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**From:** Christine McInnes – Interim Corporate Director for Children, Young People and Education

**To:** Beverley Fordham – Cabinet Member for Education and Skills

**Subject:** Commissioning and procurement of a new Open Framework contract for Independent and Non-Maintained Special Schools

**Decision no:** 25/00065

**Key Decision :** Yes - It affects more than two Electoral Divisions and involves expenditure of more than £1m

**Classification:** Unrestricted

**Past Pathway of report:** Children’s, Young People and Education Cabinet Committee 18 November 2025

**Future Pathway of report:** Cabinet Member Decision

**Electoral Division:** *All divisions and Members*  
<https://democracy.kent.gov.uk/mgMemberIndex.aspx?bcr=1> )

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**Is the decision eligible for call-in?** Yes

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**Summary:** This report sets out the background and rationale for commissioning and procurement of a new Open Framework contract 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 Framework will replace the current zero guaranteed spend, multiple provider Dynamic Purchasing System (DPS) which has been extended to 31 August 2026. It is proposed that the new contract will commence on 1 September 2026 and aims to address challenges identified in the current contract, including improving quality of services, enabling a better approach to block contracting, and developing strategic provider relationships.

**Recommendation(s):**

That the Cabinet Member for Education and Skills consider the following proposal:

- A) 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.
- B) DELEGATE authority to the Corporate Director of Children, Young People and Education, to take relevant actions, including but not limited to awarding,

negotiating and finalising the terms of, and entering into required framework agreements and call off contracts, extensions or other legal agreements, as required to implement the decision, in consultation with the Cabinet Member for Education and Skills.

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## **1. Introduction**

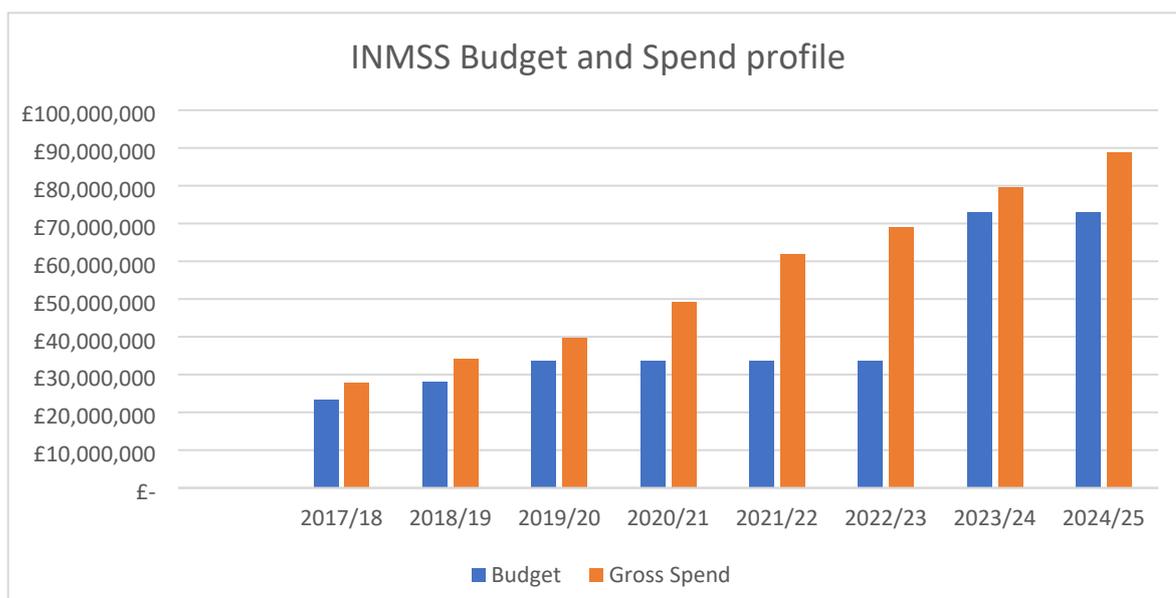
- 1.1 Kent County Council (KCC) has a statutory responsibility to provide suitable education for all children and young people under Section 13 of the Education Act 1996<sup>1</sup>.
- 1.2 Following a Key Decision ([Decision - 21/00049 - Non-Maintained and Independent Special School Commissioning Strategy](#)), the current contract, which is a zero guaranteed spend, multiple provider Dynamic Purchasing System (DPS) for Non-Maintained Independent Special Schools (NMISS) was established in September 2022. The contract was for an initial period of three years, ending 31 August 2025. The contract contained three optional one year extension clauses, which if used in full, would result in the DPS contract ending on 31 August 2028.
- 1.3 A formal review of the contract was completed in February 2024. The review assessed the effectiveness and impact of the current contract, and aimed to understand how closely the contract had aligned with its original strategic objectives. It was determined that, while it had partially met these aims, there were several challenges that could not be resolved within the scope of the current contractual terms and conditions.
- 1.4 Consequently, the existing contract was extended by one year to end on 31 August 2026, with a view to commission a new multi provider framework, to commence from 1 September 2026. ([Decision - 25/00007 - Non-Maintained Independent Special School \(NMISS\) Dynamic Purchasing System \(DPS\) - Contract extension and re-procurement options](#)).
- 1.5 The terms Non Maintained and Independent Special Schools (NMISS) and Independent and Non Maintained Independent Special Schools (INMSS) are used interchangeably by professionals in the sector. The terminology has changed from NMISS to INMSS to reflect current operational language.

