KENT COUNTY COUNCIL – PROPOSED RECORD OF DECISION

DECISION TO BE TAKEN BY:	DECISION NO:
Cabinet Member for Adult Social Care and Public Health	25/00042

For publication

Key decision: YES

Title of Decision: Older Persons Residential and Nursing Care Service

Decision: As Cabinet Member for Adult Social Care and Public Health, I propose to:
APPROVE the recommissioning of the Older Persons Residential and Nursing Care Service,
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;
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
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.

Reason(s) for decision: The current contract, introduced in 2016 and extended via a 24-month direct award to 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.

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 (potentially with a supplementary Dynamic Market) 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.

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. It will also improve cost control by limiting price changes to once annually and expanding access to Providers through regular framework openings.

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.

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). This does

not preclude the council developing its own homes but current contracts need to be renewed for the current externally commissioned placements.

The expectation is to commence 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 the existing arrangements to continue to enable the completion of the procurement.

Financial Implications: 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.

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.

Legal Implications: 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.

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.

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.

Equality Implications: A full Equality Impact Assessment (EQIA) has been completed. 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.

Data Protection Implications: A Data Protection Impact Assessment (DPIA) has been completed. 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

Cabinet Committee recommendations and other consultation: The proposed decision will be discussed at the Adult Social Care and Public Health Cabinet Committee on 8 July 2025 and the outcome included in the paperwork which the Cabinet Member will be asked to sign.

Any alternatives considered and rejected:

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

Any interest declared when the decision was taken and any dispensation granted by the Proper Officer:

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signed

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date