

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

Directorate/ Service: Adult Social Care and Health

Name of decision, policy, procedure, project or service: COMMISSIONING OF NEW SERVICES FOR DEPRIVATION OF LIBERTY SAFEGUARDS (NON-PRIORITY)

Responsible Owner/ Senior Officer: Annie Ho (Head of Adult Safeguarding)

Version: 4.0

Version:

V1.0	11/05/18	Sholeh Soleimanifar	Initial draft
V1.1	21/05/18	Akua Agyepong	Comments from Corporate Lead for Equality & Diversity
V2.0	22/05/18	Sholeh Soleimanifar	Second draft
V2.1	23/05/18	Akua Agyepong	Comments from Corporate Lead for Equality & Diversity
V3.0	23/05/18	Sholeh Soleimanifar	Third draft
V4.0	24/05/18	Annie Ho & Michael Thomas-Sam	Comments on stakeholders consultation and signature

Author: Sholeh Soleimanifar

Pathway of Equality Analysis:

Adult Social Care and Health DMT (21 February 2018)
Strategic Commissioning Board (26 March 2018)
Commissioning Advisory Board (1 May 2018)
Adult Social Care Cabinet Committee (18 May 2018)
Corporate Director report to the Cabinet Member (25 May 2018)

Summary and recommendations of equality analysis/impact assessment.

- **Context**

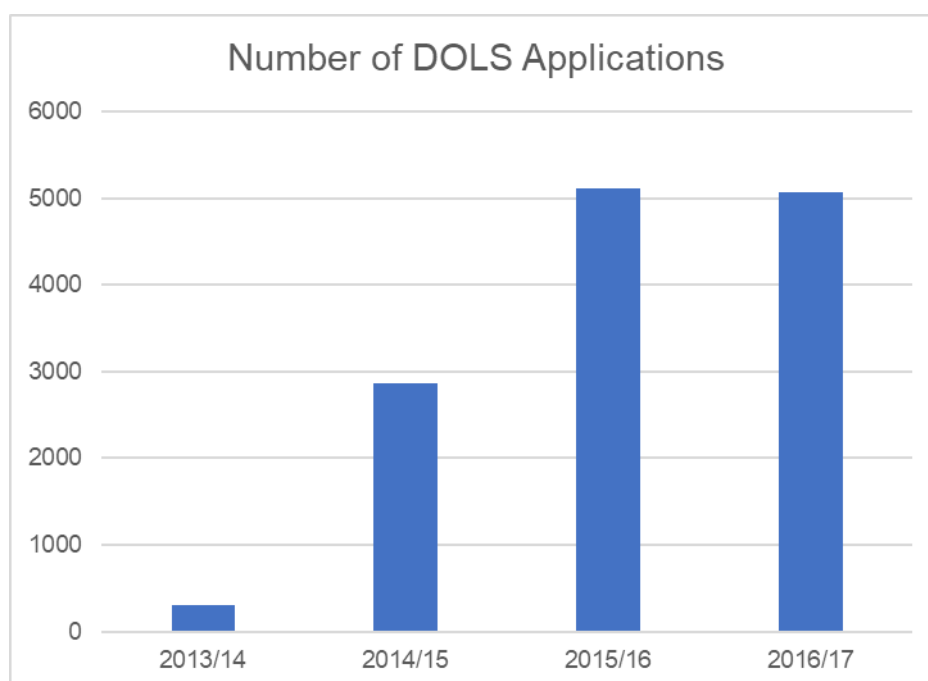
This project considers the arrangements for the operation of the non-priority applications (assessments yet to be completed) presented under the Mental Capacity Act (MCA) Deprivation of Liberty Safeguards (DOLS).

DoLS is an amendment to the MCA 2005, which came into effect in April 2009. This legislation aims to protect people who lack mental capacity, but who need to be deprived of their liberty, so they can be given care and treatment in a hospital or care home. If a person's right to liberty needs to be infringed in either of these settings, authorisation must be obtained from the local authority.

The DOLS team discharge the statutory responsibility (on behalf of Kent County Council) to process requests under the legislation for adults who may be deprived of

their liberty and require authorisation to ensure this is done in the least restrictive manner.