## **2. Key Considerations**

- 2.1 KCC's expenditure on placing children and young people in the INMSS sector has been growing year on year since 2017, as shown in the graph below:

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<sup>1</sup> [Education Act 1996](#)



- 2.2 The formal review identified that the new Framework must focus on improving outcomes and contributing to a financially sustainable system for the future.
- 2.3 Reducing the overall number of children in INMSS, maximising the use of less costly maintained special schools and ensuring that INMSS placements are only used for children who require this level of support is a key focus of the Safety Valve agreement between KCC and Department of Education (DfE). This agreement requires KCC to reduce the overspend on its high needs funding budget and achieve a sustainable financial SEND budget by March 2028.
- 2.4 Spend in INMSS is the result of the number of children placed and the costs of these placements, therefore both must be successfully addressed in order to achieve a financially sustainable model in the future.
- 2.5 The new Framework for the placement of children and young people in INMSS must align with Kent’s wider SEND transformation programmes. This includes supporting the ethos of ‘right child in the right placement’ making placements for children, guided by clear, evidence-informed criteria.
- 2.6 The Framework must also align to the implementation of the review of KCC Maintained Special Schools<sup>2</sup> by promoting inclusive, local provision, improving oversight through robust quality assurance, and managing system-wide demand to ensure specialist placements are reserved for those children with the most complex needs. Both approaches seek to prioritise reducing reliance on distant placements, enhancing educational and wellbeing outcomes, and engaging stakeholders to build confidence in local SEND provision.
- 2.7 The combined impact of the implementation of the Localities Model for Mainstream School Inclusion, development of Specialist Resource Provisions (SRPs) across the county and the implementation of the Special School Review, is expected to result in a smaller cohort of children and young people

<sup>2</sup> [Report - Proposals for the Review of Maintained Special Schools 2024](#)

requiring placements in the INMSS sector in the future. This is aligned with the Government direction of travel.

- 2.8 A key focus of the new framework will be improved commissioning of INMSS, further reduction of spot purchasing, achieving better value for money from contracts, and implementing a more clearly defined fee increase process, therefore avoiding the rising average cost. It also highlights the importance of developing a more strategic and collaborative relationship with the sector to foster a shared understanding of need, strengthen planning, and ultimately reduce reliance on INMSS. The overarching aim is to establish a more sustainable, needs-led, and child-centred model, that is affordable within the funding made available by DfE.
- 2.9 The future commissioning of INMSS must also strategically align with evolving national legislation and local priorities. In particular the Children's Wellbeing and Schools Bill (2025)<sup>3</sup> introduces a legislative framework that reinforces many of the ambitions set out in Kent's Strategy for the Future of Education in Kent 2025 to 2030<sup>4</sup> and SEND Strategy 2025 to 2028<sup>5</sup>. These synergies will inform both the design and delivery of INMSS under the new framework agreement being procured.
- 2.10 Local Government Reorganisation<sup>6</sup> must also be considered and planned for, especially in relation to the possible disaggregation of countywide contracts into new geographic footprints, and allow for each new area to take a different approach to managing SEND provision and placements. This presents both a challenge and an opportunity to align future planning with local priorities, ensuring that the model remains flexible and responsive to the evolving local government landscape.

