

ADULT SOCIAL CARE CABINET COMMITTEE

Tuesday, 22nd June, 2021

2.00 pm

online



AGENDA

ADULT SOCIAL CARE CABINET COMMITTEE

Tuesday, 22 June 2021 at 2.00 pm
online

Ask for: Theresa Grayell
Telephone: 03000 416172

Membership (16)

Conservative (12): Mr A M Ridgers (Chairman), Mrs A D Allen, MBE, Mrs P T Cole, Mr N J Collor, Ms S Hamilton, Mr J Meade, Mr D Ross, Mr T L Shonk, Mr R J Thomas, Mr A Weatherhead, Mr S Webb and Ms L Wright

Labour (2) Ms K Grehan and Ms J Meade

Liberal Democrat (1): Mr R G Streatfeild, MBE

Greens and Independents (1) Mr S Campkin

UNRESTRICTED ITEMS

(During these items the meeting is likely to be open to the public)

- 1 Introduction
- 2 Membership - the Committee is asked to note its new membership
- 3 Apologies and Substitutes
- 4 Election of Vice-Chair
- 5 Declarations of Interest by Members in items on the agenda
- 6 Minutes of the meetings held on 5 March 2021 and 27 May 2021 (Pages 1 - 10)
- 7 Verbal Updates by Cabinet Member and Corporate Director (Pages 11 - 12)
- 8 Adult Social Care and Health Winter Pressure Plan 2020-21 Review (Pages 13 - 36)
- 9 21/00050 - Discharge Services Contract Extensions and Future Commissioning (Pages 37 - 44)
- 10 21/00051 - Deprivation of Liberty Safeguards Mental Health Assessments Contract Extension and Transition to Liberty Protection Safeguards (Pages 45 - 86)
- 11 Work Programme 2021/22 (Pages 87 - 90)

EXEMPT ITEMS

(At the time of preparing the agenda there were no exempt items. During any such items which may arise the meeting is likely NOT to be open to the public)

Benjamin Watts
General Counsel
03000 416814

Monday, 14 June 2021

Please note that any background documents referred to in the accompanying papers maybe inspected by arrangement with the officer responsible for preparing the relevant report.

KENT COUNTY COUNCIL

ADULT SOCIAL CARE CABINET COMMITTEE

MINUTES of a meeting of the Adult Social Care Cabinet Committee held online on Friday, 5th March, 2021.

PRESENT: Mrs P T Cole (Chairman), Miss D Morton (Vice-Chairman), Mrs A D Allen, MBE, Mr M J Angell, Mrs P M Beresford, Mr R H Bird (substitute for Mr S J G Koowaree), Mr D L Brazier (Substitute for Mr M A C Balfour), Mr J Burden, Ms S Hamilton and Ida Linfield

ALSO PRESENT: Clair Bell

IN ATTENDANCE: Richard Smith (Corporate Director of Adult Social Care and Health), Julie Davidson (Head of Strategic Safeguarding, Practice and Quality Assurance), Michelle Goldsmith (Finance Business Partner - Adult Social Care and Health), Wayne Gough (Head of Directorate Business & Planning), Helen Groombridge (Performance & Analytics Manager), Clare Maynard (Head of Commissioning Portfolio - Outcome 2 and 3), Chris McKenzie (Director of Adult Social Care and Health North and West Kent), Michael Thomas-Sam (Strategic Business Adviser, Social Care), Theresa Grayell (Democratic Services Officer) and Emily Kennedy (Democratic Services Officer)

UNRESTRICTED ITEMS

251. Apologies and Substitutes
(Item. 2)

Apologies for absence had been received from Mr M J Balfour and Mr S J G Koowaree.

Mr D L Brazier was present as a substitute for Mr Balfour and Mr R H Bird as a substitute for Mr Koowaree.

252. Declarations of Interest by Members in items on the agenda
(Item. 3)

There were no declarations of interest.

253. Minutes of the meeting held on 20 January 2021
(Item. 4)

It was RESOLVED that the minutes of the meeting held on 20 January 2021 are correctly recorded and a paper copy be signed by the Chairman when this can be done safely. There were no matters arising.

254. Adult Social Care Cabinet Committee meeting dates 2021/22
(Item. 5)

The Cabinet Committee NOTED that the following dates had been reserved for its meetings in 2021/22:

17 June 2021
29 September 2021
24 November 2021
18 January 2022
4 March 2022
21 June 2022

All meetings would start at 10.00 am.

NOTE: The June 2021 date was subsequently changed to 22 June 2021 when the County Council was required to return to face-to-face meetings for some committees. Further updates on meeting dates will be made as and when known.

255. Verbal Updates by Cabinet Member and Corporate Director
(Item. 6)

1. The Cabinet Member for Adult Social Care and Public Health, Mrs C Bell, gave a verbal update on the following issues:-

Symptom-free Testing sites – 24 sites were now open across the county and a full list of them could be found on the Kent County Council website. As at 28 February, 364,065 tests had been done, of which, 2,460 had been positive. Anyone testing positive would be advised to self-isolate.

Kent Infection Control Hub launch – an online portal brought together expertise from social care providers and offered interactive features such as webinars, podcasts and a chat facility.

Loneliness and Social Isolation Select Committee – work was continuing to implement the recommendations of the Select Committee, which had reported in March 2019:

- **Knock and Check Campaign** – this had been running since October 2020 and encouraged people to check on a neighbour whom they knew to be vulnerable, elderly or alone, to check that they were alright and if they needed any help, for example, with shopping or household tasks. The campaign had attracted positive media coverage and an estimated 6,500 people living alone had been helped by it.

- **Community Wardens Social Prescribing project 'Connected Communities'** – community wardens had been trained as community connectors, to reach people aged 65+, living alone, who may otherwise become isolated and lonely. Four pilot schemes had been established, in Folkestone, Maidstone, Ramsgate and Sheerness, which offered a 12-week intervention using video calling. Face to face meetings would be added later, once pandemic restrictions had been relaxed. In the pilot areas, referrals could be made online.

KARA project – a series of slides set out the latest statistics and feedback on the project. Licensing for tablets to access the project had now been extended to April 2022, allowing people to continue benefitting from the project while covid-19 restrictions were ongoing. More than 1,000 tablets had been activated for use with the project and a second dedicated support worker had been recruited. 127,000 calls

had been made and feedback from the users of the project had been very positive. For example, use of tablets by care home residents had freed up the homes' phone lines, which would previously have been tied up for long periods of time, and people working with sensory teams could communicate by sign language, using the device. One unit had been supplied to inpatients of a psychiatric unit and three supplied to Maidstone Hospital. Mrs Bell recorded her thanks to the teams who had set up and run the project and hoped that it could be further extended in the future.

2. As this was the final meeting under the current administration, Mrs Bell thanked the Chairman for her leadership of the committee and thanked Members for their interest and constructive challenge and questioning at meetings. She also thanked the Deputy Cabinet Member, Diane Morton, for her support of the Cabinet Member role and, in particular as a champion of mental health issues.

3. Mrs Bell responded to comments and questions from the committee, including the following:-

- a) asked how the areas for the pilot scheme of the Connected Communities project had been chosen, and if other areas could be added, Mrs Bell explained that, as community wardens were employed by the Growth, Environment and Transport directorate, Adult Social Care did not have first-hand involvement in directing the project. She undertook to find out about the selection of areas and advise the committee outside the meeting. The Chairman welcomed this and said that a scheme in every area of the county would be the ideal;
- b) asked why the KARA project had been extended just to April 2022, Mrs Bell explained that the contract for the technology used for the project was renewed on an annual basis, as the specification may change over time, but this did not mean that the project would not extend beyond the next year. Her aim was that the project would become a permanent part of the Adult Social Care service; and
- c) referring to the Knock and Check campaign, concern was expressed that people in some age groups may be less comfortable asking for help from a neighbour and may be less likely to engage with and benefit from the campaign.

4. The Corporate Director of Social Care, Mr R Smith, then gave a verbal update on the following issues:-

Staff update – Janice Duff, Director of Adult Social Care, East Kent, had retired, Damien Ellis, Head of Provision, was taking a year away from work to explore new opportunities, and a new Assistant Director for North Kent, Sidney Hill, had been appointed.

Winter Plan – it had simply not been possible to predict and plan for the issues which had arisen during the winter of 2020/21, including the emergence of the 'Kent Strain' of covid-19 and the ongoing lockdown and restrictions. Partnership working had been good, with partners meeting weekly to look at issues. This had helped Kent to avoid needing to declare a critical incident, and the county had almost returned to the usual health and care pressures it would expect to deal with at this time of year.

The aim now was to build on this success in preparing for winter 2021/22. Mr Smith placed on record his thanks to colleagues across the County Council and in partner organisations for excellent joint working.

Domestic Abuse Partnership Board – this new board would be chaired by Akua Agyepong. A more detailed report on work on domestic abuse and Kent's response to the Domestic Abuse Act would be made to a future meeting of the Cabinet Committee.

Covid-19 vaccinations – national targets for vaccinations had been met, which was a great success story for Kent and an example of good collaboration.

5. It was RESOLVED that the verbal updates be noted, with thanks.

256. Strategic Review of the Kent and Medway Safeguarding Adults Board
(Item. 7)

Ms Sian Walker-McAllister, an Independent Social Care and Health Consultant who had been engaged to undertake a strategic review of the Kent and Medway Safeguarding Adults Board, and Andrew Rabey, the new Board Chairman, were present for this item at the invitation of the committee.

1. Ms Walker-McAllister presented a series of slides, which set out the statutory context and framework of the review, its findings, partners' views and its twelve recommendations for change. Mr Rabey introduced himself and added that his key aim was to raise awareness of the Board's work and improve understanding of the issues it dealt with.

2. Ms Walker-McAllister and Mr Rabey responded to comments and questions from the committee, including the following:-

- a) the Board's work and recommendations were welcomed and the importance of involving citizens was emphasised, as safeguarding was an issue for which everyone should take responsibility. Mr Rabey advised that, as part of his leadership, he would ensure democratic involvement and that everyone could have a say in how the review recommendations were to be actioned;
- b) it was suggested that the presentation of the annual report and recommendations be made to the whole Council so that all Members would have the chance to see it and understand the issues and the work of the Board;
- c) asked what steps were in place to ensure that all the recommendations were actioned, Mr Rabey advised that the Board would conduct an in-depth review to discuss the report's findings and how to action these, after liaising with the Corporate Director of Adult Social Care and Health to prepare and agree an action plan. This would include how to achieve democratic involvement. He undertook to update the Cabinet Committee on the progress of this work; and

d) asked about transition services for young people aged 16+, moving from children's to adult services, Ms Walker-McAllister advised that innovative work was going on with children's and families professionals to ensure that appropriate ongoing support was available to young people. For example, Lambeth Council's Safeguarding Partnership, which had a similar role to the Kent and Medway Safeguarding Adults Board, was working with the Local Government Association on a peer group review of this issue. The outcomes of this would work be known in the next year or so and best practice would then be available for other authorities to adopt.

3. The Cabinet Member, Mrs Bell, welcomed the report and advised that safeguarding issues had always had a high priority, particularly for the Chairman of the County Council, Graham Gibbens. She agreed that safeguarding was everyone's business and that the public needed to be aware of it, what to look out for and how to report suspected abuse.

4. It was RESOLVED that the presentation and ongoing work be noted and welcomed, with thanks.

257. Annual Safeguarding Report

(Item. 8)

1. Ms J Davidson introduced the report and presented a series of slides (included in the agenda pack), which set out activity in the year from March 2020 to January 2021 and key developments in practice, including the Making a Difference Every Day (MADE) project and examples of practice as 'postcards from practice'. There were no questions.

2. It was RESOLVED that the information set out in the presentation be noted, with thanks.

258. Local Government Association Equality Peer Review

(Item. 9)

1. Mr Smith presented a series of slides (included in the agenda pack), which summarised the background to the review, which had only very recently issued its report, and advised that the recommendations arising from it would be considered in the first instance by the Directorate Management Team. A fuller report on the findings and recommendations of the review would then be made to a later meeting of the Cabinet Committee. The County Council had been keen to have an external review so had commissioned the peer review.

2. It was RESOLVED that the recommendations from the Adult Social Care Internal Assessment, and put forward by the Local Government Association Equality Peer Review report, be noted, with thanks.

259. 21/00033 - Review of Kent County Council's and Kent and Medway Clinical Commissioning Group's Integrated Commissioning Framework, covering health services, social care and community support for people with a learning disability and autistic people
(Item. 10)

1. Mr Smith introduced the report and explained that it represented a new interrelationship between the County Council and its NHS partners but emphasised that it did not replace the existing decision-making mechanism. He thanked Mat Pelling for the great amount of work he had put into establishing the new arrangements. Mr Pelling then gave a detailed summary of the background, rationale and process for developing the new arrangements and how they would be monitored.

2. Asked about the benefits of the County Council co-ordinating arrangements rather than taking on direct control of commissioning, Mr Smith explained that the integrated service model set out in the proposed decision would make the best sense to people receiving services and that the management and leadership role was the one which the County Council was required to take as a first tier local authority. The detailed contractual arrangements would be worked through as the next stage of implementing the proposed decision.

3. It was RESOLVED that the decision proposed to be taken by the Cabinet Member for Adult Social Care and Public Health, to:

a) enter into such agreements that are necessary with the Kent and Medway Clinical Commissioning Group (CCG) and other local NHS organisations to create a new strategic planning and delivery framework for Kent's residents with a learning disability, and autistic people; and

b) delegate authority to the Corporate Director of Adult Social Care and Health, to finalise and approve the formal agreements to establish the new framework,

be endorsed.

260. Adult Social Care Performance Q3 2020/21
(Item. 11)

1. Ms Groombridge introduced the report and highlighted the key areas of performance. There were no questions.

2. It was RESOLVED that the performance of services in quarter 3 of 2020/21 be noted, with thanks.

261. Risk Management: Adult Social Care and Health
(Item. 12)

1. Mr Gough introduced the report and explained that, in line with recent uncertainty and the ongoing pandemic restrictions, some risks had increased to a

red rating. The risk register would be reviewed constantly through 2021 in the light of the gradual easing of lockdown and the stages of recovery. However, it was difficult to predict yet how much individual risks might change.

2. It was RESOLVED that the risks presented be noted, with thanks.

262. Revision of Rates Payable and Charges Levied for Adult Social Care Services in 2021-22

(Item. 13)

1. Ms Goldsmith introduced the report and reminded Members that the rates listed applied only to in-house services and that, as most services were means-tested, people would only pay what they could afford. The charges listed were therefore the maximum possible payable.

2. It was RESOLVED that revisions to the rates payable and charges levied for adult social care services in 2021-2022 be noted, with thanks.

263. Work Programme

(Item. 14)

It was RESOLVED that the committee's planned work programme for 2021 be noted.

264. Votes of Thanks

1. The Chairman thanked Members for their engagement and contribution to the work of the committee and the quality of debate of the issues on which the committee had been asked to comment. She also thanked the officers for their reports and the time and effort they had given to helping Members to understand and contribute to the issues placed before them.

2. The Vice-Chairman thanked the Chairman for her leadership of the Cabinet Committee.

This page is intentionally left blank

KENT COUNTY COUNCIL

ADULT SOCIAL CARE CABINET COMMITTEE

MINUTES of a meeting of the Adult Social Care Cabinet Committee held at Mote Hall Leisure Centre, Maidstone, Kent, ME15 7RN on Thursday, 27th May, 2021.

PRESENT: Mrs A D Allen, MBE, Mrs P T Cole, Mr N J Collor, Ms S Hamilton, Mr J Meade, Mr A M Ridgers, Mr D Ross, Mr R J Thomas, Mr A Weatherhead, Mr S Webb and Ms L Wright.

UNRESTRICTED ITEMS

1. Election of Chair
(Item. 3)

It was proposed and seconded that Mr A M Ridgers be elected Chair of the Committee.

It was RESOLVED that Mr Ridgers be elected Chair of the Committee.

This page is intentionally left blank

From: Clair Bell, Cabinet Member for Adult Social Care and Public Health

Richard Smith, Corporate Director of Adult Social Care and Health

To: Adult Social Care Cabinet Committee – 22 June 2021

Subject: Verbal updates by the Cabinet Member and Corporate Director

Classification: Unrestricted

Electoral Divisions: All

Verbal updates will be made by the Cabinet Member and the Corporate Director at the meeting.

This page is intentionally left blank

From: Clair Bell, Cabinet Member for Adult Social Care and Public Health
Richard Smith, Corporate Director of Adult Social Care and Health

To: Adult Social Care Cabinet Committee – 22 June 2021

Subject: **Adult Social Care and Health Winter Pressure Plan 2020-21 Review**

Classification: Unrestricted

Past Pathway of report: None

Future Pathway of report: None

Electoral Division: All

Summary: The report will provide an overview of the implementation and outcomes of the 'Adult Social Care and Health Winter Pressure Plan 2020-21'. The report focuses on the outcomes of contingency plans to manage pressure on services, financial and budget implications of the actions that were taken and the outcomes for Kent County Council's partners and Kent's residents.

Recommendation: The Adult Social Care Cabinet Committee is asked to **NOTE** and **CONSIDER** the content of the report.

