

## KENT COUNTY COUNCIL

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### CABINET

MINUTES of a meeting of the Cabinet held in the Council Chamber on Thursday, 5 October 2023.

PRESENT: Mr R W Gough (Chairman), Mr N Baker, Mrs S Chandler, Mr D Jeffrey, Mr D Murphy, Mr P J Oakford and Mr D Watkins

### UNRESTRICTED ITEMS

#### **6. Apologies**

*(Item 1)*

Apologies were received from Mrs Bell and Miss Carey. Mr Love was in attendance virtually and Mr Hills was present.

#### **7. Declarations of Interest**

*(Item 2)*

There were no declarations of interest.

#### **8. Minutes of the Meeting held on 17 August 2023**

*(Item 3)*

RESOLVED that the minutes of the meeting on 17 August 2023 were a correct record and that they be signed by the Chair.

#### **9. Quarterly Performance Report, Quarter 1 2023-2024**

*(Item 4)*

*Matthew Wagner (Chief Analyst, Strategy, Policy, Relationships & Corporate Assurance) was in attendance for this item.*

- 1) Mr Wagner outlined the report for Quarter 1 (Q1), April to June 2023 and highlighted the changes as agreed by Cabinet to include the management action against Key Performance Indicators (KPIs) rated Red. Mr Wagner said that out of the 38 KPIs contained within the Quarterly Performance Report (QPR), 16 achieved or exceeded target (rated Green), 11 achieved and exceeded the floor standard but did not meet the target (rated Amber), and 11 did not meet floor standard (rated Red). It was noted that in regards to the direction of travel, four indicators showed a positive trend (two more than the previous Quarter), 24 were stable or with no clear trend (remaining the same as in the previous Quarter) and 10 were showing a negative trend (one fewer than the previous Quarter).
- 2) Further to comments and questions from Members, it was noted:
  - that thanks and recognition was given to the Developer Contribution (S106) team for their work in securing additional funding for the Council.

- In response to the percentage of routine pothole repairs completed within 28 days, work had been undertaken to review the contract with Amey to improve their processes and ensure they were operating in the most effective way. A realigned schedule of rates had been agreed, along with a number of additional management actions which received regular attention from senior officers within Amey. Pressures within Highways and Transport were often weather dependent; however, plans were in place to ensure continued and improved delivery of service as the winter season approached.
- A number of projects were underway to both streamline and improve the response time for Freedom of Information requests and Data Protection Act Subject Requests.
- There had been an increase in the number of complaints received within the Growth, Environment and Transport Directorate; however, additional staff resourcing had been deployed to support officers in the drafting of responses. Work continued to be done to identify improved models of operational delivery.
- In response to the percentage of complaints responded to within timescale relating to Special Educational Needs, four additional staff were deployed to help reduce the backlog and the impact of that performance would be reflected in future Quarterly Performance Reports.
- In response to the number of Education, Health and Care Plan (EHCP) assessments completed within the 20 week timescale, since September 2022 the number of vacancies within the casework team had reduced from 100 to 10 with further investment being allocated to the retaining and training of our own staff. Additional staffing would positively impact on the backlog of EHCPs, the performance of which would be demonstrated in future Quarterly Performance Reports.
- Adult Social Care and Public Health continued to face significant challenge in the recruitment of staff, in line with that experienced across the entire Social Care system, resulting in a lower proportion of Care Needs Assessments being delivered in 28 days. This would continue to be prioritised as part of the ongoing work to improve the service delivery model.
- In response to the reduced percentage of children in foster care placements, in-house or with relatives, due to the increased number of children placed in Kent by other local authorities this had created additional pressure around the recruitment and retention of foster carers to manage capacity; and resulted in increased caseloads for Social Workers. These elements had been a considerable challenge for a long period of time despite the amount of work or additional national funding to address the difficulties.

3) RESOLVED to note the Quarter 1 Performance Report.

## **10. 23/00090 - Finance Monitoring Report 2023-2024**

*(Item 5)*

*Zena Cooke (Corporate Director for Finance), Cath Head (Head of Finance) and Emma Feakins (Chief Accountant) were in attendance for this item.*

- 1) Mr Oakford, (Deputy Leader and Cabinet Member for Finance, Corporate and Traded Services) introduced the report which set out the revenue and capital budget monitoring position as at June 2023-2024.

From the previous financial position that was provided in August 2023, the Council's revenue position had moved from an overspend of £43.7m to £37.3m before management action and additional grant.