### **3. Background**

- 3.1 The key drivers to establishing the current Framework for education placements outside of the mainstream and maintained provision for children and young people with an EHCP was to enable KCC to monitor the quality of provision, improve outcomes for children and young people and ensure placements offer best value for money in a way that could not be achieved through the process of spot purchasing.
- 3.2 To support this, the initial focus of the NMISSE DPS was to build capacity by encouraging broad participation from the INMSS providers. This approach aimed to ensure sufficient volume within the Framework, with greater oversight on quality assurance and value for money. In this respect, the NMISSE DPS has been successful in establishing a more structured commissioning model.
- 3.3 However, a review conducted in 2024 identified several challenges that limit the overall effectiveness of the current DPS Framework. While the DPS has sufficient capacity, engagement from some higher quality providers has been lower than anticipated and this has contributed to variable quality of schools on

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<sup>3</sup> [Children's Wellbeing and Schools Bill](#)

<sup>4</sup> [A Strategy for the Future of Education in Kent 2025-2030 | Let's talk Kent](#)

<sup>5</sup> [Kent SEND Strategy 2025-2028 | Let's talk Kent](#)

<sup>6</sup> [Local government reorganisation: Policy and programme updates - GOV.UK](#)

the DPS, with some offering lower quality than non-contracted counterparts. This, in addition to parental preference and tribunal outcomes that can override operational decisions, can lead to increased placements in non-contracted (off DPS Framework) schools than would occur based on KCC placement decisions alone, reducing the impact of the current DPS Framework.

- 3.4 In light of the challenges identified, a recommendation was made to extend the DPS Framework by one of the three permitted one-year extensions, to 31 August 2026. This allows time to develop and procure a new Framework that addresses the identified challenges and ensures future arrangements are robust, strategic, and fit for purpose.

#### 4. Commissioning review and strategy

- 4.1 Robust financial and performance monitoring of placements within INMSS is providing increased insight into the use of this sector. As of 30 June 2025, and based on all known and agreed placements during 2025/26 financial year, KCC had placed 1,784 pupils in 110 INMSS services. These figures reflect the total number of children placed in INMSS at the time of the snapshot.

An overview of 'day provision'\* in INMSS contracted (DPS) and non-contracted (non-DPS) services is provided in the below table:

<i>* Excludes residential placements</i>	<b>DPS</b>	<b>Non-DPS</b>	<b>Total</b>
<b>No. of schools</b>	<b>22</b>	<b>88</b>	<b>110</b>
<i>Percentage of schools</i>	<i>20%</i>	<i>80%</i>	<i>100%</i>
<b>No. of Placements Sampled</b>	<b>1,094</b>	<b>690</b>	<b>1,784</b>
<i>Percentage of placements</i>	<i>61%</i>	<i>39%</i>	<i>100%</i>
<i>Average Annual Cost per pupil</i>	<i>£54,460</i>	<i>£58,656</i>	

- 4.2 The above table shows that whilst there are fewer DPS schools (22) compared to non-DPS (88), a greater proportion of pupils are placed in DPS schools (61%) versus non-DPS (39%). Data also indicates that, assuming a similar profile of child needs, DPS placements are more cost-effective with an average annual placement fee of £54,460 in DPS schools versus £58,656 in non-DPS. An average cost difference of £4,196 per placement per year.
- 4.3 Data on the needs of children shows that Autism Spectrum Disorder (ASD) (52%), Social, Emotional and Mental Health (SEMH) (30%), and Speech, Language and Communication Needs (SLCN) (12%) are the most prevalent primary needs in INMSS placements and highlights a clear opportunity to align the Special School Review with targeted improvements in local SEND services and support.
- 4.4 Secondary education accounts for the highest number of placements in both DPS and non-DPS INMSS schools, with peaks in Year 9 and Year 10 representing the highest placement volumes overall.
- 4.5 Currently there are no DPS Framework schools in Dartford, Folkestone and Hythe, Sevenoaks, and Tonbridge and Malling districts. The absence of DPS

schools in these districts means pupils requiring INMSS provision may need to travel to other districts for placement in a DPS school or attend non-DPS schools locally. The former scenario can lead to increased transport costs, longer journeys, and potential impacts on pupil wellbeing. It also raises concerns about equitable access to quality provision due to reliance on less efficient spot purchasing arrangements.

