

Report to: East Sussex Health and Wellbeing Board

Date of meeting: 1 March 2022

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

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; and
 - 2) To receive a further update report on the situation, at its next meeting on 19 July 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, 30 September 2021 and 14 December 2021. The ESHWB Reports highlighted that there are a number of individuals with multiple and complex health and social care needs who are accommodated by BHCC at Kendal Court. The ESHWB Reports also illustrated that without adequate support arrangements such individuals are likely to suffer a deterioration in their health and wellbeing and, that in the most serious of cases, this may tragically result in death.

2. Supporting Information

2.1 At the previous meeting of the ESHWB on 14 December 2021 it was reported that a tenth resident of Kendal Court had tragically died. Following this meeting, on 17 December 2021, the Leader and Chief Executive of East Sussex County Council (ESCC) wrote to their counterparts at BHCC. This correspondence urged BHCC, in the strongest possible terms, to take urgent action in respect of Kendal Court. A holding response was received from the BHCC Chief Executive on the same day and a substantive response was received from the Leader of BHCC on 4 January 2022.

2.2 The 4 January Letter from the Leader of BHCC, restated the BHCC's position on the matter and, in particular, that BHCC was of the view that its approach to out of borough placements was lawful. The 4 January Letter also included the following:

- A summary of the welfare support BHCC had put in place for Kendal Court residents following the tenth death.

- An indication that BHCC was “pausing” its practice of accommodating homeless individuals at Kendal Court, to allow it to review services offered to residents.
- A proposal for a roundtable meeting of senior council officers and lawyers to discuss, and seek to resolve, disputed Care Act 2014 matters.
- Information on the reduction in out-of-area placements in East Sussex to 163 as at 17 December 2021 (101 in Lewes and 62 in Eastbourne).
- An intention to include extra investment for Welfare Officer provision in its forthcoming re-procurement of emergency accommodation.
- Expressed a desire to meet with East Sussex Healthwatch regarding its most recent report on Kendal Court.

2.3 The Leader of ESCC replied to BHCC on 25 January 2022. He expressed concern that BHCC appeared to have no intention, in the long term, of changing its policy and practice of using Kendal Court for the emergency accommodation of vulnerable people. The letter also explained that ESCC was exploring more formal options to ensure that the matter is resolved. In addition, in the 25 January letter ESCC:

- Sought further information from BHCC with regard to the “pause” in accommodating new residents at Kendal Court.
- Requested a copy of the review that BHCC undertook to identify the support arrangements that BHCC had put in place.
- Expressed concern about the amount of time that had elapsed since the East Sussex Healthwatch report was published, without any apparent action from BHCC.
- Welcomed the fact that BHCC had identified the need to invest in its emergency accommodation provision and sought information, to be provided at the earliest opportunity, about BHCC’s procurement intentions and timescales.
- Noted the comments attributed to the Chief Executive of Brighton Housing Trust, calling for a clear statement from BHCC that it will not be including Kendal Court within its commissioning plans for emergency accommodation in the future.

2.4 At the time of writing ESCC has not received a response from BHCC in respect of the Leader’s 25 January letter.

2.5 Separately, on 20 December 2021, the Executive Director for Adult Social Care and Health for ESCC wrote again to the BHCC Executive Directors for Housing, Neighbourhoods and Communities and Health & Adult Social Care. This letter:

- Expressed disappointment that BHCC’s letter of 10 December 2021 contained neither an acknowledgement of the ongoing issues, nor sufficiently substantive proposals to enable resolution of the problems arising from BHCC’s current practices in their use of Kendal Court.
- Noted that BHCC had failed to respond to (i) any of the four priority problems, nor (ii) the suggested seven-point action plan, highlighted in his letter of 4 November 2021.

- Disputed BHCC's assertions as to the lawfulness of the processes they are adopting when accommodating people with potential Care Act needs out-of-area.
- Stated that the monthly operational meetings organised and chaired by BHCC had proved to be incapable of resolving any of the serious issues outlined by ESCC.
- Expressed considerable disappointment over the length of time that has passed since the publication of the Healthwatch report into Kendal Court and the fact that BHCC was still considering its content.
- Stated that ESCC was exploring all options to ensure that BHCC fulfils its obligations and duties to the vulnerable residents of the city that it places out-of-area.

