

KENT COUNTY COUNCIL – PROPOSED RECORD OF DECISION

DECISION TO BE TAKEN BY:

Beverley Fordham, Cabinet Member for Education
and Skills

DECISION NUMBER:

26/00014

Executive Decision – key

26/00014 – Implementation of agreements in relation to the delivery of Specialist Resource Provisions (SRPs), Special Post-16 Institutions (SPIs) and Pupil Referral Units (PRUs)

Decision:

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

APPROVE the implementation of agreements in relation to the delivery of Specialist Resource Provisions (SRPs), Specialist Post-16 Institutions (SPIs) and Pupil Referral Units (PRUs).

DELEGATE authority to the Corporate Director for Children, Young People and Education to take other 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.

DELEGATE authority to the Corporate Director for Children, Young People and Education to act as the Local Authority Representative within the relevant agreements and to agree any non-substantive variations permitted under the contracts and SLAs, provided such variations do not require further governance.

Reasons for decision:

Current Service Level Agreements and contracts between Kent County Council (KCC) and mainstream maintained and academy trusts related to the provision of Specialist Resource Provisions (SRPs) in Kent are due to end 31 August 2026. Agreements between KCC and providers of Specialist Post-16 Institutions (SPIs) and KCC and providers of Pupil Referral Units (PRUs) have expired.

SRPs and SPIs provide education support to children and young people with an Education and Health Care Plan for whom mainstream school, not special school placements are appropriate in meeting needs. They form a core part of the education

continuum in Kent and support the avoidance of placing children and young people in costly independent and non-maintained special schools.

PRUs provide education to children and young people who are at risk of or have been permanently excluded from their usual school or who are unable to attend their usual school due to health needs.

KCC is required to have legally binding agreements in place that outline expectations in relation to the delivery of these provisions.

Given that the current agreements for SRPs will end 31 August 2026, with no scope to extend, a Key Decision is required to enter into new agreements.

Comparable agreements are required for both SPIs and PRUs, both of which have agreements that have expired and that require revising to reflect updates to national and local legislation and policy.

Placements are made at each of these provisions through statutory processes, and funding is allocated through local and national formula. Therefore the agreements required focus on quality standards and service expectation, especially in relation to outcomes for children and young people.

Financial implications:

The Council meets the cost of SRPs, SPI's and PRUs through paying a pre-agreed rate per place, agreed by the Council in accordance with the prevailing Department for Education High Needs Funding Guidance. The 2025-26 forecast revenue cost for SRPs is £25m, £16m for SPIs and £16.2m for PRUs. The PRU funding comprises of £9m paid directly to PRUs and £7.2m funding for out of county health provision and devolved funding passed directly to schools. This is funded from the High Needs Block of the Dedicated Schools Grant, a specific ring-fenced revenue grant from the Department for Education.

The Kent Commissioning Plan for Education (KCP) 2026-30 outlines how the Council will meet its statutory duty to ensure sufficient school places are available. The KCP is a five-year rolling plan which is updated and subject to a Key Decision annually.

The plan sets out how KCC will ensure there are sufficient high quality places in the right locations for all learners and provides an overarching framework for determining when and where education may be needed in the future. This includes the commissioning of SRPs across the county. [Decision - 25/00099 - Commissioning Plan for Education Provision in Kent 2026-30](#)

Consequently, the financial implications related to the provision of SRPs have been identified and agreed as part of Decision 25/00099 and this decision relates solely to securing best value through the implementation of an agreement between the Council and mainstream schools delivering this provision ensuring effectiveness.

Legal implications:

- Kent County Council (KCC) has a statutory responsibility under Section 13 of the Education Act 1996 to provide suitable education for all children and young people until age 19 and for those with Education and Health Care (EHC) Plans to 25.
- Similarly, under Section 19 of the same Act KCC has a duty to arrange suitable education for children of compulsory schools age who may not receive it due to illness or exclusion.
- Under Children and Families Act 2014 KCC has a duty 'to support the child and his or her parent, or the young person, in order to facilitate the development of the child or young person and to help him or her achieve the best possible educational and other outcomes'.
- Under section 27 of the Children and Families Act 2014 ("the 2014 Act"), KCC is under a duty to keep under review the educational provision, training provision and social care provision made in its area (and outside it) for children and young people who have special educational needs or a disability. KCC must consider the extent to which its provision is sufficient to meet the educational needs, training needs and social care needs of the children and young people concerned.
- The SEND Code of Practice (2015) places requirements on Local Authorities to provide access to advice from a suitably qualified person as part of the EHCP process and make appropriate provision for those with an EHC plan in the 0-25 range.
- DfE Arranging Alternative Provision Guidance (2025)
- Post-16 Education and Skills White Paper (2025).
- Schools White Paper (2026): pending

All individual proposals to either establish new, expand current or cease current provision will be required to go through the statutory process under the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013, Making Significant Changes to Maintained Schools (statutory guidance August 2025) and Making Significant Changes to an Academy (non-statutory guidance on collaborative school place planning, August 2025).

Regarding public procurement regulations, the key consideration is whether these arrangements involve 'pecuniary interest' (making them public contracts subject to the Procurement Act 2023) or whether they are purely the discharge of statutory obligations using statutory funding (meaning that no procurement applies).

In relation to SRP's, the payments comprise only the statutory funding which follows the relevant service user (made up of three elements) and the only providers of these services to KCC are maintained schools and academies (i.e. organisations who receive all of their funding from the Council or directly from Department of Education). In the light of this there is no 'pecuniary interest' in the arrangements for SRPs and therefore the Procurement Act 2023 does not apply and no procurement is required.

In relation to SPI's, there is a need to assess on a case-by-case basis. Where the payments comprise only the statutory funding which follows the relevant service user (made up of three elements) and where the providers of these services are

maintained schools or Academies, the position is the same as for SRPs. However if the SPIs are provided by independent operators then it may be an arrangement for pecuniary interest and the Procurement Act may apply. In these situations placements should be considered on a case-by-case basis and consideration of whether a 'User Choice direct award' would be applicable for individual placements.

In relation to PRU's, these are delivered by maintained schools and two Academy Trusts which operate on a not-for-profit basis. The resulting placements are not subject to the Procurement Act 2023 because these are not public contracts for services for a 'pecuniary interest.' Should PRU's be delivered through independent providers, then KCC will need to consider the estimated value of the contract to determine whether it falls below the financial threshold that would require a procurement process.

Equalities implications:

An Equalities Impact Assessment has been completed. This decision relates to implementing legally binding agreements, rather than altering service provision, therefore no negative impacts have been identified.

Data Protection implications:

A Data Protection Impact Assessment screening has been completed and confirmed that a Data Protection Impact Assessment is not required in relation to this decision.

Cabinet Committee recommendations and other consultation:

The proposed decision will be considered by the Children, Young People and Education Cabinet Committee on 17 March 2026.

Committee Feedback:

Any alternatives considered and rejected:

Options considered and discounted:

- 1) Extend existing agreements (SRPs only). This option was discounted as there are no extension clauses within the current agreements to allow for this.
- 2) Reinstate expired agreements (SPIs and PRUs only). This option was discounted because former agreements are outdated and no longer fit for purpose.
- 3) Not implementing an agreement (all). This option was discounted because of the need to document and enforce the terms in a written agreement

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