1. Introduction

- 1.1 The 'Adult Social Care and Health Winter Pressure Plan 2020-21' (The KCC Winter Plan), attached as Appendix 1, was developed in order to ensure that the Council had planned for and was able to respond to the significant pressures that were anticipated during the winter period.
- 1.2 It is good practice to ensure that there are well developed and robust plans to manage winter pressures under normal circumstances, and with the additional impact of COVID-19, a clear plan was essential to ensure that appropriate arrangements were in place.
- 1.3 The KCC Winter Plan incorporated the requirements of the Department of Health and Social Care (DHSC) plan, 'Adult social care: our COVID-19 winter plan 2020 to 2021'. This plan detailed the national support available for the social care sector in winter 2020-21, as well as the main actions for local authorities, NHS organisations, social care providers, and the voluntary and community sector.
- 1.4 Kent was particularly impacted by the UK's second wave of COVID-19 due to the emergence of the 'UK variant' in December 2020. From December 2020

until February 2021, Kent's health system came under significant pressure, with several acute hospitals operating at full capacity. Despite these pressures, the arrangements set out in the KCC Winter Plan alongside strong partnership working with key health partners, worked well in supporting the system during this period.

- 1.5 This report reports on key aspects of the KCC Winter Plan, and the impact that it had over the winter period. Lessons will be taken forward to ensure that future arrangements continue to be robust.

2. Adult Social Care and Health Winter Pressure Plan 2020-21 Review

2.1 The KCC Winter Plan consisted of five key elements, which were:

- The response to the Department of Health and Social Care Winter Plan
- The arrangements for escalation in response to operational pressures
- A programme of projects delivered alongside health partners to support improved Hospital Discharge Pathways
- A plan of likely demand and required capacity
- Arrangements for the deployment and use of the Adult Social Care Infection Control Fund

2.2 Although the plan covered each of these elements separately, there was considerable overlap between the different parts of the plan, with a significant number of detailed activities and actions. The rest of this section of the report will therefore pull out some of the main deliverables from the whole plan, rather than going into a detailed analysis of each section of the plan.

2.3 In summer 2020, KCC, the Kent and Medway Clinical Commissioning Group (KMCCG) and Kent Community Health Foundation Trust (KCHFT), undertook a review of Kent's arrangements to support people to be discharged from hospital. The review found Kent did not have a whole-system, holistic approach to delivering effective discharge pathways and set out recommendations for the delivery of a more effective, consistent and person centred approach.

2.4 A programme of activity was designed, with a focus initially on changes that would make improvements in time for winter 2020-21 and particularly initiatives that would embed a Discharge to Assess approach, in-line with government policy during COVID-19. This approach aims to support people where possible back to their own home as quickly as possible and to enable a comprehensive assessment of their ongoing needs in the community rather than in an acute hospital setting.

2.5 This first phase of this programme focussed on ensuring that discharge pathways had sufficient capacity available to meet forecast need, on the development of more integrated working arrangements, and identified gaps in the discharge pathway, including the need to provide better support for people with dementia.

2.6 One of the associated benefits of this approach, was that it brought together senior leads from each organisation to plan and develop our approach jointly.

This approach was critical in ensuring that community services were joined up and able to support timely discharges during the period of significant pressure from December 2020 until February 2021.

2.7 In March 2021 a second phase of work was designed and is now underway to build on the work that has already been delivered. The objectives of the next phase of work include plans for the development of joint brokerage arrangements, plans to streamline and further improve services that support people back to their own home, and further work to develop more integrated ways of working between teams.

2.8 In the lead-up to winter, Strategic Commissioning Analytics worked with partners to understand potential demand for services across health and social care. The team used population projections and central government modelling to forecast demand and assess different scenarios against capacity in discharge services. This supported planning for the predicted second wave of COVID-19 and gave Commissioners from KCC, KMCCG and KCHFT the right information to ensure that the right service capacity was in place to meet demand.

2.9 Figure 1.0 shows the predicted emergency admissions and COVID-19 hospital admissions against the actual data for winter 2020-21. This shows that whilst COVID-19 admissions were significantly higher than predicted, likely due to the UK variant’s rapid spread, non-COVID-19 admissions were lower than anticipated, which helped the health and social care system to manage overall demand.

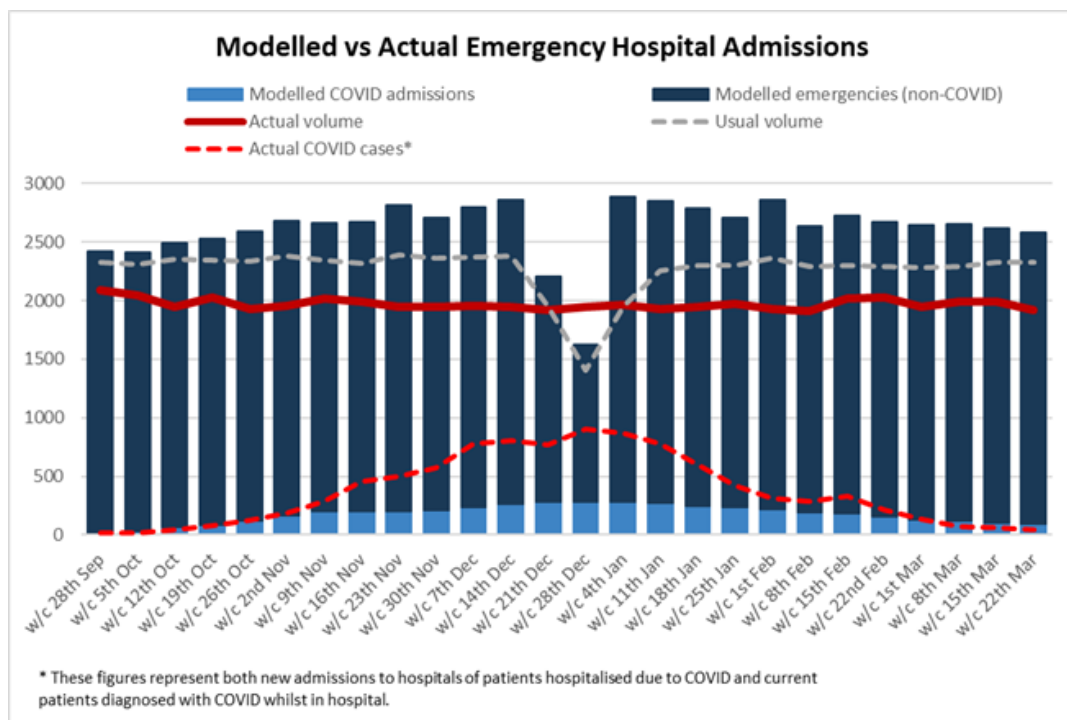


Figure 1.0

- 2.10 In November 2020, central government published a requirement for people discharged from hospital with COVID-19 to be discharged to a 'designated setting' to manage infection control in care settings. Through a combination of community beds provided through KCC's Adult Social Care provider services and the provider market, 25 designated beds were made available by December 2020. Demand for designated setting beds increased and capacity was increased to a peak of 45 beds in January 2021. Demand for the service began to reduce in February 2021 and capacity was phased down accordingly.
- 2.11 Additional capacity was commissioned to support more discharges back to people's own homes by expanding existing home with support services. An additional 18 packages of support per week were commissioned in West Kent, and 25 additional packages of support per week were commissioned in East Kent.
- 2.12 A Live-in Care model was trialled in early 2021 which provided additional discharge capacity and lessons for future models, but was de-commissioned due to lack of demand for the service. The trial identified the need for 24/7 wrap-around care to be delivered in a person's home, but the domiciliary care market could not meet this need at the time due to workforce challenges. The sector found it difficult to recruit during winter and experienced pressure due to high levels of staff sickness and staff needing to self-isolate.
- 2.13 Care and Support in the Home (CSiH) block contracts were implemented in areas where it has historically been difficult to place long term packages of care. Utilisation of the contracts was mixed; blocks in Dartford, Gravesham and Swanley reached capacity within a week of starting, whilst blocks in Maidstone and Elham were not fully used at any point during winter.
- 2.14 A 'seven-day referral service' was commissioned to ensure care homes could take referrals at weekends and ensure hospital discharges were not delayed by people waiting for assessments. The care home market responded quickly to provide capacity to meet anticipated demand, although levels of weekend discharges did not increase considerably as a result.
- 2.15 Similarly, short term beds to support people with more complex needs were commissioned at two sites, however this provision was not eventually utilised due to challenges in ensuring the right wrap around support was available to meet people's needs. Lessons learned about the need for a holistic approach to integrating health and social care services will be fed into future development of new services.
- 2.16 A number of steps were taken during the winter period to ensure that staff resources were used to best effect to manage pressures. Staff capacity was used flexibly and in some areas redeployed, and additional staffing capacity was also funded through the use of available funding. This included additional social work capacity to undertake appropriate assessments for people who had been discharged during the first wave of COVID-19 and whose care and support was funded by health.

- 2.17 The Directorate's Area Referral Management Service recruited to all outstanding vacancies which enabled it to meet the demands of increased urgent contacts to ASCH. The Purchasing team staffing was increased to cover weekends and bank holidays and ensure hospital discharges could be managed 7 days a week, supporting reduced length of stay for people in hospital.
- 2.18 The Kent Enablement at Home (KEaH) service was used to alleviate pressures in commissioned services; delivering urgent support where providers experienced significant staff absences as a result of COVID-19 infection.
- 2.19 KEaH itself experienced increased levels of staff absence during winter, alongside the impact of staff shielding and self-isolating. Additionally, people using KEaH stayed longer in the service due to challenges in placing new long-term care packages in commissioned services. In response to these pressures, staff in other Adult Social Care services were re-deployed to provide temporary support to KEaH, including delivering PPE, administration support and in some cases supporting with direct care. KEaH also provided overtime to temporarily increase staff hours, which ensured service continuity.
- 2.20 Despite the exceptional circumstances and pressure on all organisations in 2020-21, the plan ensured that staff capacity was able to meet demand, and enabled flow through the system to be maintained.
- 2.21 In May 2020, the government published its £600 million adult social care infection control fund to tackle the spread of COVID-19. Three rounds of funding have now been delivered and will finish on 30 June 2021. The third round of funding brings together the Infection Control and Testing Fund, which replaces the Workforce Capacity Fund and Rapid Testing Fund.
- 2.22 There were a number of challenges in distributing the Infection Control Fund, including the number of grants, engaging large numbers of providers in the social care market, and tight timelines to ensure the support was delivered quickly. Despite these challenges KCC received very positive feedback from the market about its management and distribution of the Fund, particularly the efficiency of transferring funds to providers. Further provider feedback detail is provided in Section 5 and further spend detail is provided in Section 6.
- 2.23 As of 9 February 2021, the Council had passed £14m of Infection Control funding to 473 Care homes, 191 Domiciliary Care providers and 65 other adult social care providers and services. The Fund enabled providers to pay staff who needed to self-isolate, reduce staff movement within care settings, limit use of public transport, fund additional staff recruitment and support safe care home visiting.

3. Other activity to ensure Directorate and system resilience

- 3.1 Throughout winter 2020-21, the ASCH Directorate kept contingency plans and processes under review as pressures developed in Kent, enabling the Directorate to quickly escalate and approve process changes.

- 3.2 The process for referring people from enablement services to long term care packages was temporarily adapted so that non-contracted providers could be used where contracted providers could not accept new referrals. This ensured that capacity in the enablement service was maintained to support prompt hospital discharges, and also reduced delays in the system due to hand-offs between services. Strategic Commissioning and Purchasing are now working to transfer people to services with contracted providers.
- 3.3 In December 2020, COVID-19 testing of the social care workforce was introduced; this led to a huge increase in identified asymptomatic cases and large numbers of the workforce being required to self-isolate. At one point, approximately a quarter of the overall social care workforce in Kent was self-isolating. In response to the unprecedented pressure on the provider market, KCC identified members of its own workforce who could be re-deployed to support the market. Staff volunteered to receive training to deliver basic care and checks in the event of a provider being unable to meet its duties. Whilst this level of support did not need to be mobilised in the end, it did ensure that there was appropriate mitigation of the risk if it were to occur.
- 3.4 Contingency planning was also carried out to consider Care Act easements under the Coronavirus Act 2020. Under these powers, activities such as carrying out assessments of needs, delivering financial assessments, reviewing care and support plans and meeting eligible needs could have been temporarily paused to enable the Local Authority to prioritise meeting the most pressing needs. Whilst it was appropriate that Care Act easement plans were in place these plans were not activated and easements were not applied, which meant that KCC continued to deliver our statutory duties.

4. Vaccination Programme

- 4.1 Adult Social Care and Health began its identification of priority workers for vaccination in December 2020. Staff identified began to receive vaccinations in January 2021, aligned with the prioritisation of NHS and healthcare workers.
- 4.2 Uptake amongst KCC's front line social work staff has been very high. As of May 2021, 94.5% of eligible front line staff had taken up the vaccine, which suggests a higher take up rate than is being seen nationally in the private provider market.
- 4.3 Strategic Commissioning have also engaged the provider market, whose workers were prioritised to receive the vaccine. Anecdotal feedback from Commissioners indicates that instead of the anticipated challenges regarding vaccine hesitancy, providers and their employees have been keen to access vaccines and support the vaccination programme.

5. Market Engagement and Provider Feedback

- 5.1 Throughout winter 2020-21, ASCH and Strategic Commissioning worked closely with the social care provider market to provide PPE, updates on

government guidance and support with business continuity planning, service risk indicators and mutual aid arrangements.

- 5.2 Contingency planning successfully supported the market during a period of high pressure; despite challenges in recruitment across the sector, services were maintained, and 'mutual aid' arrangements to share employees across providers worked well. Providers used the Infection Control Fund to support recruitment of new staff by offering incentive payments on initial recruitment and after eight weeks' retention, and providers also accessed support via the Workforce Capacity Fund. Recruitment in the sector has now improved.
- 5.3 A series of provider engagement events were held in April 2021 to understand the market's view of its relationship with KCC and how well it felt supported during the pandemic. KCC received good feedback from providers about the ease of accessing additional funding and the process to join new contracts. Providers were also positive about the usefulness of communications they received, with some providers who work across multiple Local Authority boundaries noting that KCC's communications and support offer had been amongst the best delivered by a local authority.
- 5.4 Providers also gave feedback about what could be improved in the future, with a focus on streamlining processes, further developing trusted working relationships and reviewing pricing models. This learning will be considered as part of our ongoing market engagement. Further information about the position of the social care market is available in [Adult Social Care Commissioning Market Position Statements](#).

6. Financial Implications

- 6.1 The KCC expenditure on the 'Adult Social Care and Health Winter Pressure Plan 2020-21' has been minimised as the majority of spend has been reclaimed through central government funds or NHS funds provided to support discharges. To claim against the COVID-19 hospital discharge and support funding, KCC has provided monthly spend reports to the NHS.
- 6.2 The below tables show the spend on commissioned services and staffing costs and their funding sources. Table 2.0 reports against actual spend; actual spend figures are not yet available for the NHS Discharge Scheme 3 shown in Table 4.0. Table 3.0 provides an overview of the funds distributed to providers to support Infection Control, Rapid Testing and Workforce Capacity.
- 6.3 Whilst Table 2.0 shows an overspend on Designated Beds, this spend has been agreed with the NHS and will be claimed back.

Schemes	Funding Source	Planned spend	Actual spend
Discharge to Assess	NHS Discharge Scheme 2	£562,086	£503,550
Sustainability and Flow Blocks		£350,000	-
Live in Care		£480,000	£81,000
Rapid Response		£105,511	£106,379
Designated Beds		£861,414	£1,045,314
Total Schemes		£2,359,011	£1,736,243
Staffing	Funding Source	Planned spend	Actual spend
CHC Assessment Team	NHS Discharge Scheme 1	£310,800	£229,550
Other staffing	KCC Winter Monies	£129,486	£69,590
Total Staffing		£440,286	£299,140
Total Cost		£2,799,297	£2,035,384

Table 2.0

		Care Home £000's	Community Care £000's	Other £000's	Total £000's
Infection Control Round 1	May '20 – Sept '20	£13,681.6	£3,941.5	£538.3	£18,160.4
Infection Control Round 2	Oct '20 – March '21	£11,028.7	£5,243.2	£382.3	£16,653.2
Rapid Testing Fund	Dec '20 – March '21	£4,686.6	£0.0	£0.0	£4,685.6
Workforce Capacity Fund	Jan '21 – March '21	£1,388.8	£1,181.3	£512.1	£3,082.2

Table 3.0

6.4 Some of the winter schemes above have been extended into the 2021-22 financial year with agreement from the CCG. These will be funded by NHS Discharge Scheme 3 which is currently under negotiation with the CCG. Table 4 (below) shows the schemes that have been extended into 2021-22.

Scheme	Funding	Planned spend
Discharge to Assess	NHS Discharge Scheme 3	£928,340
Rapid Response		£11,452
Designated Beds		£155,185
Total Costs		£1,094,977

Table 4.0

7. Legal implications

7.1 The report is for information only and does not request a decision, therefore no legal advice has been sought.

8. Equalities implications

8.1 An EQIA was not undertaken for the 'Adult Social Care and Health Winter Pressure Plan 2020-21'.

9. Data Protection implications

9.1 A DPIA was not required.

10. Other corporate implications

10.1 In delivering the 'Adult Social Care and Health Winter Pressure Plan 2020-21', lessons have been learned about opportunities for improved partnership working, joint commissioning and contingency planning. Lessons learned will be owned by the relevant plan owners, and will be shared corporately where appropriate.