### **Commissioning intentions**

- 4.6 The Procurement Act 2023 sets out certain areas that must be considered in relation to procuring a new framework contract, which include:
- Wider public benefit – this will be addressed by integrating Social Value into pre-market engagement, award criteria, evaluation and contract management.
  - Reducing barriers for Small and Medium Enterprises (SMEs) and Voluntary, Community and Social Enterprise (VCSE) sectors – this will be addressed by removing barriers that prevent these organisations from participating in the procurement.
  - Conflict of interest – mandatory declarations and assessments are a core component of the procurement process maintaining transparency and integrity.
  - Pre-market engagement – this allows early engagement with the market to shape the procurement into one where the market can deliver and wants to participate.
  - Award criteria, evaluation methodology and Key Performance Indicators – in operating a fair and effective evaluation aligned with legislative and procurement policy objectives reflecting public benefit, environmental and social value, and be proportionate to encourage SME/VCSE participation and ensure effective contract performance mechanisms are in place.
- 4.7 It is proposed that the new INMSS Framework be established as an Open Framework under the Procurement Act 2023. This approach will enable KCC to drive system-wide improvements in the quality, cost-effectiveness, and transparency of placements for children and young people accessing INMSS services. The Options Appraisal, included as Appendix 1, outlines the procurement approaches considered with the Open Framework model (Option 3) within that appraisal as the recommended option.
- 4.8 The Framework is expected to be structured into two operational Lots, designed to reflect varying levels of provider quality and thereby support improved outcomes for children and young people. Specific details regarding this structure will be set out in the Contract Management Schedules, which will also define the Key Performance Indicators (KPIs) that schools will be required to report against. Consideration will be given into the merits of using the Framework as a Quality Mark, balanced with how we would communicate any sanctions or embargoes where quality slips below the required standards and improvement plans are in place.
- 4.9 The structuring of Lots is intended to balance the priorities of quality, flexibility, and placement sufficiency. It is designed to foster a sustainable and inclusive

provider market capable of meeting the diverse and evolving needs of children and young people across Kent by removing some of the barriers that have prevented providers from previously engaging.

- 4.10 It is proposed that the top Lot will comprise providers who achieve higher quality scores in their tender submissions. These providers will be treated as strategic partners and considered for block contracting arrangements, subject to negotiation, reflecting their capacity to deliver consistently high-quality provision. The second Lot will include providers who meet the minimum quality threshold, offering additional flexibility and capacity within the market.
- 4.11 A standard approach to performance monitoring will be established across both Lots, including the use of Key Performance Indicators (KPIs), market engagement events and contract monitoring and quality visits. The frequency and level of scrutiny applied will be proportionate to provider performance, and will be increased directly in response to areas of concern or evidence of underperformance.
- 4.12 A key benefit of the new Framework is the flexibility for KCC to award block contracts where Providers are assessed as offering better value. This approach will contribute to whole-system market development and be guided by demand forecasting and sufficiency planning, drawing on insights from Kent Analytics and the SEND Sufficiency Plan. While this is a feature of the current DPS, it was not enacted due to lack of clear and sufficient performance information.
- 4.13 Soft lotting will be applied, based on geographical boundaries. This provides flexibility for the contract to respond to any changes resulting from Local Government Reorganisation. Contracts awarded under this Framework will remain valid throughout any transition period, until either the natural expiry of the Framework, novation/assignment to any successor council, or termination in accordance with the contract terms, whichever occurs first.
- 4.14 The placement of children in INMSS is determined through established SEN processes, which are underpinned by statutory guidance and which remain unchanged regardless of the procurement route or type of contract selected. The new contract will act as a tool to support the placement of children in high quality, cost effective placements where the Council has assurances that appropriate quality provision and protocols are in place enabling placements to be made in schools capable of meeting children's needs, within a fiscally responsible framework.
- 4.15 It is proposed that the Open Framework will commence on 1 September 2026 and run for an initial period of four years, ending on 31 August 2030. The Authority may, subject to governance approval and written notice to the Providers, extend the Framework by one or more periods, up to a maximum of four additional years. If all extension periods are exercised, the Framework will conclude on 31 August 2034. Following the termination or expiry of the Framework, placements made under existing call-off contracts may continue beyond the expiry of the framework.

