

By: Ben Watts, General Counsel (Monitoring Officer)  
To: All Elected Members  
Subject: Report  
Date: Issued on 20<sup>th</sup> September 2023  
For consideration at County Council on 21<sup>st</sup> September 2023

Summary: This report is made under section 5 of the Local Government and Housing Act relating to a breach of statutory duties by Kent County Council.

## Introduction

1. In my capacity as Monitoring Officer, I have previously advised Members regarding the challenges that the Council faces in meeting its statutory duties given the number of unaccompanied asylum-seeking children (UAS children) arriving on the Kent coast. This has been the subject of four prior Section 5 reports given the ongoing challenge to comply with competing statutory duties. I have also advised Members of current litigation involving the Council and the judgment of the High Court on the preliminary issues for that litigation handed down on 27 July 2023 (judgment) and subsequent orders. For completeness and transparency, a copy of my report dated 25 August 2023 is appended to this report and both documents shall be added to the public webpage for the County Council meeting on 21 September 2023.
2. Given the last report was issued recently, I will not repeat the context of previous reports or the contents of that last report here, save to say that the issues set out persist. I have determined that given the continuing challenges being faced on an operational basis and the seriousness of the situation, it is important that Members are provided with an update in relation to statutory compliance. This report is accordingly limited to that update.
3. At hearings before the High Court on 17 August 2023 and 15 September 2023, KCC has filed substantial, detailed evidence showing that it has and continues to take all possible steps to ensure that it is able to accommodate and support all children (including unaccompanied asylum-seeking children) who present in our area. The evidence also shows that effective measures have been taken to increase KCC's capacity.
4. Despite those efforts, KCC regrettably is in a position where it has not been able to take all children to whom it owes a section 20 (Children Act 1989) duty into its care. KCC continues to do everything possible to rectify this situation. Our position before the Court has been clear, we are acting as we are not simply because we are under a legal duty to do so but because KCC believes and recognises that the Children Act 1989 provides key rights for vulnerable

children. KCC continues to struggle to meet all duties for all children as the numbers being supported remain at record high levels.

5. As a result of KCC's ongoing efforts, it has been able to increase the number of UAS children in its care, as at 8 September 2023, to 777 UAS children (noting that 0.1% of KCC's cohort mentioned in prior reports is 346 children). On 27 July 2023, KCC was caring for and accommodating 466 UAS children. On 14 August 2023, this figure was 535 UAS children.
6. Crucially, Government has acknowledged that improvements in the speed of transfers under the National Transfer Scheme is a necessary and important part of the solution and are committed to working together with KCC and other partners to bring about the necessary changes to alleviate the burdens on the Council and to ensure that the burden of looking after and accommodating UAS children is shared more evenly across all local authorities. They have also committed to looking at options to bring about improvements to the speed of transfers.
7. Members and Officers are continuing to press for solutions for the short and long-term both through the litigation and outside it and will continue to do everything possible to return the Council to full statutory compliance.
8. Members will be kept informed over the next few months through further reports and briefings as necessary to cover the legal and operational implications.

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