11. Conclusions

11.1 In reviewing the 'Adult Social Care and Health Winter Pressure Plan 2020-21', particularly the implementation of contingency plans to manage unprecedented pressures on health and social care, we conclude that the plan delivered its objective to ensure the continuation of high-quality, safe and timely support provided to everyone who needs it. The plan successfully delivered actions to reduce the impact of winter pressures and COVID-19 cases. In its delivery, the plan also promoted improved working relationships with system-wide and provider partners. Lessons learned will be reviewed at relevant senior management forums, and will be incorporated in future winter planning and contingency planning for future management of COVID-19.

12. Recommendation

12.1 Recommendation: The Adult Social Care Cabinet Committee is asked to NOTE and CONSIDER the content of the report.

13. Background Documents

None

14. Report Author

Elizabeth Blockley
Project Manager, Adult Social Care and Health
03000 417304
Elizabeth.blockley@kent.gov.uk

Relevant Director

Chris McKenzie
Director North and West Kent, Adult Social Care and Health
03000 415991
Chris.mckenzie@kent.gov.uk

Adult Social Care & Health

Winter Pressure Plan 2020-21

Author: Chris McKenzie

Owner: Richard Smith

Version No: 1.5

Purpose:

The winter pressure plan describes the actions on all the key activities in place, as the Directorate prepares for winter and an expected surge in COVID-19.

VERSION HISTORY

Version	Date Issued	Brief Summary of Change	Owner's Name
Draft 0.1	06.10.20	Populated the document with initial information gathered from winter plan workshops.	Darren Avery
Draft 0.2	07.10.20	Updated with additional information gathered.	Darren Avery
Draft 0.3	12.10.20	Content has been updated based on Winter Pressure group meeting (09.10.20). First draft submitted to Paula Parker for review.	Darren Avery
Draft 0.4	13.10.20	Includes updated information from SC Analytics as well as an update on the Infection Control Fund.	Darren Avery
Draft 0.5	15.10.20	Document updated based on Paula Parker's comments plus additional information from key stakeholders.	Darren Avery
Draft 0.6	27.10.20	Updated with additional information regarding planned Strategic Commissioning activity and ASC resilience planning. Final appendices included.	Elizabeth Blockley
Draft 0.7	27.10.20	Updated Appendix E – Strategic Commissioning Actions for Providers.	Elizabeth Blockley
Draft 0.8	27.10.20	Updated Appendix - ASC Directorate Action Plan for the DHSC: COVID-19 winter plan.	Elizabeth Blockley
Draft 0.9	02.11.20	Updated based on feedback from DMT.	Elizabeth Blockley

Version	Date Issued	Brief Summary of Change	Owner's Name
Draft 1.0	05.11.20	Updated Appendix C – Hospital Discharge Pathway: October Communications	Elizabeth Blockley
Draft 1.1	05.11.20	Updated Appendix - ASC Directorate Action Plan for the DHSC: COVID-19 winter plan	Elizabeth Blockley
Draft 1.2	06.11.20	Updated Section 1.1.4 with additional information regarding Live in Care model.	Elizabeth Blockley
Draft 1.3	06.11.20	Updated Section 2 in line with guidance from Finance.	Elizabeth Blockley
Draft 1.4	09.11.20	Removed original Appendix – ASC Directorate Action Plan for the DHSC: COVID-19 winter plan in line with agreement from Assistant Director.	Elizabeth Blockley
Draft 1.5	13.11.20	Amendments to Appendices D and E.	Elizabeth Blockley
Draft 1.6	17.11.20		

Contents

1 Introduction..... 3

1.1 Components of the Winter Pressure Plan 2020-21: Detail 4

1.1.1 ASC Directorate Action Plan for the DHSC: COVID-19 winter plan 4

1.1.2 Operational Pressures Escalation Plan (OPEP) 6

1.1.3 Hospital Discharge Pathway 7

1.1.4 Demand and Capacity Plan for winter 2020..... 8

1.1.5 COVID-19 Response & Recovery – Infection Control Fund..... 10

1.1.6 Other activity to ensure Directorate resilience 11

2 Winter Pressure Spend 2019-20 13

3 Appendices..... 14

1 Introduction

On Friday 18 September 2020, the Department of Health and Social Care (DHSC) published the 'Adult social care: our COVID-19 winter plan 2020 to 2021'¹. The plan set out the key elements of national support available for the social care sector for winter 2020 to 2021, as well as the main actions to take for local authorities, NHS organisations, and social care providers; including in the voluntary and community sector. The ASC Directorate have incorporated the DHSC paper actions into pre-existing winter preparations, in order to ensure that high-quality, safe and timely support is provided to everyone who needs it, whilst protecting the people who need support, their carers and the social care workforce from COVID-19.

The purpose of the 'ASC Winter Pressure Plan 2020-21' is to provide a clear and concise summary on all the key activities in place, as the Directorate prepares for winter and an expected surge in COVID-19. The main elements of the plan have been outlined in the table below. This plan will be kept under review during winter and updated as appropriate as arrangements are firmed up. The effectiveness of this plan will be reviewed after winter to ensure that lessons learned are built into future plans.

Item	Activity Title	Description	Activity Lead(s)
1	ASC Directorate Action Plan for the DHSC: COVID-19 winter plan	The 'Action Plan' ensures that the ASC Directorate can provide a local response and evidence how each of the different action points within the DHSC winter plan are being implemented. The 'Action Plan' can be broken down into the following Five Themes: <ol style="list-style-type: none"> 1. Preventing and controlling the spread of Infection in care settings 2. Collaborating across health and care services 3. Technology and digital support 4. Supporting people who receive social care, the workforce, and carers 5. Supporting the system 	John Callaghan Paul Bufford
2	Operational Pressures Escalation Plan	The OPEP ensures the ASC Directorate responds appropriately to surges in demand across the Kent and Medway Health and Social Care System.	John Callaghan Paul Bufford Jacqui West
3	Hospital Discharge Pathway	This activity aims to deliver the following: <ul style="list-style-type: none"> • Maximising innovation to support 'Home First' • Single point of access and triage • Effective Integrated Multi-Disciplinary Team (MDT) • Trusted Assessor • Dementia Pathway 	Chris McKenzie
4	Demand and Capacity Plan for winter 2020	The Demand and Capacity Plan for winter aims to: <ul style="list-style-type: none"> • Forecast the likely demand over the winter, including scenario planning for COVID-19 second wave, identifying possible gaps, and determining what additional capacity is required to manage likely demand • Analysing the likely operational impact of additional demand and setting out plans for additional staffing to manage the likely demand. • Identify the financial resources required to fund additional capacity and operational costs and how this will be funded. 	Rachel Kennard Craig Merchant Vernon Nosal
5	COVID-19 Response & Recovery – KCC ASC Infection Control Fund	The continuation of the Infection Control Fund, with an additional £546 million being allocated 'to support providers to stop all but essential movement of staff between care homes to prevent the spread of infection' – including payment of staff who need to self-isolate.	Clare Maynard

Table 1: ASC Winter Pressure Plan 2020-21

¹ <https://www.gov.uk/government/publications/adult-social-care-coronavirus-covid-19-winter-plan-2020-to-2021/adult-social-care-our-covid-19-winter-plan-2020-to-2021>

1.1 Components of the Winter Pressure Plan 2020-21: Detail

1.1.1 ASC Directorate Action Plan for the DHSC: COVID-19 winter plan

On Friday 18 September 2020, the Department of Health & Social Care set out the key elements of national support in the Adult social care COVID-19 winter plan 2020 to 2021. The plan outlines the continual provision of essential resources, evidence, and high-quality data to empower local leadership. Adult Social Care & Health at Kent County Council adopted the plan and have put the following five themes into action:

1. Preventing and controlling the spread of Infection in care settings
2. Collaborating across health and care services
3. Technology and digital support
4. Supporting people who receive social care, the workforce, and carers
5. Supporting the system

Preventing and controlling the spread of Infection in care settings

The Directorate is managing staff movement where possible to minimise the risk of COVID-19 infection and other viral illnesses, including flu. Senior Commissioners regularly discuss guidance on redeploying staff and their movements with providers at the Care Home Hub Cell. The Directorate also produces and circulates a regular 'Provider Newsletter' which contains the relevant guidance produced by DHSC and Public Health England (PHE); including directions to local vaccination venues.

The work programme described in section 1.1.6 includes the development of the weekly SitRep to support decision making, which would include Care Home Tracker data, to identify and act on emerging concerns regarding staff movement between care settings. The weekly SitRep also highlights any PPE shortages to the Divisional Management Team (DMT) as well as multi-agency COP to the Local Resilience Forum / Ministry of Housing, Communities and Local Government.

The Skills for Care team are working alongside the Design and Learning Centre (DLC) team to support care homes to carry out learning reviews after each outbreak; identifying sharing any lessons learned at a local, regional, and national level.

Collaboration across health and care services

Senior Commissioners are working with the Strategic Commissioning Analytics team and the ASC Performance team to establish the requirements for winter 2020-21, to prevent avoidable admissions and jointly commission support packages for those who have been discharged from NHS settings (see section 1.1.4 for more details). The Continuing Health Care (CHC) reset is being progressed with all partners

countywide. CHC assessments have recommenced in accordance with the guidance (which includes setting up and attending Multi-Disciplinary Team (MDT) panels). Recruitment will take place for an additional 12 social workers to support the backlog of CHC and social care assessments.

Technology and digital support

The Kent and Medway Winter Operating Model (see *Appendix B*) is an operational document which articulates the whole system, multi-agency surge management and escalation plans for the Kent and Medway system during the winter period; specifically Monday 2nd December 2020 to Monday 5th April 2021 but will be operational prior to this. The document confirms that all care homes have been aligned to a Primary Care Network (PCN) and ensures the delivery of the Enhanced Health in Care Homes (EHCH) service requirements.

The document covers how Clinical Commissioning Groups (CCG's) will continue to support all care providers in their local areas to enable collaboration tools and remote consultations for people receiving social care in all settings. It also outlines how CCG's will take a risk-based approach to routine admissions for elective care advise patients about appropriate testing and / or isolation requirements pre-admission.

Supporting people who receive social care, the workforce, and carers

Respite support continue and where day centres are closed, other options are explored on a case by case basis, to identify alternative arrangements that meet the individuals identified needs.

The Voluntary Care Sector (VCS) continue to be supported by ASC, to enable the delivery of COVID secure services. The larger VCS organisations have already linked into PCN and District networks to support provision across local geographies.

The DLC are working alongside the lead from 'Skills for Care' to promote the use of the free induction training offer to providers.

Supporting the System

Market Position Statements (MPS) are being updated to support and develop the market accordingly. Market 'shaping' means the local authority collaborating closely with other relevant partners, including people with care and support needs, to encourage and facilitate the whole market in its areas for care, support and related services. The five MPS will make the Directorate's intentions explicit regarding the services we require, including how they will be funded and performance managed; allowing providers the opportunity to adapt. The MPS's will clearly communicate the

Directorates direction of travel, the expectations, and the promises to current and future providers. The Market Position Statements will cover the following five areas:

- Wellbeing & Prevention
- Support for Carers
- Discharge
- Care & Support in Your Home
- Accommodation with Care & Support

Strategic Commissioning (SC) will continue with the current oversight processes and feedback loops (at a local, regional, and national level) by engaging with the Care Home Hubs, the ADASS and the South East (SE) Ageing Well network. SC will also continue to champion the Capacity Tracker and Care Quality Commission (CQC) community care survey, with specific focus on promoting their importance as a source of data to local providers and commissioners.

The Adult Social Care Directorate Business & Planning team produced a full and detailed action plan to provide assurance of resilience planning to the Department of Health and Social Care. The ASC Directorate Action Plan for the DHSC: COVID-19 Winter Plan was approved by DMT in October 2020 and will continue to be monitored throughout winter 2020-21.

1.1.2 Operational Pressures Escalation Plan (OPEP)

The Operational Pressures Escalation Plan (see *Appendix A*) ensures the ASC Directorate responds appropriately to surges in demand across the Kent and Medway Health and Social Care System. The objectives of the OPEP are as follows:

- Provide information about the national operating frameworks and service requirements
- Describe the monitoring and reporting arrangements in place, to provide early warning of surge pressures
- Inform staff about the national, regional, and local processes and procedures to be used to manage a surge in demand
- Identify roles and responsibilities for services, teams, and individuals
- Describe the actions require in response to surges in demand

The ASC Business and Planning Team have co-ordinated an update of the current Directorate's Operational Pressures Escalation Plan against the backdrop of COVID-19 Hospital Discharge Service Requirement and Hospital Discharge Service: Policy and Operating Model (see section [1.1.3](#) for more details). The OPEP also addresses

the Social Care Sector COVID-19 Support Taskforce recommendations², published on 18 September 2020 and the government's ambitions for the sector regarding safe discharge from NHS settings and preventing avoidable admissions.

1.1.3 Hospital Discharge Pathways

Chris McKenzie (Director of Adult Social Care for North and West Kent) has been identified as KCC’s Executive Lead along with Oena Windibank, Executive lead Kent and Medway CCG, and Pauline Butterworth, Executive Lead for Kent Health Care Foundation Trust (KCHFT). The leads are jointly responsible for the implementation of recommendations from the recent review of discharge arrangements in Kent. Five phase 1 deliverables have been identified for implementation and these are shown below. Discharge to Assess arrangements are already in place across the County in line with the national Discharge to Assess policy. These deliverables will further support the system to embed the Discharge to Assess approach, with a greater focus on supporting people back to their own home, resulting in a reduced reliance on short term community beds.

Maximising Innovation to Support ‘Home First’	Explore and implement innovative approaches to maximise the use of ‘Home First’ as the default position following a hospital stay
Single Point of Access and Triage	Implement a single point of access and triage to ensure better decision making that promotes “home first” and reduce duplication or hand-offs
Effective Integrated Multi-Disciplinary Team	Bring teams closer together through integrated multi-disciplinary teams to make better use of the resource available and improve outcomes for users
Trusted Assessor	Reduce the number of assessments a person receives by implementing a trusted assessor model
Dementia Pathway	Design and implement a hospital discharge pathway for people with dementia

Table 2: Discharge Pathway: Five deliverables

The programme of activity will be delivered jointly across organisations to ensure alignment of resources and deliver wraparound support to Kent residents in line with discharge guidance from the Department of Health and Social Care.

² <https://www.gov.uk/government/publications/social-care-sector-covid-19-support-taskforce-report-on-first-phase-of-covid-19-pandemic/social-care-sector-covid-19-support-taskforce-final-report-advice-and-recommendations>

1.1.4 Demand and Capacity Plan for winter 2020

The Strategic Commissioning Analytics team have been exploring ways to inform conversations around potential, future demand for ASC services. Various models have been created from looking at trends over the last four years (pre-COVID) in demand for services (in terms of usage rates per 10,000 population) and population projections, to produce modelled figures for what demand might look like if current trends in usage rates continued (overlaid onto the projected population change).

Several methodological approaches have been explored, but a recommendation is provided in each case on what is felt to be the most appropriate approach given the framework (i.e. that current trends will continue).

The Strategic Commissioning Analytics team are also investigating the following:

- Forecasting the likely demand over the winter, identifying possible gaps, and determining what the financial impact could be.
- Scenario Planning for COVID-19 second wave and run actual data through modelling to determine likely outcome.

Using the Clinical Commissioning Group data available to them, Strategic Analytics have identified an anticipated increased demand for social care arising from activity in the acute sector during the winter period. The average rate of admissions to acute hospitals was below capacity for the early part of 2020, averaging approximately 70% (or 30% below “usual”). This is now increasing and is predicted to reach a peak of extra demand by up to 20% above “usual” in the lead up to and after Christmas.

Plans to meet the additional anticipated demand in winter 2020-21 are being progressed by Strategic Commissioning. These are:

- To fund up to 60 discharges a week in West Kent under the D2A model, in line with Winter 2019-20 (an increase from 42 discharges a week at present). The additional cost to raise to 60 discharges per week is £251,305 for the remainder of the 2020-21 financial year. Additional discharges will run until 31 March 2021.
- The implementation of Sustainability Blocks in MSOAs where there is no dominant contracted provider. Block contracts would be put in place in these areas, enabling providers to recruit staff via a block contract and create latent capacity.
- The implementation of Flow Blocks in cluster areas where non-contracted providers are currently being utilised. This will create latent capacity across whole clusters and will work hand in hand with Sustainability Blocks to strengthen the framework market.
- Both Sustainability Blocks and Flow Blocks will require guaranteed hours to be paid to providers. Both block types would have a proportion of the clients

costed at the price of the package of care under the contract so would not be seen as an 'extra cost' however any percentage of the block being latent would have a cost impact which needs to be closely monitored. An illustration of the potential cost suggested that six months usage of Sustainability and Flow blocks could be associated to a cost of approximately £350,000.

- The implementation of a Live in Care model. Currently there is not a specific 'live in' care model in place and instead round-the-clock support is provided under Care and Support in the Home and Supported Living contracts. Health and social care colleagues agree that a live in model would better support people with a high level of need. Sixteen weeks of support for 30 clients at an approximate cost of £1,000 per week would total £480,000.