The 2023-24 forecast presented a serious and significant risk to the Council's financial stability if not addressed as a matter of urgency, with significant forecast overspends in Children, Young People and Education totalling 28.5m and in Adult Social Care and Health totalling £25.8m before management action.

Work continued to be done to identify and implement further management action to be taken immediately in the current year, including one-off savings, and over the medium term. The details of this were contained within the report and in the "Securing Kent's Future" budget recovery plan.

It was anticipated that the draft 2024-25 budget and Medium-Term plan proposals, due to be published at the end of October 2023, would show a significant gap for 2024-25 between forecast funding and spending. The recovery plan aimed to address this gap and further actions were yet to be finalised.

Mr Oakford advised that progress would be closely monitored throughout the remainder of the year and corrective action would be taken as necessary. It was crucial that the Council continued to limit its actions and focus on essential activity and priorities until the financial position was stabilised.

The outcome of analysis, related actions and progress to date in reducing the forecast overspend was set out in the report; however, Mr Oakford emphasised that the utilisation of analytics and cost drivers was key in curtailing the growth of spend that would flow into the 2024-25 budget.

- 2) Mrs Cooke reiterated the need for concerted corrective action in order to achieve a stable financial position and the avoidance of non-essential spend where possible to address the 2024-25 gap.
- 3) Mr Watts said that there was a requirement for the Council, through the management action work, to continue to meet its minimum statutory duties.
- 4) RESOLVED to agree the recommendations as outlined in the report.

## **11. Securing Kent's Future - Budget Recovery Strategy**

*(Item 6)*

*Zena Cooke, (Corporate Director for Finance), David Whittle (Director of Strategy) and Dave Shipton (Head of Finance - Policy, Planning & Strategy) were in attendance for this item.*

- 1) The Leader introduced the report which set out the Budget Recovery Strategy – Securing Kent’s Future, which was required to address the in-year and future years’ financial pressures faced by the Council. Key areas addressed throughout the report included the specific drivers causing the financial pressure and the specific and broader action that needed to be taken through Securing Kent’s Future to return the council to financial sustainability. The report also identified opportunity areas for further savings, accelerated transformation of the council alongside possible policy choices, all of which provided the scope to deliver significant savings over the next Medium Term Financial Plan (MTFP) period.

The Leader addressed the significant financial pressure within Adult Social Care and Children, Young People and Education and the unsustainable cost pressures that particularly reflected flaws in those markets, though also some increases in demand. The report set out the Council’s response in prioritising New Models of Care and Support (within the objectives of Framing Kent’s Future) and how it aimed to deliver this through its statutory Best Value duties. The Leader set out that the New Models of Care and Support did not seek to override the other objectives of Framing Kent’s Future, nor did it seek to privilege certain areas of the business with additional resources whilst depriving others. However, the New Models of Care were central to the challenges faced by the Council and the hard policy decisions that would need to be made. If these failed to be addressed successfully, the Council would not be able to protect or develop its services in other areas. For this reason and for the future stability of the Council, it was the expectation that all council services collectively prioritised delivering New Models of Care and Support.

- 2) The Leader highlighted the four strategic objectives of Securing Kent’s Future (*as detailed in the report*) and invited further comment from Mr Whittle.

Mr Whittle drew Members attention to the error on the paper at paragraph 5.2 and clarified that the wording after 0.3% “for hired transport” was a drafting error. Mr Whittle commended the work carried out by colleagues in Finance, Analytics and Management Information which identified the specific cost drivers, areas of financial pressure and overspend; all of which supported the development of Securing Kent’s Future and highlighted the value of analytics.

The driver of costs across overspending services was complex. It was not simply a matter of the council meeting additional demand through an increased number of clients, but rather the significant increase in spending was largely driven by unsustainable increases in costs the council was meeting to secure services from market providers. As a result of the increased placement costs, relatively modest increases in client numbers have had a disproportionate and exponential increase

in the costs of securing provision. Financial pressures should be considered structural in nature.

The focus on New Models of Care and Support was not intended to deprioritise the strategic objectives in Framing Kent's Future, but it was key to recognise that the Council's overspend was largely in people-based services and therefore the collective priority and focus in Framing Kent's Future needed to be centred on New Models of Care and Support.

