

# KENT COUNTY COUNCIL – RECORD OF DECISION

**DECISION TAKEN BY:**

**Shellina Prendergast**

**Cabinet Member for Education and Skills**

**DECISION NO:**

**21/00052**

**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**

SEND Tuition

**Decision:**

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

A) Increase the capacity within The Education Programme to fulfil the SEND (Special Educational Needs and Disabilities) Service's responsibilities to provide education provision for children and young people (CYP) with Education, Health and Care Plans (EHC Plans) who are not attending school; and

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:****1. Decision**

1.1 This decision is required because the total value of the SLA will exceed the threshold for a Key Decision.

1.2 The proposed decision is to increase the capacity within The Education Programme to fulfil the SEND Service's responsibilities for tuition through a Service Level Agreement (SLA).

**2. Background**

2.1 SEND requires tuition to meet a child's EHC Plan's education provision short-term whilst a long-

term placement is sought, most often due to a delay in finding a special school place.

2.2 There are two distinct types of tuition arrangement utilised by Kent County Council (KCC):

2.3 an internal provision provided by The Education Programme within Fair Access, Education; and

- spot purchased placements with external tuition companies.
- The provision provided by these two types of tuition is inconsistent. Due to capacity issues The Education Programme offers an average of 5 hours per week, whilst external companies are commissioned for 10 hours per week.

2.4 Currently SEN consult with The Education Programme before referring to the external market. There is not a Service Level Agreement (SLA) in place between SEN and Education to describe the service to be delivered; quantities, quality and Key Performance Indicators (KPIs).

### 3. Options Appraisal

- 1 Do nothing
- 2 Continue using The Education Programme at current levels and formalise external provider arrangements
- 3 **Preferred Option** - Increase The Education Programme capacity to support all standard tuition requirements and formalise the arrangement with an SLA

3.2 Option 3, to increase The Education Programme's capacity to support all standard tuition requirements and formalise the arrangement with an SLA, is the preferred option as it offers best value for these types of placements whilst supporting good outcomes for CYP with EHC Plans.

3.3 The increase will include ensuring all students are offered suitable hours per week in a consistent manner to fulfil KCC's statutory duty to provide an appropriate timetable and ensure equity across placements.

3.4 The proposed decision will contribute to the outcome "Children and young people in Kent get the best start in life" by ensuring consistent, high-quality, and best value standard tuition for CYP with EHC Plans requiring temporary education.

3.5 The risks involved with not taking this decision include:

- i. continued non-compliant spend (PCR 2015); and
- ii. inconsistent provision and outcomes for CYP with EHC Plans.

### 4. Strategic Plan

.1 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

## 5. Financial Implications

5.1 Enhancing The Education Programme current service offer from 5 to 9 hours contact time per week, combined with increasing capacity (additional 100 pupils), as recommended in Option 3 above, would cost an additional £1,040,000 – see Error! Reference source not found. for breakdown. The increase in hours would ensure all students are offered suitable hours per week in a consistent manner to fulfil KCC's statutory duty to provide an appropriate timetable and ensure equity across placements.

5.2 If compared on a full year costed basis, the new internal provision will cost £18,300 per student whilst external standard placements cost £18,800+VAT per student. Therefore, funding an enhanced internal service for tuition would represent better value for money than continuing with the current arrangement.

5.3 The increase in costs is anticipated to be funded from a saving in the use of external providers for standard tuition. In the 2019-20 financial year, a total of £711,086 was spent on the purchase of 90 equivalent standard placements.

5.4 The remaining £330,000 proposed cost increase will be funded from future increases in the High Needs block of the Dedicated Schools Grant. It is recognised this will add additional pressure to this budget however this additional funding will enable the of The Education Programme to increase its offer to be more in line with our current externally commissioned offer, to ensure all tuition placements are equitable and to discharge our statutory duty of an appropriate timetable. The overall cost of the service will still be less than if the equivalent service was commissioned externally.

5.5 Formalising the relationship between the SEND Service and The Education Programme with an SLA will ensure equitable placements for students and allow wider services to be joined up to provide a package of support for young people awaiting their next placement.

5.6 All tuition provided either in-house (by The Education Programme) or externally is funded through the High Needs block of the Dedicated Schools Grant. The total cost to the SEND Service to support the new SLA per financial year is estimated to be £1,250,000 (final figure may vary slightly when SLA is confirmed).

5.7 Quarterly and annual reviews will enable longer term capacity, or changes to the core offer to be scoped and understood, including any financial impact.

## 6 Legal Implications

6.1 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 EHCPs.

6.2 S.19 of the Education Act 1996 states the Council must ensure suitable education is provided for CYP unable to attend school, typically full-time (25 hours) unless a physical or mental health need requires a reduction.

6.3 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.

7 Equalities implications

7.1 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 considered the decision on 30<sup>th</sup> June 2021. <http://kcc-app610:9070/ieListDocuments.aspx?MId=8525&x=1&>

The Education Programme regularly consults with parents/carers and students and the results are positive, in 2019-20 86% of parents/carers felt good progress was made during tuition. Under the proposed option, this will continue as part of the quality monitoring of the SLA.

**Any alternatives considered and rejected:**

- Option 1, to do nothing, was discounted because the spend is non-compliant with the Public Contract Regulations (PCR) 2015 and the provision is inconsistent for students with EHCPs.
- Option 2, to continue using The Education Programme at current levels and formalise external provider arrangements, was discounted as it did not represent best value.

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

None



16<sup>th</sup> July 2021

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signed

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date