Strategic Commissioning will also implement the directive from the Department of Health and Social Care to identify designated settings for COVID positive discharges. Designated settings will be nominated by the Local Authority and will have passed an Infection Prevention and Control inspection by the Care Quality Commission. These settings will use a separate staff team and zoning to deliver the care for COVID positive discharges for the remainder of their required isolation period. Once settings are approved by the Care Quality Commission, payment, contracts and implementation of COVID positive settings will be managed by Strategic Commissioning.

Winter planning actions across the Directorate have identified a number of staffing requirements to meet the anticipated demands of winter 2020-21:

County Placement Team

The County Placement Team will be resourced to deliver weekend and bank holiday working to support reduced length of stay in hospital for people medically fit for discharge. The predicted cost of this is £7,786.

Short Term Pathway Team and KEAH

Assessment requirements have increased post September 2020 and it is anticipated that demand will continue to rise over winter. To manage this demand, an additional 15 qualified social workers will be employed to enable care act assessments to be conducted in a timely manner. These workers will be able to be deployed flexibly across Adult Social Care teams based on demand.

The predicted cost of this proposal is £310,800, based on locum workers being employed at a rate of £28 per hour until 31 March 2021.

3 additional Occupational Therapists will be employed to support the delivery of assessments and increase independence for people in their own homes. The predicted cost of this proposal is £77,700 based on locum workers being employed at a rate of £35 per hour until 31 March 2021.

This proposal will support the work being delivered by Strategic Commissioning to deliver Home First by ensuring that people can be discharged to their homes with the right level of care and support in place.

In-House Services

Dedicated Older Persons In-House provision has been identified as COVID positive provision to facilitate hospital discharge where a person no longer requires an acute bed. To facilitate this, there will be a requirement for a higher ratio of staff to patients, additional training and additional medical costs. The estimated cost of this proposal is approximately £100,000.

Area Referral Management Service (ARMS)

The ARMS service is performing to a level within its current accepted tolerance. To ensure this is maintained throughout winter 2020-21, recruitment to all current vacancies will be progressed and it is proposed that additional cover is provided until 31 March 2021. The predicted cost of this proposal is £44,000.

Kent Enablement at Home (KEaH)

To respond to the pandemic through the winter months, the weekly sit-rep will identify pressures within the service. If staff levels within KEaH reduce to below 75%, staff within other functions in the Directorate will be redeployed to support critical functions. If staffing levels reduce to below 50%, the Director and Assistant Director will facilitate sharing of resource across the Directorate to support service delivery. Where a critical major incident occurs, the Business Continuity Plan will be activated.

As of 16 November 2020, KEaH will accept COVID-positive clients, which will support in managing the flow of hospital discharges and reduce the usage of bridging days in the Hilton service.

1.1.5 COVID-19 Response & Recovery – Infection Control Fund

The Department of Health & Social Care published the 'COVID-19: Our Action Plan for Adult Social Care³' on Wednesday 15 April 2020, which set out how the government and other parts of the system are supporting people who receive adult social care, both at home and in other settings, so that the spread of COVID-19 can be controlled in care settings, maintain care for people who need it, and save lives.

On Friday 15 May 2020, the government published the details of a new £600 million adult social care infection control fund to tackle the spread of COVID-19. Under the

³https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/879639/covid-19-adult-social-care-action-plan.pdf

Infection Control Fund grant condition, local authorities must allocate 75% of the first round of funding straight to care homes within the local authority's geographical area on a 'per beds' basis that met certain criteria. The remaining 25% was allocated at the Councils discretion and the Council worked with the 2 key trade associations, the Kent Integrated Care Alliance (KICA) and the National Care Association (NCA), to co-produce how this money could be spent to best effect. The details of the steps taken are set out in the Kent Local Care Homes Support Plan which was published on 29 May 2020. Most of the money was shared amongst community providers who deliver Kent County Council commissioned care hours, namely care and support in the home, supported living and extra care housing. As of 30 September 2020, the Council had passed Round 1 (£18m) of Infection Control funding to 505 Care homes, 233 Domiciliary Care providers and 49 other adult social care providers and services.

On Monday 21 September 2020, the government advised that the Fund was being extended until 31 March 2021, with an extra £546m of funding for Round 2 of the Infection Control Fund. Kent County Council's proportion is £16.6m, half of which was received on Friday 02 October 2020 and comes with revised conditions. In particular, passing 80% of the funding to care providers that meet certain criteria and who are care homes within the local authority's geographical area on a 'per beds' basis and to CQC-regulated community care providers (domiciliary care, extra care and supported living) within the local authority's geographical area on a 'per user' basis. The other 20% of the Round 2 funding must be used to support care providers to take additional steps to tackle the risk of COVID-19 infections but will be allocated at the local authority's discretion. The second instalment is due to be received in December 2020, which will be re-distributed at that time in line with the above.

A project group is set up to administer the Infection Control Fund which includes representation from Portfolio and Project Management, Commissioning, Finance and Legal; and aims to administer the fund and meet the requirements set out by government to pass the funding to care providers as soon as possible and complete regular monitoring and reporting to notify the government on what the fund has been used for.

For the high-level project plan timeframe, please see *Appendix D*.

1.1.6 Other activity to ensure Directorate resilience

The Directorate are also ensuring that multiple, additional activities are in place to remain resilient this winter. Steps have been taken to identify and embed notable practice from the 'response phase' of the first COVID-19 wave into planning for the inevitable wave two. Internal Audit are currently reviewing the Directorate's response and an early draft has highlighted key strengths of the Directorate's response, which can be summarised as follows:

- Extensive business continuity planning
- Increased frequency of the Directorate Resilience Group to act as a crucial channel between operational teams and senior management
- Daily situation reporting
- Quickly highlighting and escalating PPE concerns
- The Directorate's response was well integrated into both the Kent Resilience Forum and KCC response structures

The Directorate will continue to work with internal and external providers, to increase resilience over the coming months. Workstreams have been established to ensure:

- Frequent review of service Business Continuity Plans
- Continuation of Directorate Resilience Group
- Launch of the ASC Incident Management Toolkit (designed to save time, improve decision making and increase transparency)
- Further develop MOSAIC Outage Operational Procedures
- Development of training and exercise package for operating effective and safe response plans
- Continuation and development of Situation Reporting (SitReps) to support decision making.
- Redeployment of resources from the Directorate's Portfolio & Project Management (PPM) Team who convert issues (highlighted by DMT for resolution) into assigned tasks with completion dates.

The ASC Resilience Assurance Report (*Appendix F*) summarises the Directorate's additional preparations for the winter and future challenges.

Strategic Commissioning are also working with Kent's social care providers to deliver actions to ensure their preparedness and resilience for the challenges in winter 2020-21. These actions are based on guidance from the Department of Health and Social Care and will ensure that providers are aware of their duties to prepare for winter and that Strategic Commissioning can provide oversight and assurance of actions being delivered.

2 Winter Pressure Funding 2020-21

KCC receives Winter Pressures funding of £6.1m, £1.4m of which is used to support on-going schemes, leaving £4.7m to fund 2020/21 winter pressures.






The proposals for additional in-house staffing costs to meet demand in winter 2020-21 outlined in Section 1.1.4 total £540,286.

Remaining funding will be used to fund additional activity costs, associated with the likely increase in overall activity identified through the modelling work outlined in section 1.1.4. This increased activity is expected to include new and additional support for residents resulting from hospital admissions, as well as new community support to prevent hospital admissions.

Central government has made national funding of £588m available to Clinical Commissioning Groups nationally to support the implementation of Discharge to Assess and it is anticipated that this funding will be used to fund additional activity that supports the implementation of the new national Discharge to Assess Policy, with a focus on supporting people back to their own home. This includes funding of designated COVID positive settings. Discussions are taking place with the CCG to agree the schemes that will be funded through this including the new arrangements described in section 1.1.4.

3 Appendices

The following section contains all relevant Appendices to the ASC Winter Pressure Plan 2020-21 document.

Appendix Title / Description	Embedded Document
Appendix A – Operational Pressures Escalation Plan	 Operational Pressures Escalation
Appendix B – Kent & Medway Winter Operating Model	 K&M Winter Operating Model 20
Appendix C – Hospital Discharge Pathway: October Communications	 Discharge Pathway Communications - 16
Appendix D – Infection Control Fund: High-level project timeframe	 Infection Control Fund High Level Projec
Appendix E – Strategic Commissioning Actions for Providers	 Strategic Commissioning Action
Appendix F – ASC Resilience Assurance Report	 ASCH Resilience Assurance Report 07

-END-

From: Clair Bell, Cabinet Member for Adult Social Care and Public Health
Richard Smith, Corporate Director of Adult Social Care and Health

To: Adult Social Care Cabinet Committee – 22 June 2021

Subject: **Discharge Services Contract Extensions and Future Commissioning**

Key decision **21/00050**

Classification: Unrestricted

Previous Pathway of Paper:

Future Pathway of Paper: Cabinet Member decision

Electoral Division: All

Summary: KCC commissioned Discharge Service Contracts, Discharge to Assess and Assisted Discharge for those being discharged who need support to recover at home. These contracts were due to expire on 31 March 2020; however, these contracts were extended in response to emerging requirements resulting from the global Covid-19 pandemic. It is planned these services will be remodelled and recommissioned with the new service in place by April 2022. To ensure continuity of provision, and avoid disruption over the winter period, it is recommended that a provisional extension of these contracts to March 2022 is agreed. Due to the interdependencies involved, it is further recommended that an additional six-month optional extension until September 2022 also be agreed.

The close work with health partners during the pandemic has highlighted the opportunity to improve hospital discharge pathways including the absorption of the Home with Support discharge service, commissioned by Kent Community Health NHS Foundation Trust into the council's Care and Support in the Home contract, for the remainder of the Home with Support contract term, until March 2022.

Recommendation(s): The Adult Social Care Cabinet Committee is asked to **CONSIDER** and **ENDORSE** or make **RECOMMENDATIONS** to the Cabinet Member on the proposed decision (attached as Appendix A) to:

- a) **EXTEND** the Discharge Services contracts until 31 March 2022, with a further option to extend until 30 September 2022,
- b) **EXTEND** the east Kent Cottage Hospital discharge service until 31 March 2022; and
- c) **DELEGATE** authority to the Corporate Director of Adult Social Care and Health to take relevant actions, including but not limited to finalising the terms of and entering

into required contract or other legal agreements, as necessary to implement the decision.

1. Introduction

- 1.1 The current KCC commissioned Discharge Service Contracts, Discharge to Assess and Assisted Discharge form part of Discharge Pathway 1, for those being discharged who need support to recover at home. The Council was in the process of undertaking a procurement exercise, with new contracts due to go live in April 2020.
- 1.2 Due to the unforeseeable circumstances the Council was unable to award contracts within the planned timescales. The existing contracts were therefore extended in accordance with PCR 2015 - Regulation 32(2)(c) and Procurement Policy Note 01/20.
- 1.3 Kent Community Health NHS Foundation Trust (KCHFT) also commission a discharge service, Home with Support in east Kent. This service draws on similar providers that are already contracted to KCC's contract.

2. Background

- 2.1 There are a variety of discharge services serving Kent residents, with allocations dependent on the specific needs of the individual, and the geographical locations of the discharging hospital and the individual's home. The *Hospital Discharge Service: Policy and Operating Model*, published in August 2020, established the Discharge to Assess pathways model, which is based on four clear pathways for discharging people, dependent on the individual's ongoing needs.
- 2.2 As part of the Covid 19 response, government required the council and the NHS to pool budgets via a variation to their existing Section 75 Partnership Agreement in order that Covid funding in relation to hospital discharges and out of hospital work, could be facilitated. This was agreed in September 2020 (Decision No:20/00084).

3. The current position

- 3.1 KCHFT's Home with Support service is delivered by three east Kent providers, who also provide services to KCC under the Care and Support in the Home contract, with delivery requirements being similar.
- 3.2 Simplifying this duplication by bringing KCHFT's Home with Support in line with the Care and Support in the Home contract, would bring about improvements for those people who use it as well as unifying the market that supports this work.
- 3.3 Dealing with the pandemic enabled us to work more closely with our health partners and highlighted a potential to significantly improve the hospital discharge pathways. RETHINK Partners were commissioned to undertake a review of the adult social care discharge pathways, co-sponsored with the NHS.

- 3.4 The learning from this review, along with the absorption of the Home with Support contract will provide the foundation of the specification for a new Pathway One Discharge Service to commence in April 2022. In order to carry out this work, a provisional further extension of the current Discharge to Assess and Assisted Discharge Services until March 2022 is agreed.
- 3.5 The timescales will ensure that service delivery is not further disrupted by new contracting arrangements over winter, when generally additional capacity is required. However, due to the interdependencies involved, it is further recommended that an additional six-month optional extension until September 2022 also be agreed.

4. Financial Implications

- 4.1 The cost to extend the substantive Discharge to Assess and Assisted Discharge contracts for an additional six months is £1,695k; costs for these contracts currently come from the Section 75 pooled budget.
- 4.2 The cost to extend the remaining element of these services is £914k.

5. Legal implications

- 5.1 The provision of services to support people with health and/or social care needs following admission to hospital is detailed within the Care Act 2014. Paragraph 8.14 of the Statutory Care and Support Guidance states that local authorities may not charge for assessments, community equipment and minor adaptations, intermediate care or reablement for up to six weeks.

6. Equalities Implications

- 6.1 An EQIA has not been completed. The variation agreement was centred on enabling quick and safe discharge and more generally reducing pressure on acute services, and the recommended extensions continue to support that.
- 6.2 An assessment will be undertaken for the redesigned discharge provision.
- 6.3 An Equality Impact Assessment is in place for the commissioning of the Care and Support in the Home service.

7. Data Protection Implications

- 7.1 There are no anticipated data implications associated with these decisions, as there will be no change to current services, or the data collected or shared, and therefore this will be covered under existing contract clauses.

8. Other corporate implications

8.1 There may be some resource implications as a result of these recommendations, within Adult Social Care, Strategic Commissioning and Finance, in order to manage the additional capacity.

9. Conclusions

9.1 In order to simplify the pathways for those who need support after leaving hospital, the council's discharge service contracts, Discharge to Assess and Assisted Discharge should absorb the NHS Home with Support Contract. The costs in relation to this will not be born by the council.

9.2 Learning from the RETHINK review and the changes proposed to discharge services will inform the future shape of a new pathway one discharge service which will commence in April 2022.

9.3 To avoid any service disruption, particularly over the winter period, existing contract should be extended to March 2022, with a further optional extension til September 2022.

10. Recommendations

10.1 Recommendation: The Adult Social Care Cabinet Committee is asked to **CONSIDER** and **ENDORSE** or make **RECOMMENDATIONS** to the Cabinet Member on the proposed decision (attached as Appendix A) to:

- a) **EXTEND** the Discharge Services contracts until 31 March 2022, with a further option to extend until 30 September 2022,
- b) **EXTEND** the east Kent Cottage Hospital discharge service until 31 March 2022; and
- c) **DELEGATE** authority to the Corporate Director of Adult Social Care and Health to take relevant actions, including but not limited to finalising the terms of and entering into required contract or other legal agreements, as necessary to implement the decision.

11. Background Documents

Cabinet Office Procurement Policy Note 01/20

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/873521/PPN_01-20_-_Responding_to_COVID19.v5_1_.pdf

12. Lead Officer

Clare Maynard
Strategic Commissioner (Interim)
03000 416449
Clare.maynard@kent.gov.uk

Relevant Director

Richard Smith
Corporate Director of Adult Social Care and Health

03000 416838
richard.smith3@kent.gov.uk

This page is intentionally left blank

KENT COUNTY COUNCIL – PROPOSED RECORD OF DECISION

DECISION TO BE TAKEN BY:

Cabinet Member for
Adult Social Care and Public Health

DECISION NO:

21/00050

For publication**Key decision: Yes**

Expenditure in excess of £1m and affects more than two electoral divisions.

Title of Decision: Discharge Services Contract Extensions and Future Commissioning

Decision: As Cabinet Member for Adult Social Care and Public Health, I propose to:

- a) **EXTEND** the Discharge Services Contracts until 31 March 2022, with a further option to extend until 30 September 2022;
- b) **EXTEND** the east Kent Cottage Hospital discharge service until 31 March 2022; and
- c) **DELEGATE** authority to the Corporate Director of Adult Social Care and Health to take relevant actions, including but not limited to finalising the terms of and entering into required contract or other legal agreements, as necessary to implement the decision.

Reason(s) for decision: This decision to extend contracts is required to allow for the continuation of Discharge Services until recommissioning can be concluded.

The decision to absorb the Home with Support contracts will help to make the discharge pathway more efficient and to create greater consistency for the person, better aligning with addressing their needs, while allowing us to fulfil our role of managing the market.

Financial Implications: The cost to extend the substantive Discharge to Assess and Assisted Discharge contracts for an additional six months is £1,695k; costs for these contracts currently come from the Section 75 pooled budget. The cost to extend the remaining element of these services is £914k.

Legal Implications: The provision of services to support people with health and/or social care needs following admission to hospital is detailed within the Care Act 2014. Paragraph 8.14 of the Statutory Care and Support Guidance states that local authorities may not charge for assessments, community equipment and minor adaptations, intermediate care or reablement for up to six weeks.

