

From: Helen Woodland, Corporate Director, Adult Social Care and Health

To: Georgia Foster, Cabinet Member for Adult Social Care

Subject: **Mental Health Assessment Service**

Decision no: **26/00058**

Key Decision: Yes

Classification: Unrestricted

Past Pathway of report: Adult Social Care and Public Health Cabinet Committee – 24 September 2026

Future Pathway of report: Cabinet Member decision

Electoral Division: All

Is the decision eligible for call-in? Yes

Summary: Kent County Council is required to provide mental health assessments as part of the statutory duties set out in the Mental Capacity Act 2005 and under Deprivation of Liberty Safeguards (DoLS).

The current contract for Mental Health Assessment services expires 30 April 2027.

This report provides the Adult Social Care and Public Health Cabinet Committee with the background and rationale for commissioning a new Mental Health Assessment Service.

Recommendation(s): The Cabinet Member for Adult Social Care is asked to:

- a) **APPROVE** the recommissioning of a new DoLS Mental Health Assessment Service and confirm the current contractual arrangements, including the approved contract modification which will enable procurement and mobilisation of the new service;
 - b) **DELEGATE** authority to the Corporate Director, Adult Social Care and Health to take relevant actions to negotiate, finalise the terms of, and (in consultation with the Cabinet Member for Adult Social Care) award the contract for the Mental Health Assessment Service;
 - c) **DELEGATE** authority to the Corporate Director, Adult Social Care and Health (in consultation with the Cabinet Member for Adult Social Care and the S151 Officer) to exercise any approved contract extensions; and
 - d) **DELEGATE** authority to the Corporate Director, Adult Social Care and Health to enter relevant contracts or other legal agreements as required to implement the decision.
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1. Introduction

- 1.1 The current Mental Health Assessment Service Contract commenced on 1 August 2023 and is due to expire on 30 April 2027.
- 1.2 Deprivation of Liberty Safeguard (DoLS) assessments were introduced in 2009 to prevent breaches of article 5 human rights ("Right to liberty and security of person"), provide a procedure in law for those deprived in accommodation to access care and treatment, and to provide legal protection to determine the lawfulness of the deprivation. This service is a statutory responsibility for the Local authority. Under the current arrangements a DoLS requires a mental health assessment, carried out by a mental health assessor.
- 1.3 The proposal to commission a new Mental Health Assessment Service, forms part of the Council's Adult Social Care and Health commissioning responsibilities and will ensure the continued provision of a specialist service which supports the delivery of statutory functions and provides best value for Kent residents.
- 1.4 Commissioning of the new service will be undertaken through a competitive procurement process, which will enable the Council to award a contract for the new Mental Health Assessment Service from 1 May 2027 following expiry of the current contractual arrangements.

2. Key Considerations

- 2.1. In developing the recommissioning proposal, Kent County Council considered how best to secure a sustainable, high-quality Mental Health Assessment Service that delivers value for money, maintains service continuity and supports the Council's statutory responsibilities. The key consideration has been determining the most appropriate commissioning model to ensure sufficient capacity, quality assurance and resilience within a limited and specialist provider market.
- 2.2 Market analysis and service review activity identified that a single countywide contracted service remains the preferred approach. This model provides greater consistency, accountability and oversight, while maintaining flexibility to respond to fluctuations in demand, transition through Local Government Reform (LGR) and future changes in the legislative or operational landscape.
- 2.3 Key issues considered as part of the recommissioning include future demand uncertainty, provider market sustainability, affordability, value for money and the need to maintain uninterrupted access to assessments throughout the transition to a new contract. The recommended approach seeks to balance these considerations by establishing a contractual arrangement that provides stability for both the Council and the provider market while retaining appropriate flexibility to respond to changing requirements.
- 2.4 Acknowledgement is given to the LGR, which will take place during the lifetime of this contract. The Government has confirmed that Kent and Medway will move to four unitary councils from April 2028, replacing the current two-tier local government structure. While there will be no immediate impact on service delivery, the new contract will include appropriate variation and break clauses to enable future amendments where required.

3. Background

- 3.1 Kent County Council is undertaking the recommissioning of its Mental Health Assessment Service to ensure the continued delivery of statutory responsibilities under the Mental Capacity Act 2005 and Deprivation of Liberty Safeguards (DoLS). The service provides timely, independent mental health and mental capacity assessments to support lawful authorisation processes for individuals who may be deprived of their liberty, many of whom are among the most vulnerable in the community.
- 3.2 The current commissioning approach has been shaped by a period of legislative uncertainty. Liberty Protection Safeguards (LPS) had been expected to replace DoLS, and this informed the decision [Record of Decision 23/00023] to let the existing contract on a shorter-term basis (two years plus one year extension), with flexibility to respond to anticipated reform. The contract has further been extended by 9 months (until 30 April 2027) to allow sufficient time to reprocur the new service.
- 3.3 However, following a recent Supreme Court judgment, the definition of what constitutes a deprivation of liberty has changed. The national position has shifted and the introduction of LPS is no longer expected in its current form. The judgment clarified that individuals who express contentment or consent to their care arrangements may not be considered deprived of their liberty, even if they lack mental capacity under the Mental Capacity Act. This means potentially less residents will require a mental health assessment from these services. In this context, the recommissioning focuses on ensuring a resilient and adaptable service model that can respond to the evolving legal landscape, maintain compliance with statutory duties, and provide stability and assurance while further national direction and guidance are clarified.
- 3.4 To prepare for commissioning the new Mental Health Assessment Service a range of pre procurement activity has taken place. This includes market engagement to inform the market of this opportunity and a meeting with interested parties to allow for the opportunity to ask questions and to obtain feedback on future delivery models. Adult social care colleagues have been involved throughout to inform and shape the design of the service model to ensure it meets the needs of residents and supports our statutory duties.
- 3.5 A Commercial Strategy, including the procurement plan and approach to the market, will be developed and submitted to the Commercial and Procurement Oversight Board for approval, prior to the commencement of the procurement.
- 3.6 Following the procurement exercise, a new contract will be in place from 1 May 2027. The contract duration will be for two years, with two optional one year extensions providing a possible total contract duration of four years. The new contract will include appropriate variation and break clauses to enable future amendments should they be required, in particular with a view to LGR.