The statutory Best Value duty was a means by which the Council could appropriately meet and manage conflicting statutory duties which were central in driving significant financial pressures, not just in Kent County Council but across the entire Local Government sector. The Best Value guidance, as underpinned by the S114 regime gave power to the Secretary of State to trigger an informal or formal inspection of an authority, even without a S114 notice being issued. By using Best Value as a tool to drive all financial, service and policy decisions as expected under legislation, it would help to identify and balance competing statutory duties that needed to be delivered to Kent residents. As a service-based organisation that strives to achieve the best for its clients and service users, the Council needed to ask those services to broaden their horizons and balance that need against the need of the Council as a whole, and this would be a significant challenge. It was essential that support was in place to help services transition towards this and embed this into systems and processes. It was key to note that Best Value considerations needed to be applied at both Member and officer level.

Mr Whittle said that the Council needed to recognise the scale of risk it would face and consequently increase both its risk appetite for change and risk appetite for delivering change at a rapid pace to meet the financial pressures. The first step in that change would be through the review of the Risk Management Policy and how this could be translated so it was better understood by staff.

Mr Whittle advised that the Strategic Business Plan would be different to those previously produced and would be less about synthesising the strategic activity of services and more concentrated on the codifying and prioritisation of activity that would be required in Securing Kent's Future. It would be inherently more directive, more specific about where the responsibilities lay and explicit in regard to accountability. The Business Plan would codify the work that was already underway in many parts of the council around the delivery of the 2024-25 budget savings and the broader MTFP.

3) Further to comments and questions from Members, it was noted:

- In relation to the transformation of the council's operating models, specifically within the Children's, Young People and Education (CYPE) directorate, it was key to recognise the challenges inherent in management transformation within a service that supported vulnerable children and young people. However, transformation of the operating models was key in achieving the identified savings required and the directorate were already on course to making those changes and were determined to drive those improvements. Furthermore, in response to

comments relating services being under resourced to accommodate for other areas of the organisation with significant financial pressures, a key component of the New Models of Care and Support was around the integration of services, both internally and externally with partner organisations and assurance was provided that work was already underway within the directorate that supported the new model. In response to regulatory risk and Best Value; should the Council adopt a 'scorched earth' policy and only look at statutory elements, it would not be delivering Best Value. For CYPE, the non-statutory factors contributed significantly to a number of elements that remained within the Councils control, such as Children in Care.

- Mr Oakford (Deputy Leader and Cabinet Member for Finance, Corporate and Traded Services) said that the risks associated with Securing Kent's Future were enormous. Over the years the Council has taken decisions to reduce core services that supported the business in the organisation whilst asking people to do more. Securing Kent's Future was a transformation to the way in which the Council delivered its business and communication was an essential component in driving support and taking this piece of work forward as a collective. The biggest risk was disengagement of staff. Strategic leadership and open communication were required at every level of the council to secure Kent's future, thus asking services to weigh the broader interest of the whole council against the narrow interest of a specific service. In terms of the regulatory risks, the Council had statutory responsibilities it needed to deliver whilst making the necessary changes and would be progressing these changes through the correct governance channels to mitigate those risks and deliver on savings.
- Mr Watts (General Counsel) addressed the increased risk of legal challenge that some of the decisions would bring as work progressed in Securing Kent's Future. Both officers in their operational decisions and Members when discharging their respective roles within the council, whether executive or non-executive, should also prioritise Best Value considerations. Robust governance and scrutiny of the proposals and plans was essential in providing both transparency and assurance of the Councils overall financial position. There would be a key role for non-executive members in scrutinising the proposals that would be delivered at pace. A meeting was due to be held with the Chair and Spokespeople of Scrutiny Committee to discuss their role and the outcome of that meeting would be brought back to a future Cabinet. In recognition of the pace at which Key Decisions would need to be taken, assurance was provided that these would be processed in accordance with the Councils Constitutional arrangements and Democratic Services would prioritise support to both officers and Members in ensuring Executive Decisions were managed efficiently.
- The crisis that the Council found itself in represented an opportunity to reform and improve the delivery of services, thus identifying innovative ways of delivering best value for money for the Kent Tax payer and the residents of Kent. Securing Kent's Future provided a platform for the Council to make bold decisions, take decisive actions and created an innovative plan for the future. Members expressed their confidence and assurance in the corrective actions being taken by the Council to manage the budgetary situation and the collective responsibility

of Members and staff to bring to fruition, a sustainable situation that protected services, protected delivery and protected the democratic rights of Members to make decisions around policies of Kent and not commissioners should the Council issue a S114.