Equalities implications: An EQIA has not been completed. The variation agreement was centred on enabling quick and safe discharge and more generally reducing pressure on acute services, and the recommended extensions continue to support that. An assessment will be undertaken for the redesigned discharge provision.

An EQIA was completed for the commissioning of the Care and Support in the Home service

Data Protection implications: There are no anticipated data implications associated with these decisions, as there will be no change to current services, or the data collected or shared, and therefore this will be covered under existing contract clauses.

Cabinet Committee recommendations and other consultation: The proposed decision will be

discussed at the Adult Social Care Cabinet Committee on 22 June 2021 and the outcome included in the paperwork which the Cabinet Member will be asked to sign.
Any alternatives considered and rejected:
Any interest declared when the decision was taken and any dispensation granted by the Proper Officer:

.....
signed

.....
date

From: Clair Bell, Cabinet Member for Adult Social Care and Public Health
Richard Smith, Corporate Director of Adult Social Care and Health

To: Adult Social Care Cabinet Committee – 22 June 2021

Subject: **Deprivation of Liberty Safeguards Mental Health Assessments Contract Extension and Transition to Liberty Protection Safeguards**

Decision Number: 21/00051

Classification: Unrestricted

Past Pathway of report: None

Future Pathway of report: Cabinet Member Decision

Electoral Division: All

Summary: Deprivation of Liberty Safeguards (DoLS) assessments require a mental health assessment to be completed by a qualified mental health assessor. KCC commissions South-East Memory Assessment Services (SEMAS) to undertake these assessments. Liberty Protection Safeguards (LPS) was planned to replace DoLS legislation from October 2020. The pandemic delayed the implementation of LPS. During the pandemic the current contract with SEMAS was extended to 31 August 2021, due to uncertainty regarding the go-live of LPS.

The new implementation date for LPS is now 1 April 2022. As a result, the current arrangements with SEMAS need to be extended to 31 March 2022 to coincide with the implementation of the new legislation. The extensions to the SEMAS contract (first during the pandemic, and second proposed extension to 31 March 2022), place the total spend on the contract over £1,000,000 therefore requiring a key decision.

Recommendation(s): The Adult Social Care Cabinet Committee is asked to **CONSIDER** and **ENDORSE** or make **RECOMMENDATION** to the Cabinet Member on the proposed decision (attached as Appendix A) to:

- a) **EXTEND** the current contract with South East Memory Assessment Services from 1 September 2021 to 31 March 2022, by means of a Written Justification for Exemption from the Normal Contract Procedure; and
- b) **DELEGATE** authority to the Corporate Director of Adult Social Care and Health to take relevant actions, including but not limited to finalising the terms of and entering into required contracts or other legal agreements, as necessary to implement the decision; and
- c) **CONSIDER** and **NOTE** the planned implementation of Liberty Protection Safeguards as a replacement to Deprivation of Liberty Safeguards.

1. Introduction

- 1.1 The Mental Capacity Act (MCA) 2019 introduced Liberty Protection Safeguards (LPS) as a replacement to Deprivation of Liberty Safeguards (DoLS) and was originally to come into force from 1 October 2020.
- 1.2 Liberty Protection Safeguards have been designed by UK Government to be a much more streamlined, efficient system which balances protection of people's rights with manageability of the system overall. LPS is expected to reduce the huge demand on the current DoLS system nationally, which for many years has been regarded as "*an administrative and bureaucratic nightmare*" (*Law Commission Report, 2017*)
- 1.3 A central premise of LPS is the person-centred, strengths-based approach to consider all options before taking the option that results in deprivation of liberty.
- 1.4 However, during the pandemic Central Government announced that it would not be possible to meet the October deadline and decided that full implementation of Liberty Protection Safeguards would be April 2022.

2. Current Position

- 2.1 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.
- 2.2 Under the current arrangements a DoLS requires a mental health assessment, carried out by a mental health assessor. The MCA 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.
- 2.3 Capacity with a previous mental health assessment provider was limited – this was identified by a project group set up to clear a significant number of pending (backlog) cases. That project group worked with Commissioning to source alternative provision for DoLS mental health assessors, following due process which led to South East Memory Assessment Services (SEMAS) being awarded the contract in April 2016, and the contract was expanded due to a key decision in May 2018 to purchase extra support to clear backlog, this was called project DOLS.
- 2.4 Since that time, the provider (SEMAS) has been able to provide the number of assessments the Kent DoLS team have requested to the standard required and within the appropriate timeframes.

2.5 Re-interpretations and amendments to DoLS policy have over the last decade dramatically increased the volume of applications entering the process, and the system is widely considered unsustainable in the long-term. As a result, Liberty Protection Safeguards were designed to replace DoLS. The basic premise of ensuring any deprivations placed upon a person are minimal and proportionate remains at the forefront of the legislation.

2.6 There are several key changes that the LPS will introduce such as

- LPS will apply to 16 and 17 year olds, lowering the age eligibility requirement from 18 currently under DoLS
- NHS Trusts and Clinical Commissioning Groups (CCG) will process any applications from health settings (e.g. hospitals), rather than the Local Authority
- LPS will apply to all settings, including within the community, rather than being limited to mainly care homes and hospitals
- A LPS application can be “transported” between locations, removing the need to complete a new assessment
- LPS applications can be renewed for up to three years
- ‘Best Interest Assessors’ are being replaced with ‘Approved Mental Capacity Professionals’
- Mental health assessments are not explicitly required to complete an LPS application

2.7 It is expected based on current LPS guidance that new mental health assessments will not be required for people who are subject to an LPS assessment. Instead, where available, past documentation/diagnoses may be relied on in place of a new mental health assessment when completing an LPS assessment. Therefore under LPS the number of mental health assessments we our required to commission is expected to be far lower.

2.8 The coronavirus pandemic resulted in the Government taking the decision to delay the implementation of LPS.

2.9 During this period and with uncertainty around the implementation date for LPS, the contract with SEMAS was extended to 31 August 2021. UK Government have since confirmed the go-live date for LPS as 1 April 2022. At the time of the announcement, the view was the revised date would allow sufficient time, following publication of the final code to prepare for implementation. A project team has been assembled to manage this transition and implementation.

2.10 Therefore, the proposal is to extend the current SEMAS contract from 1 September 2021 to 31 March 2022 by means of a Written Justification for Exemption from the Normal Contract Procedure, in line with the change in legislation and new statutory framework (i.e. LPS)

3. Financial Implications

3.1 The value of the seven months contract extension will be approximately £250,000 (dependant on demand).

3.2 Total spend on purchasing Metal Capacity Assessments (non-Project DOLs) through the contract will be over £1,000,000 by the end of March 2022, thereby requiring a key decision.

4. Legal implications

4.1 The extension to the SEMAS contract is procured under Procurement Policy Note (PPN 01/20) which was released in March 2020 setting out information and associated guidance on the public procurement regulations and responding to the current coronavirus, COVID-19, outbreak.

5. Equalities implications

5.1 An Equalities Impact Assessment (EqIA) covering DoLS is part of current service documentation.

5.2 An Equalities Impact Assessment (EqIA) covering LPS has been completed (attached as Appendix 1) based on current guidance, and shall be updated upon publication of LPS Codes of Practice

6. Data Protection Implications

6.1 General Data Protection Regulations are part of current service documentation.

6.2 A Data Protection Impact Assessment (DPIA) covering LPS has been completed, attached as Appendix 2, based on current guidance, and shall be updated upon publication of LPS Codes of Practice

7. Other corporate implications

7.1 Liberty Protection Safeguards will apply to 16 and 17 year olds as well as adults, therefore Children's Services will be impacted by the change in legislation. The project team is liaising with colleagues in Children's Services to ensure they are aware of the future impacts.

8. Conclusions

8.1 The delay to the implementation of LPS as a result of the pandemic resulted in an unavoidable extension to the SEMAS contract to ensure KCC continued to meet its DoLS obligations.

8.2 Now with an anticipated implementation date for LPS of April 2022, the SEMAS contract will need further extension to coincide with the implementation of the new legislation.

8.3 The adoption of Liberty Protection Safeguards as a replacement to DoLS is mandatory, but is expected to benefit all parties once fully bedded in, including both people subject to an application, and KCC in terms demand on resource.

9. Recommendations

9.1 Recommendation: The Adult Social Care Cabinet Committee is asked to **CONSIDER** and **ENDORSE** or make **RECOMMENDATION** to the Cabinet Member on the proposed decision (attached as Appendix A) to:

- a) **EXTEND** the current contract with South East Memory Assessment Services from 1 September 2021 to 31 March 2022, by means of a Written Justification for Exemption from the Normal Contract Procedure; and
- b) **DELEGATE** authority to the Corporate Director of Adult Social Care and Health to take relevant actions, including but not limited to finalising the terms of and entering into required contracts or other legal agreements, as necessary to implement the decision; and
- c) **CONSIDER** and **NOTE** the planned implementation of Liberty Protection Safeguards as a replacement to Deprivation of Liberty Safeguards.

10. Background Documents

None

11. Lead Officer

Maureen Stirrup
Head of Service - Deprivation of Liberty Safeguards (DOLS) County Team
03000 410375
Maureen.Stirrup@kent.gov.uk

Relevant Director

Richard Smith
Corporate Director Adult Social Care and Health
03000 416838
Richard.smith3@kent.gov.uk

This page is intentionally left blank

KENT COUNTY COUNCIL – PROPOSED RECORD OF DECISION

DECISION TO BE TAKEN BY:
Cabinet Member for
Adult Social Care and Public Health

DECISION NO:

21/00051

For publication

Key decision: Expenditure in excess of £1m and affects more than two electoral divisions

Title of Decision

Deprivation of Liberty Safeguards Mental Health Assessments Contract Extension

Decision: As Cabinet Member for Adult Social Care and Public Health, I propose to:

- a) **EXTEND** the current contract with South East Memory Assessment Services from 1 September 2021 to 31 March 2022, by means of a Written Justification for Exemption from the Normal Contract Procedure; and
- b) **DELEGATE** authority to the Corporate Director of Adult Social Care and Health to take relevant actions, including but not limited to finalising the terms of and entering into required contract or other legal agreements, as necessary to implement the decision.

Reason(s) for decision: The Mental Capacity Act (MCA) states that Deprivation of Liberty Safeguard (DoLS) assessments require a mental health assessment to be completed by a qualified mental health assessor (i.e. an approved Section 12 mental health doctor/clinician).

Since April 2016 Kent County Council has commissioned South-East Memory Assessment Services (SEMAS) to complete mental health assessments for DoLS clients. Liberty Protection Safeguards (LPS) was planned to replace DoLS legislation from October 2020. During the pandemic the UK Government delayed the implementation of LPS.

During the pandemic the current SEMAS contract was extended to 31 August 2021, alongside uncertainty regarding the go-live of LPS.

UK Government have since confirmed LPS will replace DoLS from 1 April 2022. As a result, the SEMAS contract will need to be extended to 31 March 2022 to coincide with the implementation of the new legislation. The extensions to the SEMAS contract (first during the pandemic, and second proposed extension to 31 March 2022), place the total spend on the contract over £1,000,000.

Financial Implications: The value of the seven months contract extension will be approximately £250,000 (dependant on demand). Total spend on purchasing Mental Capacity Assessments (non-Project DOLs) through the contract will be over £1,000,000 by the end of March 2022, thereby requiring a key decision.

Legal implications: The extension to the SEMAS contract is procured under Procurement Policy Note (PPN 01/20) which was released in March 2020 setting out information and associated guidance on the public procurement regulations and responding to the current coronavirus, COVID-19, outbreak.

Equalities Implications: EQIA is part of the current service documentation.

Data Protection Implications: General Data Protection Regulations are part of current service documentation.

Cabinet Committee recommendations and other consultation: The proposed decision will be discussed at the Adult Social Care Cabinet Committee on 22 June 2021 and the outcome included in the paperwork which the Cabinet Member will be asked to sign.

Any alternatives considered and rejected:

Continue to operate under DoLS framework beyond LPS implementation in April 2022.

Rejected – transition to LPS is legal requirement

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

.....
signed

.....
date

**Kent County Council
Equality Analysis/ Impact Assessment (EqIA)**

Directorate/ Service: Adult Social Care & Health, Disabled Children & Young People and Integrated Children Services

Name of decision, policy, procedure, project or service: Transition and Implementation of Liberty Protection Safeguards (replacing Deprivation of Liberty Safeguards)

Responsible Owner/ Senior Officer: Janice Duff (SRO), Maureen Stirrup (SOO)

Version: 1.0

V0.1	27/09/2019	Sholeh Soleimanifar	Initial draft
V0.2	23/12/2019	Akua Agyepong	Comments
V1.0	23/12/2019	Sholeh Soleimanifar	Final

Author: Sholeh Soleimanifar

Pathway of Equality Analysis:

Adults PMO (Project Mandate) 23 July 2019

DMT (Adult Safeguarding) 13 August 2019

Adults PMO (Project Proposal) 04 September 2019

Summary and recommendations of equality analysis/impact assessment.

- **Context**

Deprivation of Liberty Safeguards (DOLS) is a statutory function of the local authority. The law governing the application of DOLS is the Mental Capacity Act 2005 which is based on Article 5 of the European Convention on Human Rights (ECHR). This legislation guarantees a person's right to personal liberty and requires safeguards to be provided to those deprived of their liberty.

The Mental Capacity (Amendment) Act received Royal Assent in May 2019. This legislation will introduce a new model for authorising deprivations of liberty in care replacing DOLS with the Liberty Protection Safeguards (LPS). The new law is expected to come into force in October 2020 running alongside the DOLS for the first year. The associated Code of Practice is anticipated to be published in Spring 2020.

The complexity of the DOLS process and the impact of the Supreme Court ruling in 2014 on the number of applications received, has put a lot of strain on current resources, resulting on a backlog of applications pending assessment and outcome. This crisis is reflected locally, regionally and nationally.

Current DOLS legislation exclusively covers applications from registered care settings. Government has estimated there are around 53,000¹ cases nationally involving deprivations of liberty in these settings. There is no current estimate available

The Assessment Process

As soon as the local authority has confirmed that the request for a standard authorisation should be pursued, it must obtain the relevant assessments to ascertain whether the qualifying requirements of the DoLS are met.

The assessments are:

1. Age Assessment
2. Mental Capacity Assessment
3. Mental Health Assessment
4. No Refusals Assessment
5. Eligibility Assessment
6. Best Interests Assessment

Where all six requirements are met, the application is granted and this means that the individual can be legally deprived of their liberty by the hospital or care home. The authorisation can be granted for any length of time up to a year. If any of the six requirements are not met, an authorisation cannot be granted.

The introduction of LPS seeks to ensure increased compliance with the law, with robust safeguards in a cost-effective manner – in all settings.

Overwhelmingly those subject to DOLS are older people, many of whom have dementia. However, younger adults with learning disabilities, people with mental health problems and people with acquired brain injury may also be subject to DOLS. The age range under LPS is extended to include 16 and 17 year olds.

- **Aims and Objectives**

Article 5 of the European Convention on Human Rights (ECHR) guarantees the right to personal liberty and security and provides that no one should be deprived of their liberty in an arbitrary fashion. The Deprivation of Liberty Safeguards (DoLS), introduced into the Mental Capacity Act 2005 by the Mental Health Act 2007, provides a legal process in England and Wales for authorising deprivations of liberty in hospitals and care homes.

The Supreme Court judgment in 2014, (known as Cheshire West), significantly extended the scope for deprivation of liberty so that a person who lacks capacity to consent to their confinement will be deprived of liberty where they are under continuous supervision and control and are not free to leave, irrespective of whether or not they appear to object to their deprivation.

Since the judgment the DoLS system has struggled to cope with the increased number of cases:

¹ <https://publications.parliament.uk/pa/bills/lbill/2017-2019/0117/mental-capacity-IA.pdf>

- 2013/14 (prior to Cheshire West) total number of DoLS application in England was 13,715.
- 2017-18 (post Cheshire West) total number of DoLS applications in England increased to 227,400.²

These figures do not capture people who are deprived of liberty in settings not covered by the DoLS, (e.g. supported living, shared lives and private and domestic settings) where the only available mechanism to provide Article 5 safeguards is via authorisation by the Court of Protection. This number was estimated by the Law Commission's Impact Assessment at around 53,000³.

The backlog of applications that have not been approved means many numbers of individuals are left without safeguards for an extended period. To manage these historic applications, Kent secured a one-off funding in 2018 to process and complete as many applications as possible in a two-year period. A new project was set up in the DOLS unit, using a commissioned provider to undertake the assessments. In the first year of the project, all pending applications from April 2014 to March 2017 (~ 1500 applications) were processed and authorised. It is estimated a similar number will be completed by end of the project in July 2020.

- **Summary of equality impact**

This project will manage the transition from DOLS to LPS, with full implementation from Oct 2020.

Under the current DoLS system many people are not receiving Article 5 safeguards for significant periods of time, or in some cases at all, as a result of the backlog of cases awaiting authorisation. It is expected that LPS will be more streamlined than the existing DOLS system because of the fewer assessments and increased period by which authorisations can be renewed.

LPS will also be a more equitable system, as it will be applicable for any setting, rather than just registered care settings.

