confirm the arrangements for this training

9. Supporting multiagency working

- 9.1 The Kent Children's Safeguarding Board (KCSB) designs, develops and delivers CSE learning & development on behalf of KCC. This is accessible to KCC children's homes, children's centres and multiagency providers; a review of uptake of training in these particular areas of delivery is currently being undertaken by KCSB.
- 9.2 KCSB is also responsible for assessing the impact of the training, numbers of attendees, cancellations and uptake. Learning from serious case reviews is included in the design of training and CSE is a component part of all training delivered. The KSCB toolkit to risk assess children at risk of CSE has been noted by the Local Government Association as an exemplar of best practice on their CSE website pages. HR is represented on the learning sub group and significant work is being undertaken to ensure a comprehensive program of learning and development is available.

- 9.3 Again this needs to be supported by robust meaningful evaluation by managers, reporting outcomes to the KCSB, to demonstrate the impact of learning and development on outcomes for customers/service users/clients. The Rotherham Safeguarding Children Board and its predecessor oversaw the development of good inter-agency policies and procedures applicable to CSE. The weakness in their approach was that members of the Safeguarding Board rarely checked whether these were being implemented or whether they were working. The KCSB receives data on the impact of training, numbers of attendees training, cancellations and uptake.

10. RECOMMENDATIONS

- 10.1 Personnel Committee is invited to consider and note the contents of this report and commission any further work required.

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Previous papers :

“Developments and implications of recent government action on statutory post holders, organisation design and employment policies”
– Personnel Committee 30 April 2015