- In relation to the Adult Social Care (ASC) savings initiatives set out within the report, it was key whilst delivering savings to remain mindful of the need to still deliver statutory services. A number of internal projects were underway to deliver those savings, however, a significant amount of work had been undertaken with partner organisations to achieve an integrated system and deliver on those New Models of Care and Support. A key component to this work was improving the way services were commissioned and that costs were shared more equitably, in line with how other authorities were operating within their Integrated Care Board system. This would help to deliver savings but also support the NHS in delivering their objectives.
  - Mrs Cooke recognised that there would be a number of challenging decisions that would need to be made, however, they were decisions that were still within the Council's power to make. Change in both ASC and CYPE presented significant financial implications, the effect of which would not be felt until 2025-26. For this reason, it was crucial that the necessary corrective actions on the identified areas of savings be taken to balance the 2024-25 budget. This would involve the use of one-off measures and avoiding overspends in the current year as this would create further need to use limited reserves to fund revenue overspends and weaken the financial resilience of the Council. The Council's position needed to be confirmed by the end of October 2023 which was when the draft budget was due to be published.
  - Mr Shipton addressed the financial recovery strategy and said that the recovery plan for 2023-24 had a significant impact on the budget for 2024-25 as there would be a requirement to build into the 2024-25 budget the full year's recurring impact of underlying structural overspends in people-based services. Addressing the structural deficits was key to securing the medium-term future; however, it would take time to achieve this. The recovery plan identified the work that would be required around the cost drivers; however, this would need to be complimented by a review of all contracts due for renewal.
- 4) RESOLVED to agree the recommendations as outlined in the report and that an update on the Scrutiny arrangements be presented to a future Cabinet.

## **12. Cabinet reconsideration of Decision 23/00069 (Post 16 Transport Policy Statement including Post 19 for 2024/25)**

*(Item 7)*

1. In Mr Love's opening statement to Cabinet, Members were reminded that Post-16 Transport legislation did not include a legal entitlement for transport in the same way that primary and secondary school aged pupils received it. Instead, Councils

were required to make arrangements in line with what the Local Authority deemed necessary to facilitate all persons of sixth form age receiving education or training.

Since 2011 Kent County Council (KCC) had provided this support for a vast majority of post-16 learners including those with Special Educational Needs & Disabilities (SEND) who were able to make use of public transport via the provision of the partially subsidised KCC 16+ Travel Saver pass. The pass provided a 40% subsidy towards the average cost of an equivalent annual bus pass. KCC also provided a 100% subsidy for learners with SEND who received a KCC vehicle over the same period.

In line with Securing Kents Future, the Council was required to move its services into a stable and sustainable position. With a 40% increase in demand and an increase in cost to all post-16 travel, Mr Love confirmed that the current position was not sustainable.

The proposal as set out in the Post 16 Transport Policy Statement was to mirror the £500 cost of the KCC 16+ Travel Saver pass (or a half equivalent price for parents qualifying under the low-income criteria). This would account for the 94% to 97% subsidy for SEN transport for which the average cost of SEN transport was £8,100 per pupil per annum.

2. Mr Love responded to the queries raised at the Scrutiny Committee on Wednesday 13<sup>th</sup> September *(as set out under the summary headings provided by Democratic Services for the Scrutiny Officer Report to Cabinet on 5<sup>th</sup> October)*.

### **2.1 Concerns that no risk analysis had been undertaken to fully understand the impacts that removing free transport would have on young people with SEND who wished to access further education and training**

An Equality Impact Assessment was completed as part of the consultation and identified the potential negative impact that would be felt by those affected families. The proposed changes had been included within the early consultation and mitigations had been introduced as part of the proposed revised Policy due to take effect from September 2024. The timespan between the taking of the decision and implementing the decision provided sufficient time for families to consider their travel options prior to finalising plans for education. A higher subsidy option would be made available to families who qualified for low-income support and an instalment plan option would also be provided. Member-led appeal panels would also be held for exceptional circumstances.

### **2.2 Concerns were raised about the lack of financial detail available to outline what support would be provided to those families on low incomes, other than those who qualify for the reduced price KTS16+ offered to those in receipt of free school meals (FSM), who currently utilised the free transport;**

The information was available via the consultation material and Cabinet Committee papers. The Policy would also clearly set out the discretionary

support available and ensure parents, carers and young people had the necessary information required to make an informed decision on their education choices.