Finally the extension of the age group to include 16 & 17 years olds, means that the rights of young people transitioning to adulthood will be better safeguarded and any deprivations of liberty, where they are unable to consent to their care or treatment, is considered in the same way as those 18 and above.

The Code of Practice is expected to be published in Spring 2020, which will set out how the new system will operate in practice.

Adverse Equality Impact Rating

Low

² NHS Digital, Mental Capacity Act 2005 Deprivation of Liberty Safeguards 2017-2018 report

³ <https://publications.parliament.uk/pa/bills/lbill/2017-2019/0117/mental-capacity-IA.pdf>

Attestation

I have read and paid due regard to the Equality Analysis/Impact Assessment concerning **the transition and implementation of Liberty Protection Safeguards** . I agree with risk rating and the actions to mitigate any adverse impact(s) that has /have been identified.

Head of Service Signed:	Name: Maureen Stirrup
Job Title: Head of DOLS	Date:
DMT Member Signed:	Name: Janice Duff
Job Title: Interim Head of Older People & Physical Disability Services & Urgent Care Lead	Date:

Part 1 Screening

Could this policy, procedure, project or service, or any proposed changes to it, affect any Protected Group (listed below) less favourably (negatively) than others in Kent?

Could this policy, procedure, project or service promote equal opportunities for this group?

Please provide a <u>brief</u> commentary on your findings. Fuller analysis should be undertaken in Part 2.				
Protected Group	High negative impact EqlA	Medium negative impact Screen	Low negative impact Evidence	High/Medium/Low Positive Impact Evidence
Age	No	No	No	<p>Impact is expected to be positive on this protected characteristic, as majority of those subject to deprivation of liberty are older adults (85+), many of whom have dementia.</p> <p>Younger people (aged 18-64) are generally supported more in the community to a greater extent than for those aged 65 and over. They will be impacted as the safeguards will now apply to this cohort of persons in domestic community settings.</p> <p>Similarly, there are benefits for 16&17 year olds being included in safeguards through LPS</p>

Disability	No	No	No	Impact is expected to be positive on this protected characteristic, as all those subject to deprivation must be assessed to lack capacity to consent.
Sex	No	No	No	The majority of DOLS applications both nationally and in Kent are for females (approx. 60%). This means that the impact is expected to be particularly positive for females.
Gender identity/ Transgender	No	No	No	Whilst gender identity/transgender information is routinely collated as part of DOLS applications, most 'decline to respond' It is unlikely to have an impact either way
Race	No	No	No	The proportion of applicants for DoLS from BAME backgrounds is lower than that compared to those who are in receipt of social care. Part of the reason is that majority of

				BAME prefer to receive care and support in their own home. In this respect the new legislation is likely to have a positive impact.
Religion and Belief	No	No	No	Most people do not respond positively to questions regarding religion and belief. The impact of LPS is likely to be positive on this group, reflective of the BAME communities, who prefer receiving care in the community.
Sexual Orientation	No	No	No	Whilst sexual orientation is routinely collated as part of DOLS applications, positive identification is received on 50% of applications, who identify as Heterosexual, with the remainder either 'decline to respond' or 'Not captured'. It is unlikely to have an impact either way

Pregnancy and Maternity	No	No	No	Pregnancy and maternity unlikely to be impacted.
Marriage and Civil Partnerships	N/A	N/A	N/A	N/A
Carer's Responsibilities	No	No	No	It is likely the impact of LPS will be positive on Carers. Currently those deprived of their liberty in the community need to go through the Court of Protection, which is lengthy and complex. LPS will make it much simpler.

Part 2

Equality Analysis /Impact Assessment

Protected groups

(Who will be directly or indirectly negatively affected by the changes?)

Analysis by protected characteristic

Age

Older people are more likely to be deprived of their liberty under the DoLS and so will feel the greatest positive impact of the changes. This is due to the higher number of older adults being in care homes compared to younger adults, compounded with the fact that age-related conditions such as dementia affect mental capacity.

Younger people (aged 18-64) are generally supported more in the community to a greater extent than for those aged 65 and over. They will be impacted as the safeguards will now apply to this cohort of persons in domestic community settings. This will be beneficial as it is a more streamlined process than having to apply to the Court of Protection.

Arrangements for 16 and 17-year olds are currently authorised through parental consent, or through the Court of Protection. Currently going through the Court of Protection is burdensome and could be distressing for a young person: this would be alleviated by having easier access to safeguards.

Disability

People with a disability, as defined in the Equality Act 2010, will be disproportionately affected by LPS (which specifically applies to people with mental disorder who lack mental capacity to consent to arrangements enabling care or treatment that give rise to a deprivation of liberty) in comparison to those without disability.

LPS is expected to have a more proportionate approach, with longer authorisations than the current system (up to 3 years after 2 initial 12 month authorisations) as well as the option to trigger a review, with the effect of reducing the burden of potentially invasive assessments upon people with long term and stable conditions and their families.

The extension of the model to deprivation of liberty in community settings removes an inequality between people with disabilities being cared for at home, versus those who are being cared for in care homes or hospitals.

Sex

The NHS Digital Report 2017/18 shows that 60% of applications for DoLS are made in relation to women⁴, across both England and Wales. This is

⁴ <https://digital.nhs.uk/data-and-information/publications/statistical/mental-capacity-act-2005-deprivation-of-liberty-safeguards-assessments/annual-report-2017-18-england>

replicated in Kent. This may be because women have a longer life expectancy so are therefore more likely to lose capacity because of age related conditions. This means that women will be impacted more and benefit more from the increased access to safeguards provided by the Liberty Protection Safeguards.

Race

The proportion of applicants for DoLS from BAME backgrounds is lower than that compared to the proportion in social care, and of the overall 18+ population. Department of Health & Social Care conducted engagement workshops with a range of stakeholders including those from BAME backgrounds. Participants from BAME communities indicated that people from their communities have a preference to receive care in their own home.⁵

Under the current system, deprivations of liberty that occur in domestic and community settings must be authorised by the Court of Protection. These will be covered by the Liberty Protection Safeguards, meaning individuals can be assessed and authorised without going to court. This will cost less than the current process of applying to the Court of Protection, takes less time and is more straightforward which is beneficial to the individual and their family. The easier access to the LPS should advance equality of opportunity, making the authorisations representative of the overall population, and improve the experience for those of BAME backgrounds. This is a positive impact as more of this group may now benefit from the additional safeguards which they may have not previously accessed.

It is also worth observing that people from BAME groups have much higher rates of detention under the Mental Health Act than White people nationally, as reported by the CQC in their 2018 report⁶.

Religion or belief

We do not hold sufficient data on religion or belief so are unable to analyse whether the current system applies to anyone disproportionately based on this characteristic, and accordingly whether they would experience an adverse impact. All people will be subject to the same process for Liberty Protection Safeguards, regardless of religion or belief.

Other protected Characteristics:

All people subject to the Liberty Protection Safeguards will be subject to the same process for assessment and authorisation of a deprivation of liberty regardless of gender reassignment, their sexual orientation or the characteristic of pregnancy and maternity. We do not have sufficient data to make a robust analysis of the potential impact to people who share them. However, we do not expect these groups will be differentially or adversely effected by the implementation of the LPS.

⁵

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/765385/equality-impact-assessment.pdf

⁶ The rise in the use of the MHA to detain people in England.

Impacts on Carers

According to Carers UK, 58% of unpaid carers are women,⁷ so they will disproportionately benefit from the benefits of Liberty Protection Safeguards.

Under the Mental Capacity Act people who lack capacity to consent and receive care or treatment in domestic settings (outside of the current DoLS system) must have any deprivation of liberty authorised by the Court of Protection. This is a long process which requires the person, a family member or other carer or the CCG/local authority to go to court (potentially at financial cost to themselves) and leaves them with a level of uncertainty as it can be months before some cases are heard. LPS reduces the need to escalate a deprivation of liberty to the Court of Protection, whilst ensuring that the cared-for person receives an appropriate level of safeguards.

Information and Data used to carry out your assessment

Data sources have been indicated as footnotes throughout the document.

Who have you involved consulted and engaged?

Not Applicable - The Mental Capacity Amendment Act is a new legislation and a statutory function. Department of Health conducted consultations and engagement events for the passing of the Bill. Further consultations expected for the corresponding Code of Practice.

Analysis

Overall the impact on all protected characteristics is expected to be positive.

Adverse Impact,

No adverse impact identified in relation to protected characteristics.

Positive Impact:

The overall impact of LPS is expected to be positive on protected characteristics. At present, many people who ought to be assessed under the present framework are simply not receiving these assessments. The current DoLS system is only applicable in registered care settings for adults 18+. The demand on the service after the supreme court ruling almost brought the system to a halt, resulting in a backlog of non-priority applications. This has meant that many people have been left without a legal framework to safeguard their deprivation of liberty.

LPS will enable deprivations of liberty to be authorised in any setting, particularly important for those in the community who have had to use the Court of protection.

In addition, by increasing the eligible age group to include 16 & 17 year olds, means that young people assessed to lack capacity to consent to their care and treatment will now have a route to have their applications assessed and authorised in the same way as adults.

⁷ <https://www.carersuk.org/news-and-campaigns/press-releases/facts-and-figures>

Finally, LPS is expected to have a significant positive effect on human rights, and compliance with Article 5 of the European Convention on Human Rights.

JUDGEMENT

Set out below the implications you have found from your assessment for the relevant protected group(s). If any negative impacts can be justified please clearly explain why. Identify the option to address the impact. There are four possible options:

- **No major change** - no potential for discrimination and all opportunities to promote equality have been taken

Internal Action Required NO

There is potential for adverse impact on particular groups and we have found scope to improve the proposal...

(Complete the Action Plan- please include dates for monitoring and review)

Equality Impact Analysis/Assessment Action Plan

Protected Characteristic	Issues identified	Action to be taken	Expected outcomes	Owner	Timescale	Cost implications
All protected characteristics	Standardised collection and recording of protected characteristics as part of the performance monitoring framework	Consider data collation when developing LPS forms Consider data collection as part of the 'systems' development to record protected characteristics	More robust information regarding protected characteristics to inform areas that are under represented, the reason for such instances and to develop action plans to address gaps	Project manager during the lifetime of the project	Jan – Oct 2020	None expected

Have the actions been included in your business/ service plan? N/A

Please forward a final signed electronic copy and Word version to the Equality Team by emailing diversityinfo@kent.gov.uk

If the activity will be subject to a Cabinet decision, the EqlA must be submitted to committee services along with the relevant Cabinet report. Your EqlA should also be published .

The original signed hard copy and electronic copy should be kept with your team for audit purposes.

This page is intentionally left blank

DPIA Screening Form – Liberty Protection Safeguards

Summarise what the project and proposed data processing is about		<p><i>This DPIA is for the implementation of Mental Capacity (Amendment) Act 2019, commonly referred to as Liberty Protection Safeguards (LPS). LPS will replace Deprivation of Liberty Safeguards (DoLS), which is a statutory function of the local authority as Supervisory Body for people who lack capacity to consent to their care and treatment at registered care settings. The new legislation (LPS) is expected to be introduced from October 2020.</i></p> <p><i>The proposed data processing is required, a) during the project phase to manage a timely transition and implementation., and b) to be in compliance with the legislation and related Code of Practice to effectively manage LPS applications, for those who meet the eligibility criteria, where Kent County Council is the Responsible Body.</i></p>		
1	Does the activity involve...	YES	NO	DPIA Necessary?
	Processing of personal data?	x		If no, a DPIA will not be necessary. If yes, please continue.
2	Are you planning to...	YES	NO	
	Use systematic and extensive profiling or automated decision-making to make significant decisions about people.	x		If you answer 'yes' to any of these questions, you must carry out a DPIA.
	Process special category data or criminal offence data on a large scale.	x		
	Systematically monitor a publicly accessible area on a large scale.		x	
3	Or are you planning to...			
	Make decisions on someone's access to a service, product opportunity or benefit which is based on automated decision-making (including profiling) or involves the processing of special category data.	x		If you answer 'yes' to any of these questions then you must carry out a DPIA.
	Carry out profiling on a large scale.	x		
	Combine, compare or match data from multiple sources.	x		
	Process children's personal data for profiling or automated decision-making or for marketing purposes, or offer online services directly to them.	x		
	Process personal data which could result in a risk of physical harm in the event of a personal data breach.	x		
4	Or are you planning to...			
	Process biometric data.		x	If you answer 'yes' to 2 or more of the criteria in this section 4, a DPIA must be carried out. OR
	Process genetic data (other than by a GP or health professional to provide healthcare)		x	
	Use innovative technology.	x		

Process personal data without providing a privacy notice directly to the individual.	x		If you answer 'yes' to any of these questions, and at least one criteria from section 5 below applies, then you must carry out a DPIA. Even if no additional criteria below apply, you may still need to do a DPIA depending on the nature of the processing planned.
Process personal data in a way which involves tracking individuals' online or offline location or behaviour.	x		
5	Are you planning to carry out any other....	YES	NO
Evaluation or scoring.	x		Where two or more criteria are met, the activity may present a high risk to the rights and freedoms of data subjects and you should conduct a DPIA.
Automated decision-making with legal or significant effects.	x		
Systematic monitoring	x		
Processing of sensitive data or data of a highly personal nature.	x		Even if only one criteria is met, you may still need to conduct a DPIA if it is considered to present a likely high risk to the rights and freedoms of an individual.
Processing on a large scale.	x		
Matching or combining datasets	x		
Processing of data concerning vulnerable data subjects.	x		
Innovative use or applying new technological or organisational solutions.	x		If uncertain about whether the risk is likely to be high, conduct a DPIA regardless.
Processing involving preventing data subjects from exercising a right or using a service or contract.		x	
6	Other	YES	NO
Are you planning any major project involving the use of personal data?	x		If so, you should consider carrying out a DPIA as good practice.
7	Has there been a change...		
In the nature, scope, context, or purposes of existing processing operations	x		You should carry out a new DPIA.

Conclusion	YES	NO	Rationale
Is a DPIA required?	x		
If no, will a DPIA be conducted anyway?			
Summary of DPO advice:			

When you have completed this screening tool please send it to the DPO for logging and advice: dpo@kent.gov.uk

DATA PROTECTION IMPACT ASSESSMENT - LPS

1. Document History			
Version Number	Summary of change	Reviewed by (name and role)	Date
0.1	First draft	Sholeh Soleimanifar – Project DOLS Lead	20/09/2019
0.2	Peer Review	Matt Liggins – Senior project Officer	01/10/2019
0.3	Second draft	Sholeh Soleimanifar – Project DOLS Lead	18/11/2019
0.4	DPIA office review	Kate Kremers Ben Watts	25/11/2019
1.0	DPO recommendations updated in Section 12	Sholeh Soleimanifar – Project DOLS Lead	21/01/2020

2. Administrative information	
Name of organisation	Kent County Council
Service unit responsible for the project	Portfolio and Project Management Team Adult Social Care and Health
Senior Officer responsible for the project	Janice Duff – Senior Responsible Officer Maureen Stirrup – Senior Operating Officer
Project Manager	Glyn Pallister – Senior Project Manager
Data processor (if applicable)	
Data Protection Officer	Benjamin Watts
[Other key personnel involved in the project]	Sholeh Soleimanifar - Project lead Tel; 03000 415504

3. Executive Summary (complete this section last)
<p><u>Project Description</u></p> <p>The Deprivation of Liberty Safeguards are an amendment to the Mental Capacity Act 2005. The Mental Capacity (Amendment) Act will introduce a new model for authorising deprivations of liberty in care, replacing DOLS with the Liberty Protection Safeguards (LPS). The new law is expected to come into force in October 2020 running alongside the DOLS for the first year. The associated Code of Practice is anticipated to be published in Spring 2020.</p> <p>The Kent LPS project will manage the transition and implementation of the new legislation, in settings where Kent County Council will be the responsible body.</p> <p><u>Scope of processing, purposes of the processing and the legal basis for processing</u></p> <p>Article 5 of the Human Rights Act states: <i>"Everyone has the right to liberty and security of person. No one shall be deprived of his or her liberty (unless) in accordance with a procedure prescribed in law."</i></p>

The Mental Capacity (Amendment) Act became law in May 2019 and is expected to become operational from autumn 2020. This legislation will replace the existing Deprivation of Liberty Safeguards (DoLS) and Deprivation of Liberty in community settings.

Where a responsible body (care home, local authority, CCG, NHS Trust) thinks it needs to deprive someone of their liberty, they must ask for this to be authorised. The responsible body will then appoint assessors, inhouse or third party, to see if the conditions are met to allow the person to be deprived of their liberty under the safeguards. If any of the conditions are not met, deprivation of liberty cannot be authorised. If all conditions are met, the responsible body must authorise the deprivation of liberty.

Intended benefits for data subjects, third parties and KCC

The intended benefits of the Liberty Protection Safeguards (LPS) is that individuals who need to be deprived of their liberty, and lack capacity to consent to their deprivation to received appropriate care and treatment plans, will have a legal framework to safeguard their interests.

The new legislation is wider in scope than the exiting DoLS, in that it will be applicable from 16 years and above and in any setting. However, the responsible body is dependent on where the person is being deprived. For NHS hospitals, the responsible body will be the ‘hospital manager’. For arrangements under Continuing Health Care outside of a hospital, the ‘responsible body’ will be their local CCG. In all other cases – such as in care homes, supported living schemes etc. (including for self-funders), and private hospitals, the responsible body will be the local authority.

