

**Report to:** East Sussex Health and Wellbeing Board

**Date of meeting:** 14 December 2021

**By:** Director of Adult Social Care and Director of Public Health

**Title:** Health and wellbeing inequalities of residents at Kendal Court, Newhaven and homeless people accommodated by Brighton and Hove City Council in temporary accommodation in East Sussex

**Purpose:** To update the Health and Wellbeing Board on the ongoing welfare concerns for unsupported homeless people placed in Kendal Court and other temporary accommodation in the Lewes and Eastbourne areas by Brighton and Hove City Council

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### ***RECOMMENDATIONS:***

The Health and Wellbeing Board is recommended to:

- 1) Note the additional information, ongoing concerns and actions set out in this report in respect of Brighton and Hove residents temporarily accommodated in East Sussex
  - 2) To receive a further update report on the situation, at its next meeting on 1 March, 2022.
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## **1. Background**

1.1. Reports concerning homeless people accommodated by Brighton and Hove City Council (BHCC) in temporary and emergency accommodation at Kendal Court in Newhaven were presented to the East Sussex Health and Wellbeing Board (ESHWB) on 13 July 2021 and 30 September 2021. The reports highlighted that individuals with multiple and complex health and social care needs who are accommodated by BHCC at Kendal Court without adequate support arrangements are likely to suffer a deterioration in their health and wellbeing and, in some cases, death.

1.2. As agreed at the previous meeting, on 30 September 2021, the Chair of the ESHWB, on 5 October 2021, wrote again to the Chair of the Brighton and Hove Health and Wellbeing Board (BHHWB) to request that BHCC urgently resolve the ongoing inequalities experienced by the vulnerable adults that it has placed at Kendal Court and elsewhere in Lewes and Eastbourne by fulfilling its statutory health and welfare responsibilities. In response to the Chair's second letter (of 5 October 2021), a meeting took place between him and the Chair of the BHHWB on 15 November 2021, with an officer from each local authority in attendance.

1.3. The Executive Director of Adult Social Care and Health for ESCC received a letter from BHCC on 5 October 2021 in response to its letter of 16 August 2021. The response from BHCC did not fully address the substantive points nor reflect the reality of the current situation with regard to Kendal Court and those placed by BHCC in the Eastbourne and Lewes areas. It did, however, include a number of concessions and proposed actions, which were reiterated by BHCC at the meeting on 15 November 2021.

1.4. A response was sent to BHCC on 4 November 2021, welcoming the concessions made, and clearly setting out ESCC's expectations and requirements for the issue to be fully and satisfactorily resolved. To date, no response has been received to this 4 November letter.

## **2. Supporting information**

### **BHCC's stated position**

2.1. The following section sets out the key points made by the Chair of the BHHWB and the officer from BHCC at the meeting on 15 November, followed by the ESCC position (where applicable):

- Kendal Court is not a supported housing unit and even with additional support, it should not be used to accommodate people with complex needs.
- BHCC state that it does not intentionally accommodate individuals with care and support or other complex needs at Kendal Court.

#### ESCC position

While BHCC stated this in the meeting, ESCC does not accept this. ESCC's experience of the number of issues and contacts relating to residents' urgent care and support needs received over the last three years, combined with the high level of deaths of residents over the same period, lead ESCC to the view that it is impossible for BHCC to have been unaware of the fact that a large number of the individuals BHCC is placing at Kendal Court have complex needs. If the accommodation of people with complex or care and support needs out of area is unintentional, then the BHCC systems and processes for the identification of potential needs must be wholly inadequate and in need of immediate and radical overhaul.

- BHCC Housing Department officers will receive additional training in the identification of care and support and other needs at the time of individuals presenting as homeless.

#### ESCC position

Whilst this action is welcomed, it does not fully address the longstanding issues previously identified.

- BHCC intends to prioritise a move back to the BHCC area for any person placed in East Sussex who exhibits vulnerability or has needs for care and support after placement out of the Brighton and Hove area
- The length of stay at Kendal Court for an individual should be between four and six months which should reduce the overall amount of support required by East Sussex whilst an individual is temporarily residing in the county.

