

TONBRIDGE & MALLING BOROUGH COUNCIL
COMMUNITIES and HOUSING ADVISORY BOARD

25 May 2021

**Joint Report of the Director of Planning, Housing and Environmental Health &
Director of Central Services and Deputy Chief Executive**

Part 1- Public

Matters for Recommendation to Cabinet - Non-Key Decision (Decision may be taken by the Cabinet Member)

1 DOMESTIC ABUSE ACT

Summary

This report update Members on the new Domestic Abuse Act and the new duties for local authorities including TMBC. It also makes a recommendation on the use of the new burdens funding attached to the new legislation.

1.1 Background

1.1.1 The Domestic Abuse Bill was published in draft in January 2019 and has since been working its way through consultation, responses and now the legislative process. It received Royal Assent on the 29 April 2021.

1.1.2 The measures in the Act seek to:

- promote awareness - to put abuse at the top of everyone's agenda, including by legislating for the first time for a statutory definition of domestic abuse which incorporates a range of abuses beyond physical violence, including emotional, coercive or controlling behaviour, and economic abuse.
- protect and support victims, including by introducing a new Domestic Abuse Protection Notice and Order.
- transform the justice response, including by helping victims to give their best evidence in the criminal courts through the use of video evidence, screens and other special measures, and ensuring that victims of abuse do not suffer further trauma in family court proceedings by being cross-examined by their abuser.
- improve performance – the new Domestic Abuse Commissioner will help drive consistency and better performance in the response to domestic abuse across all local areas and agencies.

1.2 New Duties for local authorities

1.2.1 Tier 1 Local Authorities will be required to appoint a multi-agency Local Partnership Board (LPB) to support them in performing certain specified functions. These will be:

- 1) Assess the need for accommodation-based support for all victims and their children, including those who require cross border support.
- 2) Prepare and publish strategies for the provision of support to cover the locality and diverse groups of victims.
- 3) Give effect to strategies by making commissioning/de-commissioning decisions to meet the support needs of victims and their children.
- 4) Monitor and evaluate local delivery of the strategy.
- 5) Report back to Central Government which is expected to include:
 - Reporting on local delivery – setting out how the functions have been executed under the new duty (including reporting on strategy, as well as how partnership working has been approached working across key agencies and across neighbouring areas).
 - Evidence that adequate needs assessments have been undertaken.
 - Evidence that local strategies are in place and working effectively.
 - Evidence that local commissioning decisions have been informed by needs assessments and that there is adequate suitable provision.
 - An evaluation of the impact of decisions locally including service delivery outcomes.
 - Evidence on spend and feedback on delivery, including challenges faced and best practice.

1.2.2 Tier 2 authorities will be required to cooperate with the Tier 1 authority, so far as is reasonably practicable.

1.2.3 Other measures included in the Act are:

- extending the controlling or coercive behaviour offence to cover post-separation abuse.
- explicitly recognising children as victims if they see, hear or experience the effects of abuse.

- establishing in law the office of Domestic Abuse Commissioner and set out the Commissioner’s functions and powers.
- placing a duty on local authorities in England to provide support to victims of domestic abuse and their children in refuges and other safe accommodation.
- providing that all eligible homeless victims of domestic abuse automatically have ‘priority need’ for homelessness assistance.
- placing the guidance supporting the Domestic Violence Disclosure Scheme (“Clare’s law”) on a statutory footing.

1.3 Memorandum of Understanding (MOU)

1.3.1 The Council has signed up to a MOU with MHCLG. The purpose of the MOU is to formalise the working relationship and expectations relating to the payment from MHCLG to Councils to enable them to fulfil the functions of the new statutory duties.

1.3.2 While the document is not a legal or binding agreement, all parties enter into the MOU committed to honouring all their obligations within it.

1.4 New burdens funding allocation

1.4.1 Kent County Council has been allocated £3,103,909 and TMBC allocated £34,242.

1.4.2 The Secretary of State has determined that to ensure that local authorities are able to continue funding support to victims and their children until the commencement of the new statutory duty, and to keep up the momentum enabling preparation so that local authorities are as ready as they can be, the grant funding for 2021/22 is to be paid on 1 April based on the understanding that:

- 1) The grant only covers revenue expenditure relating to the functions set out in the new statutory duty (within the Domestic Abuse Bill) on Tier 1 Local Authorities relating to the provision of support to victims of domestic abuse and their children residing within safe accommodation. For Tier 2 Local Authorities this funding is to enable cooperation with the Tier 1 authority.
- 2) The grant is distributed to Local Authorities for the period from 01 April 2021 to 31 March 2022 for the purpose of and the expectation that they start to prepare and fulfil their relevant functions under the duty from that date as if the new duty were in force and continue to fulfil these functions in line with the duty once it is commenced.