For the responsible body to authorise any deprivation of liberty, it needs to be clear that:

- The person lacks the capacity to consent to the care arrangements
- The person has a mental disorder
- The arrangements are necessary to prevent harm to the cared-for person and proportionate to the likelihood and seriousness of that harm.

Privacy risks and any proposed solutions to mitigate them.

As with processing of any personal and special category data, using multiple platforms, always carries a risk of data security incidents or breach. Data security is taken very seriously and a number of actions are taken to mitigate risks as far as possible:

- All staff must undertake mandatory training in Data Protection (GDPR) and Information Governance – reviewed at least every 2 years, or more frequently is needed
- DOLS and LPS will follow a strict scripted process, with all those engaged in any aspect are fully trained.
- Client information is only shared strictly on a need to know basis
- Documents are shared with external partners, such as the Managing Authority, Independent Mental Capacity Advocate, using password protection, Microsoft SECURE email or Egress Workspace – all of which are encrypted.
- For data analysis purposes data is anonymised to avoid risk of data breach
- In the event of data incidents or data breaches, lessons learnt are shared to avoid similar issues being repeated.

4. Identify the need for a data protection assessment (DPIA)
(complete the screening tool and attach a copy to this DPIA)

What type of processing is involved?

There will be large scale use of sensitive data, data concerning vulnerable data subjects, and potential use of new technologies in the form of Artificial Intelligence to conduct limited areas of the

	processing, such as transferring information from online applications to the client information system, allocating work to designated workers and payment of invoices.
Reasons a DPIA is required	Features of the processing indicate a likely high risk, as indicated by the DPIA guidance.

5. Description of the Processing
(you may wish to use or attach a data flow and attach to this DPIA)

Description of the Project/Processing	<p>The LPS Project seeks to:</p> <ol style="list-style-type: none"> 1. Identify the impact of the change in legislation in local policies, practice, protocols and guidance, leading to development of new policies, processes and guidance tools to ensure Kent's compliance with the new legislation. 2. Understand the impact of the change process within the Deprivation of Liberty functions (DOLS and Community), and the interface with operational teams, for 16/17-year olds (Children Services) and 18+ adults 3. Identify what Workforce is required to undertake the work: skills, capacity <p>The above objectives, will ensure Kent will be in compliance with the new legislation, using efficient, effective and robust function(s) to ensure that the Mental Capacity Act works as intended, by providing people lacking capacity a more simplified system of authorisation and robust safeguards in a cost-effective manner, taking into consideration:</p> <ul style="list-style-type: none"> • Understand the implications of the 2018 Mental Capacity Amendment Act for Kent • Reflect on emerging national developments, particularly Association of Directors of Adult Social Services (ADASS) • Network with colleagues nationally and locally working on the transition from DOLS to LPS • Identify the demand on the LPS provision in Kent • Identify capacity requirements to meet the demand in Kent • Plan interim arrangements to run parallel DOLS and LPS • Understand what the legal and practical implications of the new system will be and what preparations are needed • Understand what the policy implications of the new system will be and what preparations are needed • Identify the performance requirements of the new system will be and what preparations are needed • Reflect on how restrictions of people's liberty can be considered as part of their care and support plans • Understand interdependencies with commissioned services • Explore impact on finance systems, Collaborative Planning, Invoicing • Understand legal considerations. Amendments to existing contracts • Explore the implications on Children Services from applications from 16/17-year olds • Reflect on existing Systems (AIS, Lifetime Pathways (LPS),
--	---

	<p>RIO, MOSAIC)</p> <ul style="list-style-type: none"> • Development of a Performance Framework • Explore Workforce development • Explore Training needs for all stakeholders
What is the scope of the processing?	
Types of personal data	The types of data will include the data similar to that necessary to process DoLS application which is set out within the DoLS application Form. This would include name, date of birth, gender, disability, race, sexual orientation and religion. The application may also contact details for next of kin who need to be consulted as part of the assessment process. The purpose of collecting this information is to ensure the service is equitably accessed by all those who need it, regardless of their protected characteristics. Any protected characteristics that are found to be underrepresented through service reviews, to be investigated and action plans to be put in place to be rectified.
How many individuals will be affected and what geographical area will it cover?	Currently the DOLS office receives in the order of 100 applications per week (~5200 annually). These applications are only from registered care settings for adults of 18 years and over. Under LPS the scope is widened to include 16- and 17-year olds in any setting. However, the responsibility for authorisation will depend on where the deprivation takes place. For the local authority it will be all settings with the exception of hospitals (except private ones) and where funding awarded through Continuing Health Care. The number of applications anticipated under LPS has not yet been defined. In the project assessment phase, the project team will endeavour to calculate the impact of LPS in Kent.
How much data will be collected and used?	DPIA to be reviewed and updated once the LPS process has been mapped, following publication of the Code of Practice
Length and frequency of processing	DPIA to be reviewed and updated once the LPS process has been mapped, following publication of the Code of Practice
How long will the data be retained for?	Data will be retained according to KCC's most recent Data Retention Schedule for digital records, currently up to 7 years. Hard copies are scanned and stored electronically and immediately disposed in the blue confidential bins. All electronic records are stored on KCC servers which are backed up on a regular basis. Electronic files are deleted once they are uploaded to the client system (MOSAIC).
What is the nature of the processing?	
How will the data be collected and what is the source of the data?	It is expected to closely resemble to the data collected under Deprivation of Liberty Safeguards. The data collection process will be mapped once the Code of Practice has been published, expected Spring 2020.
How will the data be used and stored	The data will be collected on LPS application forms (currently under development by ADASS) and will be submitted to the appropriate Responsible Body electronically via email or an online platform similar to the current DOLS process. The process is not yet mapped out in full, pending the publication of the Code of Practice. Application forms will be stored electronically on the universal (k) drive, until uploaded to MOSAIC, at which point it will be deleted.

<p>How is the data secured and processed in a manner that ensures appropriate security (including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage)?</p>	<p>Data security is an integral part of the DOLS/ LPS business. All users, including: Admin, managers, practitioners, will have appropriate level of access to shared drives, on a strict access basis, approved by DOLS management. Every user must undertake mandatory data protection and Information Governance training, including refresher training every 2 years.</p> <p>Due diligence is applied at every stage of processing, in particular where third parties are concerned, e.g. Independent Best Interest Assessors, S12 Doctors, and commissioned providers which process data on Kent County Council as third parties.</p> <p>Where information needs to be shared with individuals external to KCC or with partner agencies, data is encrypted using Microsoft SECURE, Egress/ Egress Workspace. Email to compliant organisations, i.e. those listed on central government's 'White List', will be automatically encrypted and transmitted securely without further security measure. Whichever mechanism is used to transmit data, personal data is protected by anonymisation, where the recipient does not need the information for the purpose of the work they are required to undertake. If full personal data is required by the recipient, it will be shared as an attachment to Microsoft SECURE email or upload to Egress. To further protect identification, only initials of individuals and unique reference number (only identifiable to KCC staff) are used in the subject header, rather than a person's Full Name, date of birth or their place of residence.</p> <p>Technology Strategy & Commissioning Secure Email Policy (Version 1.2 – August 2018) sets out acceptable practice, identifies key issues that should be considered and outlines the secure email services that are available. This policy applies to all employees with an authorised KCC computer user account including individuals on temporary and contract assignments.</p> <p>Documents containing personal information are sent using Royal Mail's Signed For service.</p> <p>Every endeavour will be made to prevent loss of data or inappropriate sharing of data by our policies, good practice principles, training and general knowledge regarding data protection. However, incidents may still occur, in which case staff must follow KCC's Data Breach Policy.</p>
<p>How will the data be deleted/disposed of?</p>	<p>Data will be deleted/ disposed of based on Kent County Council's current data retention policy:</p> <ul style="list-style-type: none"> • Information Management Manual Version 3.1 May 2018, and • Retention Schedule Version 3 July 2019 for projects
<p>Will the data be shared/disclosed to third parties?</p>	<p>Yes. In order to comply with the statutory requirements of the legislation, Kent County Council, as the Responsible Body may have to share data with a number of third parties involved to conduct the necessary assessments and to ensure the rights of the person are safeguarded, such as an Independent Mental Capacity Advocate or an Approved Mental Capacity Professional. These arrangements will be monitored by the DOLS/ LPS teams, as part of the process to assess and authorise the applications.</p>
<p>What types of processing identified as likely high risk are involved?</p>	<p>The reasons processing of data is considered high risk include:</p> <ul style="list-style-type: none"> • The processing of applications involves both personal, sensitive data including special categories of data provided as necessary to the completion of a DoLS assessment as set out in the application form for a DoLS.

	<ul style="list-style-type: none"> The Data processed will be on a large scale, both volume and geographical scope (county wide)
What is the context of the processing?	
What are the categories of data subject, and do they include children or vulnerable groups?	The data subjects will include 16- & 17-year olds, and adults over 18 years old, who are assessed to lack capacity to consent to their care and treatment arrangements and are assessed to be deprived of their liberty.
What is the nature of the relationship with individuals?	KCC has a legal responsibility to complete DoLS/ LPS assessment for people who are living in care homes, private hospitals, and in community settings, who have restrictive environments and are unable to consent to their living arrangement for the purpose of receiving appropriate care and treatment. KCC is in a relative position of power to the individuals here.
How much control will they have?	Due to their vulnerability it is unlikely the data subject will have much control about the DoLS or LPS application being made. However, all interested parties are consulted, and if the person is found to be un-befriended, they have the right to be supported by an Independent Mental Capacity Advocate (IMCA) and /or an Appropriate Person. The Relevant Persons have the right to expect their data is used appropriately and securely and that it is accurate and up to date.
Would they expect you to use their data in this way?	The Managing Authority or care home should discuss the DOLS/ LPS application with the data subject however due to the fact that they lack capacity to consent to their deprivation to receive care and treatment, the person may not be able to understand or process this information. The Assessment process ensures the person's wishes and beliefs are taken into account and people involved with the person are consulted. The DoLS authorisation also provides a Representative for the person to represent their views
Are there prior concerns over this type of processing or security flaws?	The concerns are around the sharing of information with relevant parties, by email and or post. Any incidents of potential data security incidents have been shared with the Information Resilience & Transparency Team and as a result supplementary measures are in place to ensure these risks are minimised as far as possible.
Is it novel in any way?	No
What is the current state of technology in this area?	<p>KCC has adopted the Government Secure Standard for email to other compliant government organisations using a user's standard gov.uk email address These are automatically encrypted and transmitted securely.</p> <p>For intended recipients who are not given in central government's 'White List', KCC has implemented the Microsoft Office 365 Message Encryption (OME) facility which automatically encrypts the email and its contents (attachments).</p> <p>This facility is activated by either using the Secure Mail button in Outlook or manually typing "[SECURE]" as the first word of the email's 'Subject' line.</p> <p>Data files are stored in KCC systems, with access given only to those who need access to the information as part of their work.</p> <p>The Client data platform is recently migrated from AIS to MOSAIC, with access only to staff with KCC login accounts who have completed both the necessary training.</p>
Are there any current	The reputation of KCC as a local government body, to be compliant

issues of public concern that you should factor in?	with statutory duties, and to be seen to be utilising public funds effectively and efficiently.
Are you signed up to any approved code of conduct or certification scheme?	No
What is the purpose of the processing?	
What do you want to achieve?	The purpose of processing the data is to ensure compliance with LPS legislation.
What is the intended effect on individuals?	People who are eligible to be assessed for DoLS/ LPS will have appropriate assessment and safeguard of an authorisation, as a result of which people will have an appointed representative to monitor their living arrangement and any restrictions.
What are the benefits of the processing for KCC, and more broadly?	Please see above. KCC will be fulfilling its statutory duty as a Supervisory Body under DOLS and Responsible Body under LPS.

6. Consultation			
Who will you consult?	When will you consult?	How will you consult?	Responses
<i>Project Steering Group</i>	At regular steering group meetings within the project lifecycle	Verbally	Responses will be collated and recorded
<i>MOSAIC lead ICT lead</i>	During project lifecycle	Direct consultation via email/ face to face meetings	Responses will be collated and recorded
<i>[Procurement]</i>	N/A	N/A	N/A
<i>[data subjects or their representatives]</i>	N/A Data will be anonymised or pseudonymised. Clients and third parties will receive relevant privacy notice to inform what information KCC will share to fulfil its statutory obligations.	N/A	N/A
<i>[Other experts, eg. IT, legal or other professionals]</i>			

7. Assess necessity and proportionality

<p>What is the lawful basis for processing?</p>	<p>The processing of data in relation to Liberty Protection Safeguards are contained within the Mental Capacity (Amendment) Act 2019.</p> <p>Processing is necessary to undertake the necessary assessments under the Act, and to delegate certain tasks to third parties. The Care Act 2014 allows KCC to delegate responsibility to a third party.</p> <p>Article 6(1):</p> <ul style="list-style-type: none"> - processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller - processing is necessary for compliance with a legal obligation to which the controller is subject <p>For 'special categories of personal data', (such as health, race, ethnicity, sexual orientation) we rely on the following legal bases under Article 9(2):</p> <p>processing is necessary for reasons of substantial public interest (safeguarding of children and of individuals at risk)</p> <p>processing is necessary for the provision of health or social care or treatment or the management of health or social care systems and services</p> <p>Data Protection Act 2018 Schedule 1:</p> <p>The processing is necessary for Health and Social Care purposes including preventative or occupational medicine, medical diagnosis, the provision of health care or treatment, the provision of social care and the management of social care systems or services.</p> <p>The data processing by KCC will be carried out under the responsibility of [INSERT JOB TITLE] who is a social work professional.</p> <p>Safeguarding of children and individuals at risk</p> <p>The processing of this data will occur when necessary for the purposes of protecting the physical, mental or emotional well-being of an individual at risk (ie KCC has reasonable causes to suspect that an individual has needs for care and support (including protection), is experiencing or at risk of neglect of physical, mental or emotional harm, and as a result of those needs is unable to protect themselves against the neglect or harm or risk of it). In the circumstances consent cannot be given by the data subject, or KCC cannot reasonably be expected to obtain their consent or the provision of consent would prejudice the provision of protection.</p> <p>The legal bases also include actions that can and should be taken by local authorities, including:</p> <ul style="list-style-type: none"> • the Care Act, 2014 • the Health and Social Care Act, 2015• • the Localism Act, 2011 • the Human Rights Act, 1998 <p>the Mental Capacity Act, 2005</p>
--	---

Legitimate interests	N/A
What information will you give to individuals?	<p>KCC Privacy Notices General notice to cover adult social care and health https://www.kent.gov.uk/about-the-council/contact-us/access-to-information/gdpr-privacy-notice/adult-social-care-and-health Adult Safeguarding Privacy Notice http://www.kent.gov.uk/about-the-council/contact-us/access-to-information/gdpr-privacy-notice/adult-social-care-and-health/safeguarding.</p> <p>Also, privacy notice for third parties; which makes it clear what information we collect, why and who we share it with. https://www.kent.gov.uk/about-the-council/information-and-data/access-to-information/gdpr-privacy-notice/adult-social-care-and-health/kent-adult-social-care-and-health-third-parties-privacy-notice</p>
Does the processing achieve your purpose?	Yes
Is there another way to achieve the same outcome?	No
How will you prevent function creep and preserve the second data protection principle: 'purpose limitation' (ie only using the data for specific, explicit and legitimate purposes (as set out in a privacy notice) and not further processing the data in a manner that is incompatible with those purposes	<p>[i.e. how will you prevent the use of the data going beyond the purpose for which it was originally intended and obtained.]</p> <p>The project will be subject to regular stage gate reviews within the project lifecycle as well as Project Management processes. Once LPS is operational, the data can only be used for the purpose of authorisation of LPS application. Once authorised, the data is uploaded to MOSAIC, pending future review/ re-authorisation.</p>
How will you ensure data quality and minimisation?	The only data collated is directly related to and necessary for the authorisations of requests for Deprivation of Liberty. Data files will be stored accordance with KCC's retention policy. Sharing of data will be closely monitored both within KCC and external partners – on a need to know basis to ensure compliance with legislation.
How will you ensure personal data is accurate and, where necessary, kept up to date	The accuracy of information is tested at the point of assessment, through consultation with relevant partners, and Appropriate Persons. Data is cross referenced against any historic information held on client system, MOSAIC. Any conflicting information will be checked and corrected at source as soon as it comes to light.
How will you support data subject rights?	Authorisations contains safeguards for the individual including a representative to support their rights and express their views which may include making applications to the Court of Protection. Data protection laws will be upheld. Information will only be shared/ used on a need to know basis. Data will be anonymised/ pseudonymised where required and only to ensure the data recipient is able to carry out their role.
What measures do you take to ensure processors comply?	DOLS/ LPS is a statutory function of the local authority. To comply with this legislation Kent County Council may either collect personal information directly or receive it from third parties. We only receive

	<p>personal data from outside agencies or third parties where there is a legal basis for doing so.</p> <p>We do not share the profiles of individual service users with any other organisation or business other than those acting as data processors on behalf of Kent County Council.</p>
How do you safeguard international transfers?	Information will not move outside of the UK.

