
From: Richard Smith, Corporate Director Adult Social Care and Health

To: Diane Morton, Cabinet Member for Adult Social Care and Public Health

Subject: Older Persons Residential and Nursing Care Service

Key Decision : It affects more than 2 Electoral Divisions
It involves expenditure or savings of maximum £1m – including if over several phases

Decision no: **25/00042**

Classification: Unrestricted

Past Pathway of report: Adult Social Care and Public Health Cabinet Committee – 8 July 2025

Future Pathway of report: Cabinet Member decision

Electoral Division: All

Is the decision eligible for call-in? Yes

Summary: The report provides information about the background of the Older Persons Residential and Nursing contract and the options explored to recommission the service.

Recommendation(s): The Cabinet Member is asked to:

- a) **APPROVE** the recommissioning of the Older Persons Residential and Nursing Care Service,
 - b) **EXTEND** the current Dynamic Purchasing System contract arrangements for a potential further period of up to nine months to enable the awarding of new contracts and mobilisation of the Older Persons Residential Nursing Care Service under a new Light Touch Open Framework;
 - c) **DELEGATE** authority to the Corporate Director Adult Social Care and Health to take relevant actions including but not limited to, opening the Light Touch Open Framework at regular intervals to allow new providers to join the framework and finalising the terms of and entering into required legal agreements, as necessary to award the contract with new arrangements to begin on 1 April 2026; and
 - d) **DELEGATE** authority to the Corporate Director Adult Social Care and Health, in consultation with the Cabinet Member for Adult Social Care and Public Health and Corporate Director Finance, to utilise the relevant contract extensions.
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1. Introduction

- 1.1 The current contract, introduced in 2016 and extended via a 24-month direct award to March 2026, operates under a Dynamic Purchasing System (DPS). A DPS is a list of qualified suppliers who are eligible to participate in future procurements. While the DPS has offered flexibility, it has led to growing price variation, limited market control, and challenges in monitoring quality and performance.
- 1.2 Significant changes in care needs, regulatory requirements, and service costs now require a more sustainable and structured model. The proposed solution is a new Open Framework, which is a contract between a contracting authority and one or more suppliers that provides for the future award of contracts by a contracting authority to the supplier or suppliers (potentially with a supplementary Dynamic Market). This will be aligned with KCC's strategic priorities and key policies such as Framing Kent's Future, Making a Difference Every Day, and the Accommodation Market Position Statement.
- 1.3 The Open Framework will introduce five service categories to better reflect current need and improve placement accuracy: Residential, Residential High, Nursing, Nursing High, and Highly Specialised and Complex Care, more information can be found in appendix 1. It will also improve cost control by limiting price changes to once annually and expanding access to Providers through regular framework openings.
- 1.4 Development of the new service has been informed by lessons learned from previous procurements, stakeholder engagement and relevant impact assessments. The new service will provide a fit for purpose model which delivers sustainable, high-quality care and improved outcomes for Kent's older population.

2. Background

- 2.1 In 2014, the Council re-let the then 12-year-old Residential and Nursing Care contract using a two-stage procurement process. The first stage involved a cost model review, which re-evaluated care home costs and established new guide prices for Residential, Residential High, and Nursing Care.
- 2.2 To support the transition and prepare both the market and the Council for the anticipated major changes linked to Phase 2 of the Care Act 2014, an 18-month contract was introduced in October 2014. This short-term contract ended on 31 March 2016.
- 2.3 On 1 April 2016, the current Older Persons Residential and Nursing (OPRN) Care contract commenced. It was initially set for four years, with the option of two extensions of 24 months each. Both extension periods have been fully utilised, and the contract had no provision for further extensions beyond 31 March 2024.
- 2.4 On 18 January 2024, the Adult Social Care Cabinet Committee approved a 24-month direct award, ensuring continued service provision until 31 March 2026.

- 2.5 Over the past decade there have been significant changes in care needs, regulatory requirements, workforce challenges, service delivery expectations and service costs.
- 2.6 The new service will respond to Framing Kent's Future, 2022-2026, by considering the Council's priority of New Models of Care and Support by recognising the importance of health and social care integration, building effective strategic partnerships with our providers through co-production whilst being innovative in the way we look to redesign services to improve quality and respond to budget constraints. The full business case for the recommissioning of the OPRN Care Service is attached as Appendix 1.
- 2.7 It is the Council's priority to establish new arrangements to continue providing affordable accommodation, care, support and stimulation to those people in the client group for whom it is appropriate, either in the short or longer term, to live in a Residential or Nursing Home setting as their own home, ensuring a sustainable local market for care services (s5 Care Act 2014).
- 2.8 The expectation is to commence a contract award for the new service under the Light Touch Open Framework, from 1 April 2026. However to ensure continuity of provision the Council may require an extension to the current Dynamic Purchasing System contract arrangements for a potential further period of up to nine months to enable the awarding of new contracts and mobilisation of the Older Persons Residential Nursing Care Service under a new Light Touch Open Framework.