- 3) The Bill will put in place a statutory framework for the delivery of support to victims of domestic abuse and their children residing within safe accommodation.

1.5 Impact for TMBC

- 1.5.1 KCC have now considered membership of the Local Partnership Board with the first meeting planned for 11 May 2021. TMBC will initially have two representatives on this Board – Alison Finch, Safer & Stronger Communities Manager and Linda Hibbs, Head of Housing & Health. Membership will be reviewed as the work of the Board develops.
- 1.5.2 It is likely that we will need to feed into the Local Partnership Board our local information on domestic abuse cases and services to feed into the county wide assessment of need. This is likely to come from both the CSU and the housing service and work on this has already started.
- 1.5.3 We have already been considering the impact of the change in housing legislation to allow all eligible homeless victims of domestic abuse to automatically have 'priority need' for homelessness assistance. In many cases other household circumstances e.g. having children would automatically trigger the 'priority need' category and the required assistance, so our initial feeling is the impact may not be huge. However, we must recognise that the change could trigger single households who may previously not approached for assistance asking for help. It has also been flagged across Kent the need for awareness raising on this new requirement. We understand that Government will carry out a separate "new burdens" financial assessment in respect of this change. Clearly one of the impacts from this change could be an increase in use of temporary accommodation.
- 1.5.4 We have had 299 households since the start of the Homelessness Reduction Act (April 2018) approach who have cited domestic abuse as the reason for their approach. Some of these are duplicates and they have not progressed their case the first time but have subsequently come back – a feature of domestic abuse cases and the understanding that it often takes time to leave a partner, or that often there are new relationships with new perpetrators. Of the 299 households 194 had one child or more.
- 1.5.5 We currently have 11 at decision stage which means we have ended the relief duty and need to make a decision regarding any housing duty we owe them. We owe/have owed a final duty to 23 households. In addition, we have prevented 20 cases from becoming homeless and relieved the homelessness of a further 37 cases. 208 cases have been closed at triage, which means that they approached, we were unable to contact, or they withdrew, or we gave advice and they resolved their issue etc. What this means is that they did not progress to a case, and we accepted no duty to them. 66 households have had or are still in temporary accommodation.

- 1.5.6 It is very clear that the funding that has been paid to us (£34,242) is to cooperate with and support KCC in fulfilling their statutory duties under this Act. We anticipate that more detail on this will emerge as the Local Partnership Board develops and the needs assessment is completed. It could also be used to support our administration time in supporting the Local Partnership Board.

1.6 Legal Implications

- 1.6.1 The Domestic Abuse Bill received royal assent on 29 April 2021. There is now a period of time (estimates have said six weeks but Parliament currently prorogued until 11 May 2021) until the Act will come into force.
- 1.6.2 There is an expectation from MHCLG (and the funding has been allocated already) that local authorities start to prepare and fulfil their relevant functions under the duty as if the new duty were in force and continue to fulfil these functions in line with the duty once it is commenced.

1.7 Financial and Value for Money Considerations

- 1.7.1 The allocation for TMBC to fulfil their duties under this new legislation is £34,242. This funding has already been received.

1.8 Risk Assessment

- 1.8.1 Providing the right support for victims of domestic abuse is a priority for the Council. It is important that we have a place on the Local Partnership Board and play a full part in the needs assessment and ongoing work to ensure we can maximise the support available across our borough.
- 1.8.2 There is a risk that the amendment to enable all eligible homeless victims of domestic abuse to automatically have 'priority need' for homelessness assistance may increase the demand for temporary accommodation.

1.9 Recommendations

- 1.9.1 It is **RECOMMENDED** to Cabinet that appropriate expenditure of the allocated funding (£34,242) is authorised by the Director of Planning, Housing and Environmental Health in consultation with the Cabinet Member for Housing and the Cabinet Member for Community Services, once the domestic abuse needs assessment has been completed across Kent and further information is known.

The Director of Planning, Housing and Environmental Health & Director for Central Services and Deputy Chief Executive confirms that the proposals contained in the recommendation(s), if approved, will fall within the Council's Budget and Policy Framework.

Background papers:

Nil

contact: Linda Hibbs/Alison
Finch/Claire Keeling

Eleanor Hoyle
Director of Planning, Housing and Environmental Health

Adrian Stanfield
Director of Central Services and Deputy Chief Executive