8. Identify and assess risks (you can refer to the attached risk matrix to help assess the level of risk)			
Risks to INDIVIDUALS (Remember, a DPIA is focussed on the potential harm to data subjects and should be considered from the data subject's point of view.)			
Risk Description	Likelihood of harm	Severity of harm	Overall risk
<i>Examples (please tailor/add/delete as necessary): [Inadequate disclosure controls, increasing the likelihood of information being shared inappropriately.]</i>	<i>[Very unlikely, unlikely, possible, likely, or very likely]</i>	<i>[Minor, moderate, significant, serious, major]</i>	<i>[High, medium or low]</i>
<i>[The context in which information is used or disclosed may change over time, leading to it being used for different purposes without people's knowledge or consent.]</i>	Possible	Moderate	Medium Information will be used in accordance with defined processes following a legislative framework. If a concern is raised it could be used as part of Safeguarding process.
<i>[New surveillance methods may be an unjustified intrusion on their privacy.]</i>	N/A		
<i>[Measures taken against individuals as a result of collecting information about them might be seen as intrusive.]</i>	Possible	Moderate	Low DOLS/ LPS under the MCA is a statutory function, which necessitates collation of information to discharge a legal duty.
<i>[The sharing and merging of datasets may allow us to collect a much wider set of information than individuals might expect.]</i>	Possible	Moderate	Medium In considering a DOLS/ LPS application, any previous information held on the Client Systems that may impact on the application will be used to ensure the best outcome is achieved for the individual.
<i>[Identifiers might be collected and linked which prevent people from using a service anonymously.]</i>	High	Moderate	High DOLS/ LPS applications contain personal information

<i>[Vulnerable people may be particularly concerned about the risks of identification or the disclosure of information.]</i>	Possible	Moderate	Medium Identification is necessary for KCC to comply with its statutory function
<i>[Collecting information and linking identifiers might mean that we no longer use information that is safely anonymised.]</i>	N/A		DOLS/ LPS applications are never anonymous
<i>[Information may be collected and stored unnecessarily, or not properly managed so that duplicate records are created, presenting a greater security risk.]</i>	Possible	Moderate	Medium Duplicate records are rare, but possible
<i>[Failure to establish appropriate retention periods might mean information is used for longer than necessary.]</i>	Possible	Low	Low
<i>[Insert any other risk to individuals' privacy.]</i>	N/A		
Organisational risks			
<i>[Non-compliance with the GDPR or other legislation, which can lead to sanctions, fines and reputational damage.]</i>	Possible	Significant	Medium
<i>[Problems may only be identified after the project has launched and will then be more likely to require expensive fixes.]</i>	Possible	Moderate	Low
<i>[The use of biometric information or potentially intrusive tracking technologies may cause increased concern and cause people to avoid engaging with KCC.]</i>	N/A		
<i>[Information may be collected and stored unnecessarily, or not properly managed so that duplicate records are created—meaning the information is less useful to the business.]</i>	N/A		
<i>[Public/client/customer distrust about how information is used may damage KCC's reputation.]</i>	Possible	Significant	Medium
<i>[Data losses which damage individuals could lead to claims for compensation.]</i>	Possible	Minor	Low
<i>[Insert any other risk to the organisation]</i>			
Legal compliance risks			
<p><i>[Non-compliance with the GDPR - i.e. will the processing meet the principles in Article 5 GDPR, i.e.</i></p> <ul style="list-style-type: none"> • <i>Fair, lawful, transparent</i> • <i>Specified, explicit, legitimate purposes</i> • <i>Adequate, relevant and not excessive</i> • <i>Accurate and up to date</i> 	Very unlikely	Major	Low

<ul style="list-style-type: none"> • Not kept longer than necessary • Processed in accordance with rights of data subjects • Protection against unauthorised or unlawful processing, loss, destruction or damage • Not transferred outside EEA unless adequately protected.] 			
[Non-compliance with the Privacy and Electronic Communications Regulations 2003 (PECR 2003), e.g. if KCC wish to send electronic marketing messages (by phone, email or text), use cookies, or provide electronic communication services to the public]	Unlikely	Significant	Medium
[Non-compliance with sector specific legislation or standards.]	N/A		
[Non-compliance with human rights legislation, eg breaching an individual's Article 8 right to private and family life. You must also ensure your personal data processing has a legitimate aim]	Very unlikely	Significant	Medium
[Insert any other legal compliance risk, e.g. creating datasets may increase risks/costs through disclosing requirements under the Freedom of Information Act 2000]			

9. Identify and evaluate measures to reduce risk					
Potential solution	Which risk(s) would this action address?	Effect on risk	Residual risk	Cost/benefit/evaluation	Measure approved?
<i>Examples (please tailor/add/delete as necessary): [Not collecting or storing [insert description] type of information.]</i>	<i>[State which of your identified risk(s) will be addressed by this action.]</i>	<i>[Is the risk eliminated, reduced or accepted?]</i>	<i>[Low, medium or high]</i>	<i>[Is the final impact on individuals a justified, compliant and proportionate response to the aims of the project?]</i>	<i>[yes/no]</i>
<i>[Introducing retention periods to keep information for only as long as necessary.]</i>	information is retained for longer than necessary	Reduced	Low	Yes	
<i>[Secure destruction of information that no longer needs to be retained.]</i>	information is retained for longer than necessary	Reduced	Low	Yes	
<i>[Implementing appropriate technological security measures.]</i>	Prevent/ reduce risk of data breach	Reduced	Medium	Yes	

<i>[Properly train staff and make them aware of potential privacy risks.]</i>	Prevent/ reduce risk of data breach	Reduced	Low	Yes	
<i>[Ensure information is safely anonymised when it is possible to do so.]</i>	Applications cannot be anonymised	Medium	Medium	Risks are proportionate.	
<i>[Provide guidance to staff on how to: —use the new system, and —share data appropriately]</i>	Prevent/ reduce risk of data breach	Reduced	Low	Yes	
<i>[Ensuring the new system: —allows individuals to access their information more easily, and —makes it simpler to respond to subject access request]</i>	N/A				
<i>[Ensuring individuals: —are fully aware of how their information is used, and —can contact us for assistance when necessary]</i>	GDPR Compliance	Risk reduced	Low	Yes	
<i>[Selecting data processors who will provide a greater degree of security.]</i>	GDPR Compliance	Risk reduced	Low	Yes	
<i>[Ensuring agreements are in place with data processors to protect information processed on our behalf.]</i>	GDPR Compliance	Risk eliminated	Low	Yes	
<i>[Ensuring any data sharing agreement makes it clear: —what information will be shared —how it will be shared, and —who with]</i>	GDPR Compliance	Risk eliminated	Low	Yes	
<i>[Insert any other solution you have identified]</i>					

10. ICO consultation	
Does this assessment indicate that the processing involved in the project would present a high risk in the absence of mitigation measures?	No
If yes, can those risks be mitigated by reasonable means in terms of available technologies and costs of implementation?	Yes [If no, it is necessary to consult with the Information Commissioner's Office (ICO) prior to the processing.]
If it is necessary to consult with the ICO, has this been done?	Not applicable [If yes, provide further information.]

11. Sign off and record of outcomes		
Item	Name/date	Notes
Measures to reduce risk approved by:		Integrate actions back into project plan, with date and responsibility for completion
Residual risks approved by:		If accepting any residual high risk, consult the ICO before going ahead
DPO advice provided:	25/11/2019	DPO should advise on compliance, measures to reduce risk and whether processing can proceed
<p>Summary of DPO advice: Many of the processes and procedures have not yet been fleshed out and are part of the ongoing development of the project. At this stage the advice is therefore quite generic.</p> <ul style="list-style-type: none"> • Currently, the processing in this DPIA is not high risk and measures taken to reduce risk are such that any residual risk has been sufficiently mitigated. • The DPIA does not need to be sent to the ICO as sufficient measures have been taken to reduce risk. <p>This is subject to the actions highlighted in Section 12 below being taken.</p>		
DPO advice accepted or overruled by:	accepted	If overruled, you must explain your reasons
<p>Comments: [if the advice is accepted, please ensure any actions recommended by the DPO are added to the DPIA and implemented].</p>		
Consultation responses reviewed by:	n/a	If your decision departs from individuals' views, you must explain your reasons
<p>Comments:</p>		
This DPIA will kept under review by:	LPS Project Manager	The DPO should also review ongoing compliance with DPIA

We confirm that we have reviewed this DPIA and are satisfied that:

— it is not necessary to consult with the ICO.	
Name(s)	Benjamin Watts Kate Kremers
Job title(s)	General Counsel Senior Solicitor
Date	25/11/2019

12. Actions to be integrated into project plan		
Action to be taken	Date for completion or frequency	Responsibility for action
<p>1. <i>Ensure that the corresponding condition under the Data Protection Act 2018 (health and social care purposes) can be met by identifying the responsible person overseeing the processing of any special category data under the 'health and social care purposes' condition:</i></p> <p><i>(S11(1) states 'For the purposes of Article 9(2)(h) of the GDPR (processing for health or social care purposes etc), the circumstances in which the processing of personal data is carried out subject to the conditions and safeguards referred to in Article 9(3) of the GDPR (obligation of secrecy) include circumstances in which it is carried out –(a) by or under the responsibility of a health professional or a social work professional, or (b) by another person who in the circumstances owes a duty of confidentiality under an enactment or rule of law.)' S204 provides further definition of who may be regarded as a 'social work professional':</i> <i>http://www.legislation.gov.uk/ukpga/2018/12/section/204/enacted</i></p>	<p><i>Implementation date of LPS - currently 01/10/2020</i></p>	<p><i>LPS Project Manager</i></p>
<p>2. <i>ICT Risk and Compliance should be asked to give a view on the technological risks involved in the use of Artificial Intelligence (mentioned in section 4) and on the details of how the data is used and stored (on page 5) with their recommendations fed back into the consultation section of the DPIA.</i></p>	<p><i>2 months prior to implementation – 01/09/2020</i></p>	<p><i>LPS Project Manager</i></p>
<p>3. <i>Any third parties commissioned to process data on KCC's behalf must be retained by a GDPR compliant contract containing the mandatory terms and conditions as required by Article 28.</i></p>	<p><i>Implementation date of LPS - currently 01/10/2020</i></p>	<p><i>LPS Project Manager</i></p>
<p>4. <i>The DPIA should be updated and submitted to dpo@kent.gov.uk once the LPS process has been mapped, to obtain further advice as necessary.</i></p>	<p><i>3 months prior to implementation - 01/08/2020</i></p>	<p><i>LPS Project Manager</i></p>

Risk Matrix

Likelihood	Very likely	5	5 Low	10 Medium	15 Medium	20 High	25 High
	Likely	4	4 Low	8 Medium	12 Medium	16 High	20 High
	Possible	3	3 Low	6 Low	9 Medium	12 Medium	15 Medium
	Unlikely	2	2 Low	4 Low	6 Low	8 Medium	10 Medium
	Very Unlikely	1	1 Low	2 Low	3 Low	4 Low	5 Low
			1	2	3	4	5
			Minor	Moderate	Significant	Serious	Major
		Impact					

From: Ben Watts, General Counsel
To: Adult Social Care Cabinet Committee – 22 June 2021
Subject: **Work Programme 2021/22**

Classification: Unrestricted

Past Pathway of Paper: None

Future Pathway of Paper: Standard item

Summary: This report gives details of the proposed work programme for the Adult Social Care Cabinet Committee.

Recommendation: The Adult Social Care Cabinet Committee is asked to **CONSIDER** and **NOTE** its work programme for 2021/22.

1.1 The proposed work programme has been compiled from items on the Forthcoming Executive Decisions List, from actions arising from previous meetings and from topics identified at agenda setting meetings, held six weeks before each Cabinet Committee meeting, in accordance with the Constitution, and attended by the Chairman, Vice-Chairman and the Group Spokesmen. Whilst the Chairman, in consultation with the Cabinet Member, is responsible for the final selection of items for the agenda, this report gives all Members of the Cabinet Committee the opportunity to suggest amendments and additional agenda items where appropriate.

2. Terms of Reference

2.1 At its meeting held on 27 March 2014, the County Council agreed the following terms of reference for the Adult Social Care and Health Cabinet Committee: - *‘To be responsible for those functions that sit within the Social Care, Health and Wellbeing Directorate and which relate to Adults’.*

3. Work Programme 2021/22

3.1 Following the most recent meeting of the committee, an agenda setting meeting was held at which items for this meeting were agreed and future agenda items planned. The Cabinet Committee is asked to consider and note the items within the proposed work programme, set out in the appendix to this report, and to suggest any additional topics they wish to be considered for inclusion in agendas for future meetings.

3.2 The schedule of commissioning activity which falls within the remit of this Cabinet Committee will be included in the work programme and considered at future agenda setting meetings. This will support more effective forward agenda planning and allow Members to have oversight of significant service delivery decisions in advance.

3.3 When selecting future items, the Cabinet Committee should give consideration to the contents of performance monitoring reports. Any 'for information' or briefing items will be sent to Members of the Cabinet Committee separately to the agenda, or separate Member briefings will be arranged, where appropriate.

4. Conclusion

4.1 It is vital for the Cabinet Committee process that the Committee takes ownership of its work programme, to help the Cabinet Member to deliver informed and considered decisions. A regular report will be submitted to each meeting of the Cabinet Committee to give updates of requested topics and to seek suggestions of future items to be considered. This does not preclude Members making requests to the Chairman or the Democratic Services Officer between meetings, for consideration.

<p>5. Recommendation: The Adult Social Care Cabinet Committee is asked to CONSIDER and NOTE its work programme for 2021/22.</p>
--

6. Background Documents

None.

7. Contact details

Report Author:
Theresa Grayell
Democratic Services Officer
03000 416172
theresa.grayell@kent.gov.uk

Lead Officer:
Ben Watts
General Counsel
03000 416814
benjamin.watts@kent.gov.uk

ADULT SOCIAL CARE CABINET COMMITTEE – WORK PROGRAMME 2021/22

TUESDAY 22 JUNE 2021 date updated May 2021 to accommodate return to physical meetings for some committees	
• Verbal Updates by the Cabinet Member and Corporate Director	Standing Item
• Introduction to/overview of Adult Social Care – scene setting / headlines / scope. Include partnership working and how relationships work, financing options and mechanism. Include introduction to the MADE programme as a major model of delivering services	An intro pack of 4/5 pages will have been given to Members as part of May induction programme – Michael’s suggestion PRESENTATION AT MEETING
• Response of ASC to covid-19 and Transition, and lessons learnt	
• 21/00050 - Discharge Services Contract Extensions and Future Commissioning	
• 21/00051 - Deprivation of Liberty Safeguards Mental Health Assessments Contract Extension	
• Work Programme 2021/22	Standing Item
29 SEPTEMBER 2021 *	
• Performance Dashboard	To be reported to every other meeting
• Review of KPIs	Requested at agenda setting 25 11 20 for a future meeting (<i>timing unspecified: - once some training has been done</i>)
• Verbal Updates by the Cabinet Member and Corporate Director	Standing Item
• Work Programme 2021/22	Standing Item
• Fuller report on LGA peer review of equality and diversity	Arose at 5 March mtg
• Ongoing review of work to address loneliness and social isolation – outcomes of Select Cttee	Arose at 5 March mtg
• Safeguarding Board annual report – timing tbc	Arose at 5 March mtg
• Strategic Delivery Plan (SDP) Monitoring <i>reporting was suspended in 2020 due to covid-19 – awaiting notice of restart (25 11 20)</i>	Requested by Corporate Board in July 2019 (to be brought as 6-monthly item)
• Domestic Abuse; update and Kent’s response to the Domestic Abuse Act, new Domestic Abuse Partnership Board	Arose at 5 March mtg. Email string from Serine Annan-Veitch advising of work needing reporting to ASC and CYPE Cabinet Committees before Council – <i>item later moved from June to September 2021</i>

ADULT SOCIAL CARE CABINET COMMITTEE – WORK PROGRAMME 2021/22

• Community Grants update	<i>Moved from June to September</i>
24 NOVEMBER 2021 *	
• Verbal Updates by the Cabinet Member and Corporate Director	Standing Item
• Work Programme 2021/22	Standing Item
18 JANUARY 2022 *	
• Draft Revenue and Capital Budget and MTFP	Annual item
• Strategic Delivery Plan (SDP) Monitoring <i>reporting was suspended in 2020 due to covid-19 – awaiting notice of restart (25 11 20)</i>	Requested by Corporate Board in July 2019 (to be brought as 6-monthly item)
• Performance Dashboard	To be reported to every other meeting
• Verbal Updates by the Cabinet Member and Corporate Director	Standing Item
• Work Programme 2021/22	Standing Item
4 MARCH 2022 *	
• Annual Equality and Diversity Report	Annual Item
• Rates Payable and Charges Levied for Adult Social Care	Annual Item – <i>in 2021 this was part of the regular budget setting and not a separate key decision</i>
• Risk Management: Adult Social Care	Annual Report
• Verbal Updates by the Cabinet Member and Corporate Director	Standing Item
• Work Programme 2021/22	Standing Item
21 JUNE 2022 *	
• Performance Dashboard	To be reported to every other meeting
• Verbal Updates by the Cabinet Member and Corporate Director	Standing Item
• Work Programme 2021/22	Standing Item

* future meeting dates are being reviewed in June/July 2021