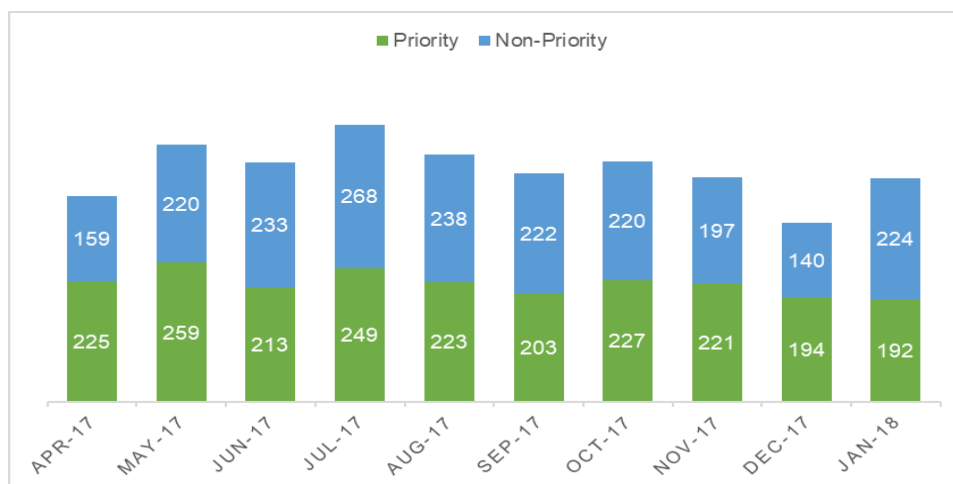
Following the Supreme Court (Cheshire West) judgement of March 2014, there has been a ten-fold national increase in DOLS applications. In Kent, the total number of DOLS applications has seen an increase from under 300 in 2013/14 to 5069 in 2016-17. As of 1 February 2018, the total number of non-prioritised backlog applications was in the region of 4402. This number is expected to reduce by approximately 16%, due to the recovery of the individual, change of placement, or sadly their death. Data cleansing will confirm how many of received applications still require a DOLS assessment.



The impact of this unprecedented increase is that KCC does not have sufficient resources available to process all the DOLS applications it receives each month. This leads to situations where people are being deprived of liberty without the legal safeguards being formally assessed and authorised by KCC.

While central government is currently reviewing the statutory obligations of local authorities under the DOLS and are looking to replace the DOLS with new legislation to lessen the burden on local authorities, it is unlikely that changes could be implemented earlier than 2020.

All local authorities (including KCC) use the nationally agreed ADASS (Association of Directors of Adult Social Services) prioritisation tool to identify which DOLS applications are highest risk and should proceed to full assessment and potential authorisation. Around 50% of DOLS applications are typically triaged as priority cases.



The statutory timeframe for completing applications is 21 days for standard, and up to 14 days for urgent cases (i.e. in an emergency, or in situations where there is no time to go through the assessment process before a health or care provider needs to deprive a person of their liberty). KCC is now meeting the statutory time frame for priority cases. All prioritised referrals are being assessed within the two weeks recommended period for an urgent authorisation.

Any DOLS applications that are not assessed as being a high priority however, are currently added to a backlog of non-priority DOLS applications. Work is in progress to quantify the number of cases to be transferred to the new provider, who will manage these backlog cases. The outcome of the tender process is expected to be published by mid-June, with contract commencement date of mid-July 2018. As part of the transitional arrangements, the Council will provide the new provider with the details of the backlog cases. An action plan is in place to follow up once data is received, which may lead to re-prioritisation of groups within the backlog group.

This project only aims to deal with the historic DOLS backlog, up to April 2018. The planning assumption is that any new non-priority DOLS applications are out of scope of this project is estimated to be in the range of 2500, by the end of 2018/19, however, this will be kept under review. This cohort is managed within the current workload of the DOLS team, however, all learning and good practice gained from the backlog project will be shared across the whole service provision, for both priority and non-priority authorisations. This will mitigate any risks that may come to light.

• **Aims and Objectives**

On 20 February 2018, the County Council approved a budget for 2018/19 that identified one-off funding of £1.54m for processing historic non-prioritised DOLS applications from care homes and hospitals.

The Strategic Commissioning Board considered a number of options in respect of processing the DOLS backlog and approved the proposal to commission a service for two years for the completion of non-priority DOLS Best Interests Assessments, while leveraging an existing contract for the completion of DOLS Mental Health Assessments.

The aim is to reduce the historic backlog of non-priority DOLS applications, received up to 31 March 2018, as far as possible, within the two-year project period and available resource.

- **Summary of equality impact**

Adverse Equality Impact Rating Medium

We have rated this EQIA as medium because we are currently unable to secure information about some of the protected characteristics and there are some groups who are potentially underrepresented compared to the whole population profile in Kent. We will continue to seek this information and update this document accordingly.

Attestation

I have read and paid due regard to the Equality Analysis/Impact Assessment concerning **Commissioning of New Services for Deprivation of Liberty Safeguards (Non-Priority)**. I agree with risk rating and the actions to mitigate any adverse impact(s) that has /have been identified.