4.16 An indicative procurement timeline is:

<b>Activity</b>	<b>Indicative Timing</b>
Specification Development and stakeholder engagement	November 2025
Tender Period	December 2025 – January 2026
Evaluation Period	March 2026 – May 2026
Contract Award	June 2026
Mobilisation	July 2026
Framework Start	September 2026

4.17 The Framework will open initially for provider applications between December 2025 and January 2026. Thereafter, it will reopen at set intervals throughout the contract term to allow new providers to join or existing providers to reapply for a different quality Lot. Providers joining the Open Framework after 1 September 2026 will enter into the Agreement for the remaining duration of the Agreement Term only, subject to any future decisions taken to extend the Framework.

4.18 The Open Framework model offers a balanced approach between competition and control. It enables the periodic admission of new providers under consistent contractual terms. This model also mitigates risks associated with non-compliance and limited transparency found in alternative procurement options.

4.19 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.

4.20 The new Framework will redefine value for money by prioritising transparency in pupil fee structures over simple cost reduction. This approach ensures fees are aligned with EHCP outcomes, supporting effective placements and a more accountable use of public funds, in line with the SEND Code of Practice.

#### Market and Stakeholder engagement activities

4.21 As part of the strategy to inform the development of the new INMSS framework, a comprehensive programme of stakeholder engagement has been undertaken. This has included a whole-market engagement event with INMSS providers, a four-week survey distributed to all INMSS schools, and four focus group sessions with parents and carers of children currently placed in INMSS settings. In addition, two INMSS schools hosted in-person focus groups directly with pupils to capture their lived experiences. Engagement with KCC teams that place children and provide ongoing case management has also taken place.

4.22 Feedback from the Assessment, Placement and Tribunal Team with KCC highlights key challenges in placing children in INMSS settings, including limited school capacity, high costs, funding delays, and logistical barriers. Parental expectations, additional costs for therapies and 1:1 support, outdated assessments, and slow consultation responses also contribute to placement difficulties.

- 4.23 Feedback from the KCC SEN Case Management meeting highlights workforce capacity as a critical issue. As seen in Kent and across many local authorities nationally, high vacancy rates within SEN Placement Teams have historically contributed to delays in updating EHCPs, coordinating placements, and maintaining effective communication with families and providers. While the use of agency staff has helped mitigate some of these pressures, sustained recruitment and retention of permanent staff remain essential. Successful implementation of the new Framework Agreement will depend on a consistent and coordinated approach across Placement Teams to ensure timely and effective placement decisions.
- 4.24 Additionally, some specialist schools do not consistently deliver the level of support expected, particularly for pupils with complex needs, behavioural challenges, or a history of disrupted education. This highlights the need for stronger quality assurance and clearer contractual expectations within the commissioning framework adopted.
- 4.25 The INMSS School Survey was published on KCC Let's Talk Kent website. The sector feedback underscores the need for a child-centred, flexible approach supported by integrated multi-agency collaboration. Schools highlighted the importance of early and inclusive parental involvement within a diverse, quality-assured offer. Respondents also called for financial sustainability, improvements to EHCP processes, and greater innovation in practice and use of resources. The school survey feedback summary is included in Appendix 2. Two further sector workshops are planned for October and December 2025 to outline the procurement process, timelines, and provide early-stage market support.
- 4.26 Parents and carers in INMSS focus groups described specialist provision as transformative, praising small classes, tailored curriculum, and nurturing environments that support wellbeing and life skills. They also highlighted challenges navigating the SEN system, securing placements, and accessing funding. Calls were made for stronger collaboration between mainstream and specialist schools, more consistent local authority support, and a commissioning approach that values holistic outcomes, emphasising that "children thrive when they are understood and supported".
- 4.27 The young people who took part in the focus groups said that they want learning to be flexible and based on their interests, with fun activities and personalised timetables. They value safe, welcoming schools with small classes, quiet spaces, and outdoor areas. Emotional and mental health support is important, including access to mentors, movement breaks, and staff who understand trauma and neurodiversity. They want to be involved in decisions about their support plans (EHCPs) and have their voices heard. Good communication with trusted staff is key, and schools should listen to feedback. Support with attendance should include help with things like tiredness and stress. Practical help, like transport and real-life learning experiences, also makes a big difference, along with celebrating each student's progress and individuality.
- 4.28 Stakeholder feedback gathered through surveys, focus groups, and engagement with internal teams has directly informed the development of the

service specification. A dedicated section within the specification outlines key themes raised by parents, carers, young people, schools, and professionals. This feedback has shaped the commissioning approach by embedding principles of flexibility, transparency, and child-centred practice. Specific measures include clearer quality expectations, and a stronger focus on holistic outcomes aligned with EHCPs. Planned workshops and ongoing engagement will continue to support implementation and ensure the Framework remains responsive to stakeholder needs.

