

Scrutiny Call-in Request: 23/00100 - Commissioned Youth Service Contracts

Proposer: Alister Brady

Seconder: Jenni Hawkins

Reasons for call-in:

(a) The decision is not in line with the Council's Policy Framework

As part of Framing Kent's Future (FKF), this Council has committed to 'supporting activities and facilities for young people in all areas of Kent, including deprived areas' (FKF, page 23). The Cabinet Member has stated that KCC will continue to offer youth services once these contracts come to an end through a combination of existing in-house provision and as part of a new Family Hub offer. However historically, the youth work professional role and the youth service has dramatically changed since 2013 and in 2015 we saw a move towards Early Help. This meant the youth work offer has been significantly reduced from the previous model of a universal open access provision and methodology with trained and qualified professionals under the National Youth Agency Youth Work Curriculum <https://www.nya.org.uk/resource/nya-national-youth-work-curriculum/>. The change saw a social work first model in which the entire aim of the youth work provision was not a service in itself but sought to intervene and support social work services.

The proposed decision further reduces what is offered by the council to young people and further distances itself from the FKF commitment - whichever way you look at it, this is a significant reduction in youth service provision. If the Council is genuinely committed to 'supporting activities and facilities for young people in all areas of Kent', then it should not be withdrawing the commissioned youth services.

The Council's policy framework, Framing Kent's Future (Page 23), states that the Administration will 'maximise the National Youth Guarantee to support activities and facilities for young people in all areas of Kent including deprived areas that may not otherwise take it up'. The National Youth Guarantee <https://www.gov.uk/government/news/government-outlines-ambitious-plans-to-level-up-activities-for-young-people> has not been achieved, therefore, this is a clear breach of the Policy Framework. Reducing what is offered to Kents young people through this policy change demonstrates this further.

This decision not only contradicts the Council's own Policy Framework, but actually conflicts with Government guidance and statute. For example, Section 507B of the Education Act 1996 ('Section 507B') <https://www.nya.org.uk/stat-duty/>, https://assets.publishing.service.gov.uk/media/6512d57eb23dad000de70697/Statutory_duty_guidance_for_local_authorities_youth_provision.pdf states that Local Authorities are statutorily responsible 'to secure, so far as reasonably practicable, leisure-time activities and facilities for young people aged 13 to 19 and those with learning difficulties or disabilities aged 20 to 24'. This statutory duty was recently updated and published in September 2023 which was during the consultation period, therefore this decision does not take these changes into account. The scope of the duty is clear:

Section 507B requires local authorities to, so far as reasonably practicable, secure access for all qualifying young people to a sufficient quantity of 'youth services' namely:

a sufficient quantity of educational leisure-time activities which are for the improvement of their well-being and sufficient facilities for such activities and a sufficient quantity of recreational leisure-time activities which are for the improvement of their well-being, and sufficient facilities for such activities.

The two forms of activity are not mutually exclusive but local authorities must, so far as reasonably practicable, secure access for young people to sufficient forms of, and facilities for, both types of activities. They include, but are not limited to: sports and informal physical

activities, cultural activities, outdoor residential, weekend or holiday-time activities special interest clubs and volunteering activities.

Leisure time activities are activities outside of the school setting, the KCC decision document suggests this can be achieved through school provision, however, this is not the case and is a clear breach of the Education Act.

This cessation of the commissioned youth service contracts is a clear reduction in the youth offer – we argue that the proposed provision does not *sufficiently* meet the council's statutory duty, as stated above. The Cabinet Member has stressed that youth services will be remodelled as part of the wider Family Hub offer, however, through this process there will be a lengthy mobilisation period. We are not satisfied that in the interim the Council will be complying with its legal obligations to support our young people to access 'leisure-time activities'.

I am also concerned that we appear to be relying on the voluntary and community sector and schools to pick up the slack and to fulfil our statutory obligations (see Decision Report, points 3.7 and 7.2, respectively). There are questions here about the impact this will have. If these organisations are unable to source appropriate funding and have to cease some of the youth services they offer, the council will be in further breach of its statutory obligations. Indeed, while we are on the topic of funding, it is important to note that other public sector organisations and charities are facing similar financial pressures to that experienced by the Council. It is too simplistic to say that as a Council we need to make savings and so we must stop delivering this service; KCC is one cog in the wider public sector system, and the savings we deliver have a material impact elsewhere and despite assurances that this is not the case, this is 'cost shunting'. Relying on other sectors to deliver the Councils statutory obligations is in direct breach of the Education Act.