Head of Service

Signed: 

Name: Annie Ho

Job Title: Head of Adult Safeguarding
Date: 24/05/18

DMT Member



Signed:

Name: Michael Thomas-Sam

Job Title: Head of Strategy and
Business Support
Adult Social Care and Health
Date: 24 May 2018

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? No

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

Protected Group	Please provide a brief commentary on your findings. Fuller analysis should be undertaken in Part 2.			
	High negative impact EqIA	Medium negative impact Screen	Low negative impact Evidence	High/Medium/Low Positive Impact Evidence
Age				Medium positive impact This project aims to reduce the historic backlog of non-priority DOLS authorisations. The process will ensure that the procedures followed, and decisions made are carried out in a consistent and transparent manner and applied with equity irrespective of a person's age. This protected characteristic is captured in the DOLS Operational Reports, which are closely monitored.
Disability				Medium positive impact This project aims to reduce the historic backlog of non-priority DOLS authorisations. The process will ensure that the procedures followed, and decisions made are carried out in a consistent and transparent manner and applied with equity irrespective of a person's disability. This protected characteristic is captured in the DOLS Operational Reports, which are closely monitored.

Gender			<p>Medium positive impact This project aims to reduce the historic backlog of non-priority DOLS authorisations. The process will ensure that the procedures followed, and decisions made are carried out in a consistent and transparent manner and applied with equity irrespective of a person's gender. This protected characteristic is captured in the DOLS Operational Reports, which are closely monitored.</p>
Gender identity/ Transgender		<p>Medium negative impact We may not be able to formally capture this group on the performance management system but the project will remain aware of and responsive to the needs of this group. This cohort represent a very small population, so if any come through the backlog- the project will carry out a specific review of these cases as a performance measure and mitigating action</p>	
Race			<p>Medium positive impact This project aims to reduce the historic backlog of non-priority DOLS authorisations. The process will ensure that the procedures followed, and decisions made are carried out in a</p>

				consistent and transparent manner and applied with equity irrespective of a person's race. This protected characteristic is captured in the DOLS Operational Reports, which are closely monitored.
Religion and Belief		Medium negative impact This protected characteristic is NOT captured in the DOLS Operational Reports. As we are currently unable to quantify the number of people within this characteristic, we cannot be certain that there will be no negative impact. It will be a requirement of the new contract commencing in July to include reporting on all protected characteristics, including religion and belief, as part of the quarterly monitoring report.		
Sexual Orientation				Medium positive impact This project aims to reduce the historic backlog of non-priority DOLS authorisations. The process will ensure that the procedures followed, and decisions made are carried out in a consistent and transparent manner and applied with equity irrespective of a person's sexual orientation. This protected characteristic is captured in the DOLS Operational Reports, which are closely monitored.

Pregnancy and Maternity		<p>Medium negative impact This protected characteristic is NOT captured in the DOLS Operational Reports. As we are currently unable to quantify the number of people within this characteristic, we cannot be certain that there will be no negative impact. It will be a requirement of the new contract commencing in July to include reporting on all protected characteristics, including pregnancy and maternity, as part of the quarterly monitoring report.</p>		
Marriage and Civil Partnerships	N/A	N/A	N/A	N/A
Carer's Responsibilities		<p>Medium negative impact This protected characteristic is NOT captured in the DOLS Operational Reports. As we are currently unable to quantify the number of people within this characteristic, we cannot be certain that there will be no negative impact. It will be a requirement of the new contract commencing in July to include reporting on all protected characteristics, including carer's responsibilities, as part of the quarterly monitoring report.</p>		

Part 2

Equality Analysis /Impact Assessment

Protected groups

None of the protected characteristics will be directly or indirectly negatively affected.

Information and Data used to carry out your assessment

Document Name	DOLS Operational Report
Document Id	1225
Document Description	This report shows all Deprivation Of Liberty Applications received within the period
Database	SWIFT_LIVE

The DOLS Operational Reports are run on a monthly basis. The reports are reviewed, and cases triaged and prioritised on an ongoing basis.

However, there are gaps in the data regarding some of the protected characteristics (as indicated in the above table). As part of the new BIA Backlog contract commencing in July 2018, action will be taken to improve monitoring of protected characteristics, as part of the quarterly monitoring reporting. This means the KPIs and outcomes specified for this service will be broken down by protected characteristics. This should form a benchmark against which further improvements will be identified and implemented. These will be reviewed on an ongoing basis during the life of the contract

The DOLS backlog projects aims to improve outcomes by expediting the processing of historic non-priority DOLS applications. It aims to ensure individuals who may have impaired mental capacity and who are deprived of their liberty are empowered and protected, regardless of their protected characteristic.

Everyone who cares for or makes decisions on behalf of someone who lacks capacity and is deprived of their liberty will follow the same procedure for prioritisation and authorisation and will be legally required to have regard to this legislation.