4. Options considered and dismissed, and associated risk

- 4.1 Option a) Do Nothing

This would mean taking no action and allowing the current contractual arrangements to end without procuring a replacement Mental Health Assessment Service. This was considered and rejected as this would create a significant risk to the Council's ability to meet its statutory responsibilities under the Mental Capacity Act 2005. The Council would have no assurance regarding the availability of suitably qualified assessors to meet service demand.

4.2 Option b) Spot Purchase Mental Health Assessments

Officers are of the opinion that it would likely cost the Council more money through individual arrangements with providers, lose consistency in service offer and risk oversight and control of the quality of provision. In addition, this approach would not align with the Council's strategy, which is to secure services through an appropriate contractual arrangement rather than relying on spot purchasing arrangements. A commissioned contract provides greater assurance of service continuity, performance management, accountability and market sustainability.

5. How the proposed decision supports the Council's Strategic Statement

- 5.1 The recommissioning of the Mental Health Assessment Service supports the Council's Strategic Statement [Reforming Kent 2025–2028](#) by strengthening the quality, responsiveness and sustainability of a core statutory Adult Social Care function, aligning with the aims of putting residents first, supporting residents who need help, reforming the Council, and building better communities.
- 5.2 The new service approach will improve timely access to assessments and ensure continued compliance with statutory duties, thereby improving outcomes and safeguarding for vulnerable adults. It also contributes to the Council's transformation agenda by modernising delivery and improving efficiency and value for money.
- 5.3 Overall, the recommissioning is fully aligned to the Council's strategic direction and supports improved outcomes for residents alongside financial sustainability.

6. Financial Implications

- 6.1 The proposed cost of recommissioning the Mental Health Assessment Service will be up to £416,000 per annum. The contract will be let for an initial two year term, with the option to extend for a further one plus one year. The estimated maximum value over the full contract term is approximately £1.664m. However, following the change to what constitutes a deprivation of liberty it is expected demand for the service to reduce. Work is currently underway to quantify the anticipated impact on future service demand.
- 6.2 The funding for this service will come from the budget managed within Adult Social Care and Health DoLS Service. This is included in the Medium Term Financial Plan (MTFP).
- 6.3 Through the price evaluation in the procurement process we will seek to ensure best value for the Council and a sustainable rate for the service.

7. Legal implications

- 7.1 Deprivation of Liberty Safeguard (DoLS) assessments were introduced in 2009 to prevent breaches of article 5 human rights ("Right to liberty and security of person"), provide a procedure in law for those deprived in accommodation to access care and treatment, and to provide legal protection to determine the lawfulness of the deprivation. This service is a statutory responsibility for the Local authority.
- 7.2 Under the current arrangements a DoLS requires a mental health assessment, carried out by a mental health assessor. The Mental Capacity Act DoLS Regulations 2008 stipulate this must be a medical doctor experienced in mental health and are section 12 approved, therefore approved clinicians under the Mental Health Act 1983. Furthermore, the local authority is responsible for ensuring that sufficient mental health assessors are available.
- 7.3 The Mental Health Assessment Service ensures that the Council can meet its requirement to ensure that a person subject to DoLS has received statutory Mental Health and eligibility assessments in a timely manner so as not to delay any outcome issued by the Supervisory Body.
- 7.4 The procurement will be undertaken in accordance with The Health Care Services (Provider Selection Regime) Regulations. The regulations primarily apply to NHS England and Integrated Care Boards, and also to local authorities when arranging healthcare services. Kent County Council will use a Competitive Process to test the market and identify a suitable provider, in line with the methodology set out in Regulation 11.
- 7.5 Any LGR impacts will be managed through a break clause included in the contract, governance arrangements, and the standard LGR clause included in all new contracts.

8. Equalities implications

- 8.1 A full Equality Impact Assessment (EqIA) was completed (attached as Appendix 1) and formally signed off by the EqIA Lead in July 2026. This assessment 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.

9. Data Protection Implications

- 9.1 A full Data Protection Impact Assessment (DPIA) has been completed and signed off by the Information Governance Lead in August 2026.
- 9.2 The DPIA process has helped identify potential privacy risks linked to the recommissioning of the Mental Health assessment service, particularly around the management of the 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.

10. Conclusions

- 10.1 The recommissioning of the Mental Health Assessment Service will enable the Council to secure continued provision of a service which supports the delivery of its statutory responsibilities. The preferred option, to undertake a competitive procurement process, provides the most sustainable and resilient approach, offering assurance over service quality, continuity, capacity and value for money. Approval of the proposed decision will enable a new contract to be in place from 1 May 2027 and support the continued delivery of timely mental health assessments for Kent residents.

Recommendations: The Cabinet Member for Adult Social Care is asked to:

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 - b) **DELEGATE** authority to the Corporate Director, Adult Social Care and Health to take relevant actions to negotiate, finalise the terms of, and (in consultation with the Cabinet Member for Adult Social Care) award the contract for the Mental Health Assessment Service;
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 - d) **DELEGATE** authority to the Corporate Director, Adult Social Care and Health to enter relevant contracts or other legal agreements as required to implement the decision.
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10. Background Documents

None

11. Appendices

Appendix 1 - Equality Impact Assessment

12. Report Author

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