

Consideration to establish an Alternative Provision Free School

Meeting	Cabinet
Date	10th February 2026
Cabinet Member (if applicable)	Cllr Jane Rylah Cllr Viv Kendrick Cllr Graham Turner
Key Decision Eligible for Call In	Yes Yes
<p>Purpose of Report</p> <p>The SEND Big Plan sets out our strategy to improve our local provision for children, young people and families with additional needs. As part of this strategy, we need to secure sufficient local Alternative Provision (AP) to meet the needs of our children and young people now and in the future.</p> <p>An application was made to the DfE in 2022 to establish an Alternative Provision Free School in partnership with a Multi Academy Trust.</p> <p>An Alternative Provision Free School is a state-funded, academy-status school that delivers specialist Alternative Provision for pupils who cannot attend mainstream or special schools. It provides full-time suitable education for excluded pupils or those unable to access school for behavioural, medical, or other reasons and must meet strict quality, safeguarding, and partnership requirements set by the government.</p> <p>Following recent communication from the DfE, we were informed we have been successful in this application. This report will present the two options that the DFE have made available to the Local Authority in relation to securing government funded Alternative Provision and requires a decision in relation to those options.</p>	
<p>Recommendations</p> <p>It is recommended to Cabinet that a decision is taken to;</p> <ul style="list-style-type: none"> • Confirm with the Department for Education that Kirklees should progress with the establishment of a 125 place Alternative Provision Free School. • Give delegated authority to the Executive Director for Children and Families and the Portfolio Holder for Education to work with the Department for Education and the appointed Multi Academy Trust, Delta, to take forward the project. <p>Reasons for Recommendations</p> <ul style="list-style-type: none"> • We have set out as part of our sufficiency assessment the need for increased Alternative Provision places. The number of places that was included in the original application made 	

to the Department for Education to serve children and young people locally in Kirklees continue to be required.

- The proposed school enables us to secure excellent teaching and learning opportunities and a personalised learning programme for learners led by Delta Multi Academy Trust who have experience in leading Alternative Provision Free Schools. The aim is to provide learners with a rigorous and high-quality alternative to a mainstream curriculum including:
 - Offering Children and Young People who have previously not thrived in the mainstream system a creative and engaging opportunity to re-join the world of education.
 - Supporting and raising the aspiration, attainment and achievement of learners to ensure that they achieve at the highest level possible
 - Supporting learners to successfully transition to their next phase of education and training with the provision of good quality tailored careers guidance, support and work experience.
 - Putting place a specialist ‘task force’ multi agency team to work with learners and their families.
- Securing 125 Alternative Provision Free School places in state funded provision represents value for money and contributes to greater ongoing sustainability in terms of High Needs expenditure, as the cost per place is on average £12,000 less than a commissioned independent place. In addition, with state funded places, we are able to draw down £10,000 per place into our High Needs Block. Whilst the Capital Funding alternative would mean that we could invest into alternative sufficiency solutions, this would mean we would still be reliant upon a strategy whereby all Alternative Provision needs, including those that fulfil Local Authority statutory duties would need to be commissioned, without any guarantee that some or all of those would be state funded.

Resource Implication:

To enable the establishment of the Free School will require us to work in partnership with the appointed Multi Academy Trust who are responsible for leading the project, and will require officer time from across the council including finance, legal, corporate landlord and the learning and inclusion service.

Securing a suitable site and building for the Free School would form part of the project with the DfE and, once agreed there may need to be some Capital investment to enable the school to be established.

At this stage it is not anticipated that this would be a new school build, and, it is likely that some modest capital investment may be required. This would require further exploration with the DfE as to from where any capital costs would be funded. All LAs are to receive additional capital funding for High Needs, and, this could be therefore considered as a funding source. Further information is anticipated in the spring about the amount of funding Kirklees will secure.

The work would be undertaken as a project as part of the SEND Transformation programme. There may be one off revenue set up costs required which would be met from the school reorganisation budget from the Dedicated Schools Grant.

Date signed off by Executive Director & name

Tom Brailsford – Executive Director Children and Families
29/01/2026

<p>Is it also signed off by the Service Director for Finance?</p>	<p>Kevin Mulvaney – Service Director Finance 29/01/2026</p>
<p>Is it also signed off by the Service Director for Legal Governance and Commissioning (Monitoring Officer)?</p>	<p>Samantha Lawton – Service Director for Legal, Governance and Commissioning 29/01/2026</p>

Electoral wards affected: All Wards

Ward members consulted: N/A

Public or private: Public

Has GDPR been considered? Yes, no individual data is included in this report.

1. Executive Summary

Improving the outcomes for our children with special educational and additional needs is at the heart of our agreed ‘Inclusive Ambitions’ (see Appendix 1) to tackle key inequality issues in Kirklees and are detailed in our SEND ‘Big Plan’.

By investing in and working with our children and young people and their families at the earliest opportunity, this will support us to help them in achieving their best possible outcomes, which are:

- All our children and young people to have the best start in life
- Our children and young people to be proud to come from Kirklees
- Our children and young people with Special Educational Needs and Disabilities (SEND) to live and be educated in Kirklees
- Our children and young people with Special Educational Needs and Disabilities to make good educational progress, have high aspirations and good life opportunities.

Kirklees has a comprehensive SEND Strategy – The Big Plan, and a programme of transformation to deliver on that strategy. The Big Plan has, at its core, a sufficiency strategy, ‘enough of the right stuff’ - which focuses on enabling more children and young people to secure places and thrive in local educational settings.