2.6 On 23 December 2021, a response was received from BHCC, the contents of which were similar to the 4 January 2022 letter, as summarised above, and so it is not necessary to repeat them here.

2.7 The Executive Director for Adult Social Care and Health for ESCC replied on 26 January 2022, seeking the same information and assurances as the Leader had sought in his letter of 25 January 2022, and contained within section 2.1 of this report. A response was received from BHCC on 9 February. The 9 February BHCC letter included the following:

- Confirmation that the accommodation of new residents at Kendal Court would be paused until BHCC had completed its review.
- A repeat of the request for a roundtable meeting of senior council officers and involving the two authorities' respective lawyers to discuss and seek to resolve Care Act matters.
- That BHCC is considering two of the four key recommendations of the Healthwatch report as part of their review. The letter also indicated that the other two recommendations relate to the undertaking of Care Act assessments at the time of placement, which they maintain are the responsibility of ESCC.
- That BHCC was working toward publishing the tender for its Emergency Accommodation re-procurement in March and letting the contract in the first quarter of 2022/23 financial year.

2.8 Preparatory work has been undertaken to enable ESCC to escalate the issue if it is not possible to resolve it through inter-authority discussion. This escalation would be through potential legal routes that are available to ESCC. This preparatory work has involved a detailed review of the 71 Kendal Court residents that have come to the attention of ESCC, as a result of health, care or welfare concerns since April 2017.

2.9 ESCC has provided BHCC, at BHCC's request, with the names of all 71 Kendal Court residents that it is currently reviewing. In an attempt to resolve the dispute and avoid further unnecessary escalation, ESCC has requested the dates when BHCC first accommodated each individual at Kendal Court. This information has not been forthcoming, instead ESCC has been referred back to the BHCC proposal for a meeting between senior officers and lawyers. On 7 February 2022 the ESCC Director of Adult Social Care wrote to BHCC and:

- Formally requested the said information in relation to the 71 individuals.
- Addressed the BHCC proposal for a round table meeting. The letter stated that unless BHCC was willing to compromise in relation to the placement of vulnerable individuals in

unsuitable accommodation out-of-area, any such meeting would be unproductive. The 7 February Letter also commented that the two authorities respective Leaders, Health and Wellbeing Board Chairs, Chief Executives and lawyers had all previously met and, from ESCC's perspective, these meetings have resulted in little material progress towards achieving a satisfactory resolution to the ongoing and unacceptable situation at Kendal Court.

- That, from previous correspondence, BHCC must have a clear understanding of the expectations and requests from ESCC that would provide assurance that they are taking satisfactory steps, at an acceptable pace, to resolve the outstanding issues and that any written proposals from BHCC to resolve these issues would be welcomed.

3.0 Conclusion and Reasons for Recommendations

3.1 Since the last update to the ESHWB, there has been some improvement in the situation relating to BHCC accommodating homeless people at Kendal Court and elsewhere in East Sussex:

- A temporary suspension of BHCC accommodating new individuals at Kendal Court.
- A reported reduction in the number of people accommodated by BHCC in East Sussex.

3.2 There are, however, a number of outstanding actions required from BHCC to resolve the current situation and provide sufficient assurance that BHCC will be adopting a sustainable approach to safely accommodate their homeless residents going forwards. These include:

- Providing details of the enhanced welfare support BHCC is delivering to residents at Kendal Court.
- Confirming that the temporary suspension or "pause" at Kendal Court is made permanent.
- Responding to the East Sussex Healthwatch report that was published in September 2019.
- Communicating BHCC's commissioning intentions in respect of the temporary accommodation of homeless people including the exclusion of Kendal Court, when they commence their retendering exercise this year.

3.3 In the absence of the above, ESCC will continue to explore the legal action available 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 and agree to receive a further update at its next meeting on 19 July 2022.

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BACKGROUND DOCUMENTS:

Reports to the Health and Wellbeing Board on 13 July 2021, 30 September 2021 and 14 December 2021.