3. Options considered and dismissed, and associated risk

- 3.1 Before deciding on the preferred way forward, the following options were considered:

Option 1: **Do Minimum**

Scope	OPRN Care Homes – contracted, non-contracted and future requirements
Description	Continue as we are (DPS): Maintain the existing Dynamic Purchasing System (DPS) for OPRN placements. Providers submit updated prices twice a year and placements continue under legacy arrangements.
Pros	No major system changes needed- Administrative continuity- Existing provider familiarity
Cons	• Loss of market control- Prices continue to escalate beyond affordability • Variance in pricing between legacy and new placements is unsustainable • Quality assurance and contract performance are harder to manage under current terms • Exploitation of loopholes (e.g., notice

	periods) • No formal mechanism for controlling market behaviour or incentivising quality improvement
Recommendation	Not recommended due to high-cost pressure, poor market control, and fragmented oversight

Option 2: **Less Ambitious**

Scope	OPRN Care Homes – contracted, non-contracted and future requirements
Description	Expand in-house provision and/or enter a series of block arrangements through direct awards: Increase Council-operated residential/nursing capacity and secure block beds via direct awards.
Pros	Greater control over quality and delivery- Predictable costs through block rates- Ability to target capacity to priority areas
Cons	• High upfront investment for in-house provision (recruitment, pension, property, compliance) • Reduced market flexibility • May not meet wide-ranging geographical demand • Risk of under-occupancy in block arrangements
Recommendation	Not recommended as a primary model due to high financial/resource burden and limited scalability

4. Financial Implications

- 4.1 The annual value of the new contract will be circa £222m and the lifetime value of the contract (including the 4 year extensions) will be circa £1.78bn. The new contract will run for an initial four year period from 1 April 2026 to 31 March 2030, with options to extend for an additional four years.
- 4.2 There is no anticipated reduction in the overall budget, the project aims to achieve cost avoidance. Failure to implement the new framework could result in significant budget variances over the lifetime of the contract with potential to escalate from £15.8 million in Year 1 to £50.3 million by Year 4. Implementing the new framework is projected to reduce these variances substantially, highlighting the importance of financial planning and control.

5. Legal implications

- 5.1 Under Regulation 34 (Dynamic Purchasing Systems), Contracting Authorities, are permitted to extend the period of validity of Dynamic Purchasing Systems (DPS). Regulation 72 (Modification of Contracts during their term) permits

Contracting Authorities to modify contracts and framework agreements, without a new procurement procedure.

5.2 External legal advice has been obtained about extending the contracts. The Council is advised to issue a Voluntary Ex-Ante Transparency Notice (VEAT) Notice informing the market of its intention to extend the current Dynamic Purchasing System.

5.3 An external legal firm has been instructed to draft the new Older Persons Residential and Nursing Care Service terms and conditions to manage placements for both framework and non-framework call-offs.

6. Equalities implications

6.1 A full Equality Impact Assessment (EqIA) has been completed (attached as Appendix 2) This EQIA explored the potential impact of the proposed changes on individuals with protected characteristics under the Equality Act 2010. It confirmed that the new service model is designed to promote equity of access, ensure fairness in placement decisions, and address any potential disparities in service delivery across different localities in Kent.

7. Data Protection Implications

7.1 A Data Protection Impact Assessment (DPIA) has been completed (attached as Appendix 3). The DPIA process has helped identify potential privacy risks linked to the recommissioning of the Older Persons Residential and Nursing (OPRN) service, particularly around the management of personal and special category data. Appropriate mitigations and safeguards are being incorporated into the design of the new commissioning model to ensure compliance with UK GDPR and the Data Protection Act 2018.

8. Conclusions

8.1 The existing OPRN contract, initiated in 2016 and was extended until March 2026, operates under a Dynamic Purchasing System (DPS). While the DPS has offered flexibility, it has led to growing price variation, limited market control, and challenges in monitoring quality and performance.

8.2 The proposed solution is a new Open Framework, potentially supplemented by a Dynamic Market, aligned with Kent County Council's strategic priorities and key policies such as Framing Kent's Future, Making a Difference Every Day, and the Accommodation Market Position Statement.

8.3 Various options were evaluated, including maintaining the status quo and expanding in-house services. However, both were deemed insufficient due to high costs or limited scalability.

8.4 The projected budget for the OPRN service shows significant variances if the current model continues. Implementing a new framework is projected to mitigate these financial risks substantially.

9.Recommendation(s): The Cabinet Member is asked to:

- a) APPROVE** the recommissioning of the Older Persons Residential and Nursing Care Service,
- b) EXTEND** the current Dynamic Purchasing System contract arrangements for a potential further period of up to nine months to enable the awarding of new contracts and mobilisation of the Older Persons Residential Nursing Care Service under a new Light Touch Open Framework;
- c) DELEGATE** authority to the Corporate Director Adult Social Care and Health to take relevant actions including but not limited to, opening the Light Touch Open Framework at regular intervals to allow new providers to join the framework and finalising the terms of and entering into required legal agreements, as necessary to award the contract with new arrangements to begin on 1 April 2026; and
- d) DELEGATE** authority to the Corporate Director Adult Social Care and Health, in consultation with the Cabinet Member for Adult Social Care and Public Health and Corporate Director Finance, to utilise the relevant contract extensions.

10 Background Documents

None

11. Appendices

Appendix 1 Business Case
Appendix 2 Equality Impact Assessment
Appendix 3 Data Protection Impact Assessment

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