

# KENT COUNTY COUNCIL – PROPOSED RECORD OF DECISION

## DECISION TO BE TAKEN BY:

Sue Chandler,

Cabinet Member for Integrated Children's Services

## DECISION NO:

To be allocated by  
Democratic Services

**For publication** [Do not include information which is exempt from publication under schedule 12a of the Local Government Act 1972]

## Key decision: YES

*Key decision criteria. The decision will:*

- a) result in savings or expenditure which is significant having regard to the budget for the service or function (currently defined by the Council as in excess of £1,000,000); or
- b) be significant in terms of its effects on a significant proportion of the community living or working within two or more electoral divisions – which will include those decisions that involve:
  - the adoption or significant amendment of major strategies or frameworks;
  - significant service developments, significant service reductions, or significant changes in the way that services are delivered, whether County-wide or in a particular locality.

## Subject Matter / Title of Decision

Non-Maintained and Independent Special School Commissioning Strategy

## Decision:

As Cabinet Member for Integrated Children's Services, in consultation with the Cabinet Member for education and Skills, I agree to:

- A) Implement a Dynamic Purchasing System to procure Non-maintained and Independent Special School (NMISS) placements
- B) Delegate decisions about the establishment of the new arrangements to the Corporate Director for Children, Young People and Education (CYPE), or other Officer as instructed by the Corporate Director for CYPE

## Reason(s) for decision:

- Decision
  - This decision is required because the total value of the contracts involved will exceed the threshold for a Key Decision.
  - The proposed decision is to implement a Dynamic Purchasing System to enable a more co-ordinated approach to securing placements for CYP in NMISS. This will award contracts to schools after completion of a competitive tender process.
- Background
  - Non-maintained Independent Special School (NMISS) placements form part of the wider Special Educational Needs and Disabilities (SEND) Service and are required to fulfil

KCC's statutory responsibility to provide suitable education for all students. There is a need for a strategy to commission placements in a consistent manner, with mechanisms to enable KCC to monitor quality, improve outcomes and ensure placements offer best value for money.

- Options Appraisal

1. Do nothing
2. Establish a Qualified Provider List
3. Establish a Dynamic Purchasing System (DPS)
4. Increase internal, maintained provision
5. Flexi-block contracts/bespoke arrangements with providers

- Option 3, to create a Dynamic Purchasing System (DPS), is the preferred option as it allows for strategic relationships to be developed. Both block contracts and individual placements can be procured through the DPS in a way compliant with the Public Contract Regulations (PCR) 2015.
- A DPS is a type of framework contract that allows other providers to join throughout the term of the contract, as long as certain criteria are met, and is the DfE recommended approach to procuring NMISS placements.
- A DPS offers more flexibility in procurement options to encourage more engagement from providers and to adapt to the changing SEND landscape over the next few years.
- The proposed decision to establish a DPS would enable KCC to improve outcomes for vulnerable CYP whilst improving the value for money of placements.
- The risks involved with not taking this decision include:
  - continued non-compliant spend (PCR 2015);
  - increasing costs; and
  - inconsistent provision and outcomes for CYP with EHC Plans.

- Strategic Plan

- Through the commissioning of the contract, we will support the following strategic outcomes of KCC:
  - Kent's children have the best start in life and families get the right help and support when they need it; and
  - every young person in Kent gets the education, skills and experiences they need for a successful future.

In addition, this service will support achievement of the following priorities:

- Special Educational Needs and Disability (SEND): We are committed to working in partnership to make the necessary improvements for children and young people with SEND and their families.
- Implementing the Kent Special Educational Needs and Disabilities (SEND) Written Statement of Action Plan: [...] Following the result of our Ofsted and Care Quality

Commission (CQC) inspection in 2019, we are focusing on designing better, more inclusive services to improve the quality of services for children and young people with SEND.

- Support for vulnerable young people: Our role is to champion children, young people, parents and families. We want to improve life chances and close the achievement gap for vulnerable young people.

KCC Strategic Delivery Plan, 2020-23

- Financial Implications

- The spend per annum for NMISS placements has been increasing over the last four years to a current total of £49m.
- The budget and spend per financial year:

Financial Year	Spend
2017/18	£27,911,115
2018/19	£34,167,515
2019/20	£39,772,645
2020/21	£49,244,606

- The placements fall under the Special Educational Needs & Psychology Services key service line within Special Educational Needs and Disabilities (SEND) Division budget, line 65 in the 2021/22 KCC Budget.

- Legal Implications

- Kent County Council has a statutory responsibility under The Education Act 1996 to provide education for all CYP until the age of 19, or 25 for those with EHC Plans. Associated legislation includes The Children and Families Act 2014, the SEN Code of Practice (2015), the Equality Act 2010 and The Special Educational Needs and Disabilities Regulations 2014.
- Continuing with the current arrangements will remain non-compliant with PCR 2015.

- Equalities implications

- An Equality Impact Assessment (EqIA) screening has been completed and has concluded that the proposed decision does not present any adverse equality impact.

**Cabinet Committee recommendations and other consultation:**

The Children's and Young People Cabinet Committee consider the decision on 30<sup>th</sup> June 2021.

Engagement with parents of students with EHC Plans, namely those currently in special school placements, is planned as part of the procurement process but not the wider public.

**Any alternatives considered and rejected:**

- Option 1, to do nothing, was discounted because of the increasing spend, which is non-compliant with the PCR 2015, and inconsistent outcomes for students with Education,

Health and Care Plans (EHC Plans).

- Option 2, to establish a Qualified Provider List, was discounted because it would not enable more strategic conversations to take place with schools. A Qualified Provider List is better suited to stabilising markets, rather than shaping them, and it would not provide clarity of costs for placements.
- Option 4, to increase internal, maintained provision, is to be considered alongside the proposed option but the need to manage the NMISS market will remain.
- Option 5, to have flexi-block contracts/bespoke arrangements with providers, can be incorporated into a DPS, so this option was not considered independently.

**Any interest declared when the decision was taken and any dispensation granted by the Proper Officer: None**

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signed

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date