A comparison was drawn between KCC and what other Councils offered, thus demonstrating the substantial support package offered by our proposed Post-16 Transport Policy. Analysis has shown that the proposed KCC scheme (at a maximum charge of £500) remains one of the lowest cost transport support schemes offered by local authorities. Average contributions are at £782 per annum, with individual local authorities charging as much as £990 where distance was not considered, and £1736 per annum where distance is a factor and the distance travelled is over 15 miles

**2.3 Concerns were raised that the decision was not in line with the Council's Policy Framework document Framing Kent's Future. Framing Kent's Future pledged to 'work with our partners including schools and with the families of children with SEND to find sustainable solution that provide the tailored support that these children need to access appropriate education and opportunities that will help them lead a good life'. It was considered that this decision went against this pledge.**

In line with Securing Kent's Future, this Policy supported the Councils objective in finding a sustainable solution. KCC would continue to provide a subsidy of 94% of the total cost of transport for all affected pupils and 97% for families from low-income backgrounds.

A comparison was drawn between KCC's proposed Policy and Birmingham City Councils 16-18 Travel Assistance Policy whereby a vast majority of Young People did not receive nor require travel support from the Council. Those who did qualify were required to pay 56% more towards the cost of their support than KCC have proposed for Kent pupils from September 2024.

**2.4 Members wanted to further understand the implications of the decision, as well as explore what consideration the Executive had given to any alternative proposals, including alternative methods of commissioning home to school transport such as an in-house KCC bus service, as part of the decision-making process;**

Home to School Transport remained one of most scrutinised elements of the Councils spend. There had been numerous examples of internal and commissioned investigations into more cost-effective ways to fulfil KCC's legal duties, including detailed proposals for KCC to run its own fleet service. However, early analysis had shown that the alternative options were no more cost effective than the systems that KCC currently had in place.

An Internal Short Focused Inquiry on Home to School Transport had also been carried out and failed to find alternative methods of sustainable transport options.

KCC continued to examine measures such as school lead transport, for which an initial trial and early investigation had been carried out, to identify potential improvements of some services and reduce the costs of others.

## **2.5 Concerns around the cost of transport for parents and Members requested additional figures outlining the potential cost;**

The additional financial information sought by Members did not exist beyond what was already available and reported in the Committee papers. Councils did not have the sufficient understanding of the wider financial and personal issues that informed an individual's financial situation.

## **2.6 Concerns were raised around the social impact of removing free transport for young people with SEND, the impact on their social development and independence and Members requested a social impact study of this decision;**

Local authorities do not have a general obligation to provide post 16 travel arrangements that are supported in whole or in part by the council taxpayer, however, did have a duty to prepare and publish an annual transport Policy Statement specifying the arrangements for the provision of transport or other support that the authority considered necessary to facilitate the attendance of all persons of sixth form age receiving education or training.

Taking into account KCC's obligations under Securing Kent's Future and thus securing the future of local services and democratically controlled services, KCC needed to remain mindful of its legal responsibilities as well as the discretionary support it would like to be able to provide.

KCC would continue to provide discretionary support under the proposed Policy.

## **2.7 Concerns that this decision could increase costs for low-income families and have a knock-on effect for young people with SEND who might no longer be able to access after school provisions.**

It was recognised that the decision would increase cost, however, the correct balance needed to be achieved between the cost that KCC were asking families and Young people to pay, against the cost that KCC was asking the Council Tax payer to pay, who were facing their own transport challenges. The mitigations outlined within the Policy achieved that balance.

## **2.8 The potential cost to parents**

The concern around the cost to parents was recognised, however, the parity across all Post-16 transport was considered a fair and sustainable option.

## **2.9 A social impact study of this decision**

It was not feasible to justify the amount of officer time that would be consumed in undertaking an exercise for a discretionary service and for which a majority of information would not be available to complete a detailed analysis.

**2.10 An assessment of the financial risk and knock-on costs if young people with SEND needs dropped out of further education due to transport costs – costs to Adult Social Care and an increase in benefit payments by central government – modelling of these costs;**

The additional financial information sought by Members did not exist beyond what was already available and reported in the Committee papers.

**2.11 The cost of the home to school transport budget and further work on how this was being managed.**

The additional financial information sought by Members did not exist beyond what was already available and reported in the Committee papers.

- 3) In line with Securing Kent's Future, Mr Love assured Members that the Policy supported the Council's objective in finding a sustainable solution.
- 4) RESOLVED that decision 23/00069 be confirmed, and the Cabinet Member be asked to make a written statement of the reconsidered decision to be sent to all Members of the Council.