Who have you involved consulted and engaged?

Interested parties involved in and consulted through the previous backlog project 2015-16, including Managing Authorities, relevant persons and their families, and assessors involved in the assessments, helped to inform the planning of this project. The project has also engaged with Directors, senior managers, the Cabinet member for Adult Social Care and the Cabinet Committee, and experts in this area of work including DOLS authorisers, Best Interests Assessors, Mental Health Assessors and the RPR (Relevant Representative) Service.

Analysis

Updated 29/05/2018

10

Based on the DOLS Operational Report for the period 01/04/17 – 03/04/18:

Age: The largest cohort within this groups are adults (18+) in particular in the 75 – 84 and 85+ age groups.

Age Group	Total	%
18-64	889	16%
65-74	618	11%
75-84	1602	29%
85+	2423	44%
Under 18	2	0%
Missing	1	0%
Grand Total	5535	100%

Gender: There is significantly higher number of referrals for females at 59%, compared to males at 41%.

Gender	Total	%
Female	3256	59%
Male	2279	41%
Grand Total	5535	100%

Ethnicity: there is a disproportionately large number of 'White' ethnicity (89%), compared to all other groups in this section. Further work is needed to understand the underlying factors.

Ethnic Origin	Total	%
Asian/ Asian British	40	1%
Black/ Black British	16	0%
Mixed/ Multiple Ethnic Groups	36	1%
Not Stated	213	4%
Other Ethnic Origin	12	0%
Undeclared/ Not Known	287	5%
White	4931	89%
Grand Total	5535	100%

Sexual orientation: The majority of referrals are identified as 'heterosexual/straight' (78%), with a sizable percentage either choosing not to declare or missing. Further work is needed to understand the underlying factors.

Sexual Orientation	Total	%
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Updated 29/05/2018

Bisexual	1	0%
Gay/Lesbian	10	0%
Heterosexual/Straight	3869	78%
Missing	374	8%
Other	112	2%
Prefer Not to Say	1169	24%
Grand Total	5535	112%

Disability: The largest proportion of disability is identified as dementia (70%). This corroborates well with the prevalence of the higher age groups in these services.

Disability	Total	%
Mental Health Needs-Dementia	3869	70%
Learning Disability	575	10%
Mental Health Needs-Other	446	8%
Physical-Other	260	5%
No Disability	190	3%
Other Disability	79	1%
Physical-Hearing	38	1%
Physical-Visual	37	1%
Physical-Dual Sensory Loss	29	1%
Missing	12	0%
Grand Total	5535	100%

Adverse Impact:

There are gaps in the data regarding some of the protected characteristics. These include the following categories: Gender identity/ Transgender; Religion and Belief; Pregnancy and Maternity; Marriage and Civil Partnerships; and Carer’s responsibilities.

We are looking to address these gaps as part of the new contract commencing in July 2018. Following a pre-award meeting with the preferred provider, following a competitive tender process, it has been agreed that the provider will actively seek, collate and report on all protected characteristics, as part of the quarterly monitoring reporting. This should form a benchmark against which further improvements will be identified and implemented. These will be reviewed on an ongoing basis during the life of the contract

Positive Impact:

The DOLS backlog project seeks to redress the backlog of non-priority cases, where potentially people are deprived of their liberty without the legal

safeguards in their DOLS applications being formally assessed and authorised by KCC.

This two-year project will reduce KCC's historic backlog of non-priority DOLS applications, and therefore ensure that care received in a hospital or care home in Kent, which deprives a person of their liberty, is both appropriate and in their best interests.

JUDGEMENT

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

Internal Action Required YES

Equality Impact Analysis/Assessment Action Plan

Protected Characteristic	Issues identified	Action to be taken	Expected outcomes	Owner	Timescale	Cost implications
Religion and Belief	Currently we are not aware of the experience of people with these protected characteristic, and as such unable to ascertain whether their applications for BIAs are being fairly and equitably triaged and processed	The new provider commencing on the DOLS backlog cases will be required to actively seek, collate and report on the all protected characteristics, as part of the quarterly monitoring reporting	A greater understanding of the protected characteristics of all referrals in the non-priority cases. This will also inform and generate improvements in all DOLS applications (priority and non-priority) going forward.	Catherine Collins	Commencing July 2018 – July 2020	Included in the contract price.
Carer's Responsibilities						
Gender identity/Transgender						

Updated 29/05/2018

Have the actions been included in your business/ service plan? (If no please state how the actions will be monitored)

Yes - these actions are included in the service specification of the new contract to clear the DOLS backlog, commencing July 2018.

Appendix

Please include relevant data sets

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 EqIA must be submitted to committee services along with the relevant Cabinet report. Your EqIA should also be published.

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