

KENT COUNTY COUNCIL – PROPOSED RECORD OF DECISION

DECISION TO BE TAKEN BY:

Beverley Fordham, Cabinet Member for Education and Skills

DECISION NUMBER:

25/00065

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

Key decision: YES

Subject Matter / Title of Decision

Commissioning and procurement of a framework contract for Independent and Non-Maintained Special Schools (INMSS)

Decision:

As Cabinet Member for Education and Skills, I agree to:

1. APPROVE the commissioning and procurement of a new Open Framework contract for the placement of children and young people with Education, Health and Care Plans in Independent and Non Maintained Special Schools. The Framework contract to commence on 1 September 2026, for a duration of up to eight years, to include provisions to enable disaggregation, subject to any future Local Government Reorganisation.
2. DELEGATE authority to the Corporate Director for Children, Young People and Education, or other Officer as instructed by the Corporate Director, to take relevant actions, including but not limited to negotiating and finalising the terms of, and entering into required contracts, extensions, variations or other legal agreements, as required to implement the decision, in consultation with the Cabinet Member for Education and Skills.

Reason(s) for decision:

Kent County Council (KCC) has a statutory responsibility to provide suitable education for all children and young people under Section 13 of the Education Act 1996 .

There is currently a zero guaranteed spend Framework contract in place for Independent Non-Maintained Special Schools with multiple providers to comply with procurement legislation and Spending the Council's Money. Through [Decision - 25/00007 - Non-Maintained Independent Special School \(NMISS\) Dynamic Purchasing System \(DPS\) - Contract extension and re-procurement options](#), the contract is due to end on 31 August 2026.

The proposal sets out the commissioning and procurement activity to establish a new Open Framework contract, compliant with the Procurement Act 2023 for the placement of children and young people with Education, Health and Care Plans (EHCPs) in Independent and Non-Maintained Special Schools (INMSS). The new contract, commencing on 1 September 2026, is designed to

improve the quality of provision, enable block contracting, and strengthen strategic relationships with providers.

Reforming Kent Strategy

The draft Strategic Statement “Reforming Kent 2025 to 2028” states at Point 6 of Aim 3, Supporting Residents that Need Help, that we will improve processes and outcomes for our SEND services while tackling the unsustainable growth in demand. This proposal aligns with that aim..

Financial Implications

The total net spend on INMSS placements for 2024/25 was £88.8m, which is expected to be fully funded from the High Needs Block of the ring-fenced Dedicated Schools Grant provided by the Department for Education. Of this, £46.9m was spent on providers within the existing Dynamic Purchasing System (DPS)

In 2024/25, 920 placements of children and young people were made through the DPS out of a total of 1,690 placements funded during the year. The average cost of a DPS placement at this time was £50,977, compared to £51,956 for a non-DPS placement. Based on agreed placements in 2025/26, the average cost of placements has increased to £54,460 in DPS and £58,656 in non DPS schools. This represents an average increase of 7% and 13%, respectively.

The INMSS Framework is a ‘no volume, no spend guarantee’ contract. The total number of placements, and therefore the associated value of the contract, is not governed by the Framework itself, but by placement decisions made by the SEN High Cost Placement Panel, phase transfer processes, and other routes managed by SEN operational teams.

However, there is a need to determine and publish the potential maximum value of the contract for the new Independent Non-Maintained Special Schools (INMSS) Framework:

- Based on the assumption that the current number of placements in INMSS remaining static over the course of the contract, the upper limit value of the contract over eight years would total £876m. This projection assumes a current average annual cost per placement of £59,801, that all current and future placements are made through the new contract, and includes an assumed 2% annual inflationary increase although the exact annual uplift will depend on wider factors.
- However, if the number of children and young people in INMSS placements decreases as projected in the Kent Commissioning Plan, then, based on the same assumptions, the estimated total value of the new Framework over eight years would be approximately £484m.
- Spend through the contract is, however, likely to be lower than this value as it is unlikely that 100% of providers will join the Framework, so the maximum contract value is unlikely to be reached.

In addition, a robust fee increase process has been a key factor in managing the cost of existing INMSS placements while ensuring quality provision. A structured and consistent approach has been implemented, which has delivered significant financial and operational benefits over the past two years, and has led to significant cost avoidance of £1,042,436 in 2024/25 and £1,026,716 in 2025/26.

The proposal is intended to support the Council's aim to reduce the overspend on the Dedicated Schools Grant: High Needs Block, by ensuring value for money, and support the delivery of the plan under the Safety Valve Programme. Whilst there is not direct cost to the General Fund, as

independent school places are funded from the High Needs Block Grant, the Council is contributing a total of £82m by 2027/28 towards the accumulated High Needs deficit.

Legal Implications

KCC has a statutory responsibility when placing children and young people in the Independent and Non-Maintained Special School sector. These include:

- Education Act 1996 (Section 13): KCC has a statutory responsibility under the act to provide education for all children and young people until age 19 and to age 25 for those with EHC plans.
- Children and Families Act 2014 (Section 42): Requires KCC to secure the special educational provision in a child's Education, Health and Care Plan (EHCP), including placements in NMSS where appropriate.
- SEND Code of Practice (2015): Provides statutory guidance on working with families and providers to ensure suitable, high-quality placements.
- SEND and Alternative provision (AP) Improvement Plan (White Paper, expected Autumn 2025): Is likely to introduce national standards for commissioning, regional frameworks, and stronger accountability for SEND outcomes.
- The procurement of a new Open Framework, undertaken in compliance with the Procurement Act 2023, and with appropriate legal advice, will facilitate the discharge of KCC's statutory duties as outlined above.

Equalities Assessment

An Equalities Impact Assessment has been completed which indicates the recommended procurement model will offer significant positive impact across protected groups by improving access to quality assured specialist SEND provision in the independent sector, addressing gaps and promoting inclusion. Any negative impacts will be mitigated through robust, risk-based contract monitoring that embeds quality, safeguarding, and performance standards.

Data Protection Impact Assessment

The Data Protection Impact Assessment (DPIA) for the INMSS Framework contract identifies and addresses key risks related to the collection, sharing, and retention of personal data. To mitigate these risks, data collection will be limited to what is necessary and proportionate, access to personal data will be restricted to authorised evaluation panel members who have completed mandatory Information Governance training, and data retention will follow KCC's structured policy and schedule. The DPIA has been reviewed and approved by the Corporate Director for Children, Young People and Education.

Cabinet Committee recommendations and other consultation:

Any alternatives considered and rejected:

The following options were considered and discounted due to significant strategic, legal and operational risks:

1. Do Nothing

- 2. Direct Award contracts to providers based on an assessment of provider quality and cost
- 4: Procure using a Dynamic Markets

Previously dismissed options include: developing in-house and extending the existing contract for one or two years.

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

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signed

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date