Contracts are extended year on year, and barriers to contact procurement have been removed under the regulation changes post Brexit. Considering the updated statutory guidance and until it can be demonstrated that these are being met, a needs assessment and analysis must be completed to confirm the Council is not in breach of this statutory guidance. Before this can happen, these contracts must and should be extended. If this does not happen, the Council will be opening itself up to legal challenge through the mechanism of judicial review because of the stated reasons. Given the Council does not have a local youth offer plan it cannot demonstrate 'need' – it is also clear that young people have not been sufficiently consulted regarding the proposal changes and future model redesign. Both of these are clear breaches of the statutory guidance. It is the right of all young people to be heard and it must be evidenced that they have been listened to - this has not happened.

d) A presumption in favour of openness

It may very well be argued in response to the point above that the Council is in fact confident it can still meet its statutory obligations despite the reduction in service provision, and that it has consulted with legal experts to confirm this (see section 7 of the Decision Report – Legal Implications). However, why has this legal advice not been shared with all Members of the CYPE Cabinet Committee? I do not believe that this type of privileged advice should be restricted to decision-makers. As Members, we are entitled to all the necessary information we need to make informed decisions. I understand that CYPE Cabinet Committee is an advisory body, but how can Members of the Committee provide sound advice without access to this type of crucial information? Members' voting behaviour may have been influenced if they were to have seen this legal advice. In the spirit of transparency and 'openness', I think this information should have been shared with all Members of CYPE Cabinet Committee at the very least, and I would go so far as to argue that this decision should be paused until *all* Members have had sufficient time to scrutinise the legal advice which was provided to the Cabinet Member. Members of the Scrutiny Committee should also be given this 'privilege' in order for them to be able to 'scrutinise' this decision.

(b) Due Consultation and the taking of professional advice from Officers.

We have already spoken about legal advice – let us now turn to the professional advice which was provided as part of the consultation. As set out in 3.3 of the Decision Report, professional/organisational consultees ‘expressed concerns that increased numbers of young people are needing to access support and so stopping services is the *opposite* of what is needed. In addition, consultees referenced the potential implications of this in terms of mental health and safety concerns. What is the point of consulting if we are not going to follow the advice of professionals, who are the experts in their field? To me, the consultation was merely a legal formality and the decision to end the contracts was a predetermined one. In addition to the professional advice cited above, 31% of consultation responses explicitly asked for the commissioned youth services not to be cut, while 21% stressed that it would be detrimental to the children and young people if these services were not maintained. If the Cabinet wish to dispel this claim of ‘predetermination’, how many more people would have had to respond in order for the decision to be overturned.

Also, the statutory guidance under Section 507B states that local authorities must consult, and take into account the views of young people in their area on:

- the suitability of the existing provision
- the need for additional activities and facilities
- access to those activities and facilities
- the redesign of a proposed service

We argue that this statutory duty has **not** been met, and young people were not involved in the decision making to move to a family hub model and to stop the commissioned youth service contract. This emergency decision paved the way for these cuts in the absence of conforming with the statutory obligations. Given that the subsequent consultation occurred after the decision, we argue that this proves that young people were not listened to which is a direct breach.

Finally, again under the statutory guidance in ‘judging what is reasonably practicable, lack of funding alone should not be considered sufficient justification not to secure services’. The Council receives direct funding from the government to deliver these statutory services, therefore, stating budgetary requirements as a reason for under delivery is again a direct breach of the statutory guidance.

(a) Action proportionate to the desired outcome

We argue that this short-term saving will lead to longer-term costs. We have already seen from the consultation responses that both service users and professionals are concerned about the detrimental effect this decision will have on our young people’s mental wellbeing, and we also know that increasing numbers of young people are suffering with mental health issues. This decision will simply exacerbate this, and more young people may end up entering our system with statutory care needs later down the line as they transition into adulthood. To put this into a pithy maxim: this decision will deliver a “short-term gain but at the expense of long-term pain”. Who is accountable if this leads to costs elsewhere in the system both internally and externally? The desired outcome is to make savings, but we argue this will not be an overall net saving for the Council because of the above reason, therefore, the action is not proportionate to the desired outcome.