Focus group feedback from parents/carers and young people is included in Appendix 3.

## **5. Options considered and dismissed, and associated risk**

5.1 With consideration to the above feedback and to support market development, an Options Appraisal exploring available routes to the market has been completed. The options appraised is attached in Appendix 1.

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

5.2.1 Option 1: Do Nothing: Allowing the current DPS to lapse without replacement would eliminate procurement and contract management costs, and introduces significant risks. These include non-compliance with the Procurement Act 2023, reputational damage, diminished financial oversight, and inconsistent terms and conditions. The absence of a structured procurement route would also restrict access for new providers and likely lead to inefficient and fragmented spot purchasing arrangements.

5.2.2 Option 2: Directly Award contracts to providers based on an assessment of provider quality and cost: While direct awards may appear to offer a quicker route to market, managing multiple awards would place a significant strain on resources without delivering the anticipated benefits. It lacks transparency, limits market competition, and does not align with the Council's long-term strategic procurement objectives. The use of Direct Awards can only be justified in accordance with specific criteria, none of which are applicable in this situation.

5.2.3 Option 3: Procure a new Open Framework contract as detailed in this report. This is the preferred option and has not been discounted.

5.2.4 Option 4: Dynamic Markets: Despite its flexibility and continuous supplier access, this model was dismissed due to its operational complexity, uncertainty around compliance with Light Touch Regime modifications, and its failure to mitigate risks associated with the current contract model. It also lacks a mechanism for awarding below-threshold contracts and offers limited assurance that quality improvements will be effectively embedded.

5.2.5 Option 5 (previously discounted): Extend the existing DPS Framework using its allowable extensions up until to 2028. This option was

considered and dismissed during the NMISS DPS contract extension process and remains so. The original NMISS DPS contract was awarded under the Public Contracts Regulations 2015 (PCR), and no longer aligns with current commissioning requirements.

## **6. Financial Implications**

- 6.1 The total net spend on INMSS placements for 2024/25 was £88.8m (prior to income from health and social care and specific grants and excluding specialist post 16 providers), which is expected to be fully funded from the High Needs Block of the ring-fenced Dedicated Schools Grant provided by the DfE. Of this, £46.9m was spent on providers within the existing Dynamic Purchasing System (DPS).
- 6.2 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. Section 4.2 of the report sets out the latest snapshot of placement costs based on agreed placements in 2025/26. This shows 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.
- 6.3 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.
- 6.4 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.
- 6.5 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.
- 6.6 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 including state-funded special school uplifts and affordability along with providers evidencing reasonable financial pressures that cannot be mitigated by efficiencies (administered through the price uplift process)
- 6.7 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.

- 6.8 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.
- 6.9 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.
- 6.10 The proposed recommendation is not expected to require additional staffing resources and will be delivered within existing capacity.

#### Block Contract Opportunities:

- 6.11 The new INMSS Framework presents a significant opportunity to explore block contract arrangements with selected providers. This approach offers a proactive way to manage both cost and sufficiency challenges, and has the potential to deliver substantial benefits:
- By agreeing fixed volumes and prices with providers, block contracts can offer greater budget predictability and reduce exposure to ad hoc fee increases.
  - Negotiated block arrangements can secure preferential rates, particularly where providers are able to guarantee capacity over a sustained period.
  - Block contracts can be aligned with the Kent Commissioning Plan, helping to shape the market and ensure availability of placements where they are most needed.
  - Long-term agreements foster collaboration and stability, enabling providers to plan staffing and resources more effectively.
  - While block contracts offer structure, they can be designed with flexibility to respond to changing needs and priorities.
- 6.12 Under the Framework, block contracts will be subject to individual negotiation, with terms tailored to provider capacity, quality of provision, and alignment with strategic commissioning goals. This model is expected to play a key role in delivering sustainable placements and maximising the impact of the Council's investment in this area, by managing costs and delivering good outcomes for children and young people placed there.
- 6.13 This proposal is intended to support the Council's aim to reduce the overspend on the Dedicated Schools Grant: High Needs Block (used to fund special educational needs). The Council is currently overspending on its High Needs Block by approximately £55m-£60m per year of which the use of more costly specialist provision such as independent special schools, has been highlighted as a key contributing factor to this position. Whilst there is no direct revenue cost of this proposal to the General Fund, the Council is part of the Safety Valve Programme, a DfE initiative to support Local Authorities with the highest deficits, of which the Council has agreed to contribute a total of £82m between 2022/23 and 2027/28 to help reduce the accumulated deficit, alongside an extra £140m from DfE. The DfE funding is contingent on the development of plan to achieve value for money within the existing SEN regulatory framework and to