#### ESCC position

It is acknowledged that a reduction in the length of stay in out of area temporary accommodation is beneficial to the wellbeing of an individual. BHCC must ensure that the accommodation is appropriate and make adequate arrangements for their support regardless of the duration.

- BHCC is committed to reducing the number of out of area offers of temporary accommodation it makes. At the time of the meeting, BHCC had 178 people accommodated in East Sussex. This was a reduction on the 234 previously reported. 99 of these individuals were accommodated in Lewes District (down from 112) and 79 in Eastbourne Borough (down from 122). The reduction in Eastbourne may be due to planning enforcement action by Eastbourne Borough Council.

- BHCC will review and respond to the latest Healthwatch Report and recommendations in due course.

- BHCC will provide a timely response to the latest letter of concern from the ESCC Executive Director of Adult Social Care and Health, dated 4 November 2021.

2.2. In summary, the Chair of the BHHWB and the BHCC officer were of the view that BHCC's Housing Department was fulfilling its statutory duties and taking appropriate steps to improve the process of accommodating individuals, the support available and the experience of those individuals at Kendal Court.

2.3. In their opinion the issues raised relate to a difference in interpretation of the duties set out in sections 8 and 18 of the Care Act 2014. BHCC is of the view that, as soon as an individual accepts temporary accommodation at Kendal Court, the responsibilities to both identify needs for care and support and to meet any eligible needs within the meaning of the Care Act 2014 immediately pass to ESCC. BHCC take this position because it considers that an individual placed at Kendal Court by BHCC adopts that place as their residence for even a short duration, and so becomes ordinarily resident there for the purpose of the Care Act.

2.4. ESCC strongly dispute that BHCC are acting lawfully in this regard. In particular, ESCC consider that BHCC is acting unlawfully in:

- (i) not assessing the care needs of individuals for whom it plainly must be apparent that they may have needs for care and support, and so require assessment pursuant to section 9 of the Care Act; and

- (ii) not accepting responsibility for people who BHCC has placed in Kendal Court, in circumstances where that move is not truly voluntary, and has been decided on solely by BHCC.

### **Safeguarding Vulnerable Adults at Risk of Harm.**

2.5. On 22 November 2021, the Safeguarding Adults Review (SAR) Sub-Group of the East Sussex Safeguarding Adults Board (ESSAB) received an update on the current situation at Kendal Court. The sub-group made a request to be kept informed of any developments at its regular meetings and indicated that would consider referrals relating to both past and present residents of Kendal Court, from SAB member organisations to determine whether any individual's circumstances met the threshold to be the subject of a safeguarding adults review pursuant to section 44 of the Care Act 2014.

### **3. Conclusion and Reasons for Recommendations**

3.1. Whilst the most recent engagement with BHCC has resulted in a slight change in their position and some concessions, there remain significant and ongoing concerns regarding the accommodation being provided to and an apparent lack of care and support for individuals with social care and health needs at Kendal Court.

3.2. Despite considerable and ongoing attempts by ESCC and the ESHWB at officer and Member level to resolve this situation, given BHCC's current position that individuals become the responsibility of ESCC once they agree to be accommodated on a temporary basis at Kendal Court, it is considered unlikely that the issue will be resolved without further significant escalation.

3.3. In the context of the above, ESCC will now need to take further advice to explore the legal action available to ESCC to ensure that BHCC fulfils its statutory duty in respect of the individuals that it accommodates in East Sussex with a view to preventing further harm and death occurring.

3.4. The ESHWB is asked to note the updates contained within this report, including the planned escalation action by ESCC and agree to receive a further update at its next meeting on 1 March 2022.

**Mark Stainton**  
**Director of Adult Social Care**

**Darrell Gale**  
**Director of Public Health**

Contact Officer: Mark Stanton, Director of Adult Social Care  
Tel. No. 01273 481238 Email: [Mark.Stainton@eastsussex.gov.uk](mailto:Mark.Stainton@eastsussex.gov.uk)

**BACKGROUND DOCUMENTS:**

None