aim to reach an in-year breakeven position by the end of 2027/28. Ensuring value for money for our most costly education placement offer is a necessity to support the financial recovery plan.

## **7. Legal implications**

7.1 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)<sup>7</sup>: 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)<sup>8</sup>: Requires KCC to secure the special educational provision in a child's Education, Health and Care Plan (EHCP), including placements in NMIS where appropriate.
- SEND Code of Practice (2015)<sup>9</sup>: Provides statutory guidance on working with families and providers to ensure suitable, high-quality placements. SEND and Alternative provision (AP) Improvement Plan<sup>10</sup>(White Paper, expected Spring 2026): Is likely to introduce national standards for commissioning, regional frameworks, and stronger accountability for SEND outcomes.

7.2 The procurement of a new Open Framework, undertaken in compliance with the Procurement Act 2023 <sup>11</sup> and with appropriate external legal advice Brittan, will facilitate the discharge of KCC's statutory duties as outlined above.

## **8. Equalities implications**

8.1 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.

## **9. Data Protection Implications**

9.1 The Data Protection Impact Assessment (DPIA) for the commissioning of 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 Framework Agreement will also include appropriate data protection provisions. The DPIA has been

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<sup>7</sup> [Education Act 1996](#)

<sup>8</sup> <https://www.legislation.gov.uk/ukpga/2014/6/section/42>

<sup>9</sup> [SEND Code of Practice January 2015.pdf](#)

<sup>10</sup> [SEND and AP Improvement Plan](#)

<sup>11</sup> [Procurement Act 2023](#)

reviewed and approved by the Corporate Director for Children, Young People and Education.

## 9.2 Other corporate implications

This report outlines how the proposed procurement aligns with the priorities detailed in the following strategic documents:

- Reforming Kent 2025 to 2028 (in draft at the point of publication of this report)
- Kent's Strategy for the Future of Education in Kent 2025 to 2030<sup>12</sup>
- KCC's SEND Strategy<sup>13</sup>
- Implementation of the review of KCC Maintained Special Schools<sup>14</sup>

## 10. Governance

10.1 Accountability for this service and contract sits with the Corporate Director for Children, Young People and Education and responsibility sits with the Director for Education and SEN.

## 11. Conclusions

11.1 The procurement of a new zero guaranteed spend, multiple provider, INMSS contract secured through an Open Framework, will enable KCC to drive system-wide improvements in quality, cost-effectiveness, and transparency in placing children and young people in INMSS services. This approach will strengthen the Council's relationship with the market, support better outcomes and be compliant with the Procurement Act 2023 and Spending the Council's Money.

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### Recommendation(s):

That the Cabinet Member for Education and Skills consider the following proposal:

- A) 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.
- B) DELEGATE authority to the Corporate Director of Children, Young People and Education, to take relevant actions, including but not limited to awarding, negotiating and finalising the terms of, and entering into required framework agreements and call off contracts, extensions or other legal agreements, as required to implement the decision, in consultation with the Cabinet Member for Education and Skills.

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## 10. Background Documents

- *Equality Impact Assessment*

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<sup>12</sup> [A Strategy for the Future of Education in Kent 2025-2030 | Let's talk Kent](#)

<sup>13</sup> [Kent SEND Strategy 2025-2028 | Let's talk Kent](#)

<sup>14</sup> [Report - Proposals for the Review of Maintained Special Schools 2024](#)

- *Data Protection Impact Assessment*

## 11. Appendices

Appendix 1 – Options Appraisal summary

Appendix 2 – School Survey feedback summary

Appendix 3 – Focus Group feedback from parents/carers and young people

## 12. Contact details

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