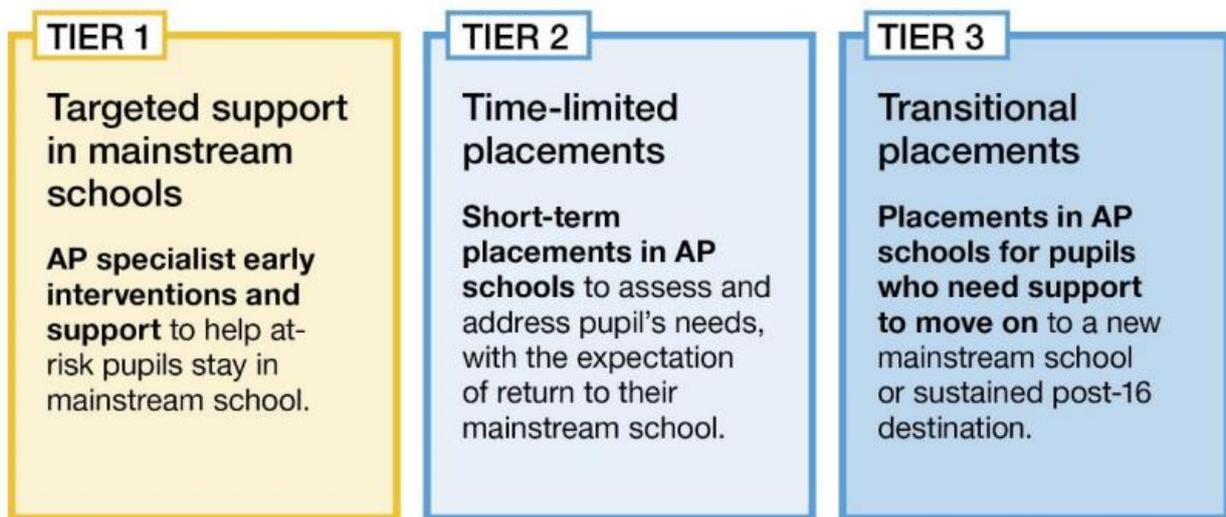
Like many other authorities, over recent years Kirklees Council has seen rising numbers of children with SEND who need additional support. This has had an impact on the sufficiency of Alternative Provision places in Kirklees.

As part of our wider transformation plans, securing sufficient and suitable places for our learners is a key element to enable us to address this. An independent review into Alternative Provision in Kirklees was commissioned in 2020-21 and the key recommendations were incorporated into a cabinet report in 2022 that approved the proposed approach to refresh and expand the Alternative Provision offer across Kirklees. Thereafter a commissioning exercise took place and between April and June 2023 new contracts were awarded. With clearly defined contracts for a range of provision that includes the statutory duties for;

- Day 6 provision which is the education that must be provided for a child or young person who has been permanently excluded from school. By law, this education must start by the sixth school day after the exclusion.
- Fulfilling the responsibility to make sure that children who cannot attend school because of medical reasons are still receive a suitable education.

High Quality Alternative Provision and enabling good outcomes for children and their families underpins our strategy to secure a sufficient breadth of the right places, with the right support at the right time to meet need. As part of our review, we have had reference to DfE Guidance which outlined a 3-tier model for AP and has underpinned our strategy;

A three-tier model for alternative provision



In addition, we were beginning to understand the impact and opportunities of establishing 'Alternative Provision specialist taskforces' that were being piloted. This tested the impact of co-locating in Alternative Provision schools, specialist workers from across health, education, social care, youth services and youth justice. Co-locating this workforce full-time in Alternative Provision should remove the need for referrals to outside services and provide opportunities for practitioners to build trusted relationships with pupils.

For these reasons, when the DfE had opened up an opportunity for Multi Academy Trusts (MATs) and Local Authorities to work in partnership to apply to establish new Alternative Provision Free Schools, there was support to explore this further as was outlined in the Cabinet Report of 2022.

At that time, there were two partner Multi Academy Trusts that submitted an Expression of Interest to the DfE to open a Free School in Kirklees.

Both applications progressed to interview stage in Summer 2023. Decisions about approved Free Schools were delayed beyond the original Autumn 2023 expectation, but, on March 6th 2024, the DfE announced that one of the applications, the joint proposal with Delta Academy Trust had been successful. Delta Academy Trust were one of the partners that had tested the AP specialist task force approach with positive impact.

Since that time, all Free School projects were paused. This was because there was a change of national government and a national review of school capital projects. This meant that the partnership was unable to progress to delivery of establishing the Free School.

In December 2025, the DfE contacted Kirklees Council and put forward 2 options that are available to us. The two options that the Department for Education has made available to Kirklees Council are;

- A. Progress with the establishment of a 125 place Alternative Provision Free School (serving Key Stages 2 - 4) with the appointed Multi Academy Trust, or,
- B. Accept a total capital allocation of £5,875,000 (paid over 3 financial years), as an alternative to enable the Council to secure the places that are needed locally using a different approach.

It is recommended that the option to establish the Free School is agreed.

2. Information required to take a decision

Department for Education guidance states that 'All children, regardless of circumstance or setting, should expect to receive a good education. Commissioners responsible for arranging alternative provision should ensure that it is good quality, registered where appropriate, and delivered by high quality staff with suitable training, experience and safeguarding checks', and that Local authorities are responsible for ensuring that the provision is place that is required to meet current and forecast needs.

The Department for Education defines Alternative Provision (AP) as:

'Alternative Provision (AP) refers to suitable full-time education that is arranged for a pupil from the sixth school day (or earlier) of a suspension or the sixth school day (or earlier) after the first day of a permanent exclusion.

In other circumstances, AP may refer to education arranged for pupils who are unable to attend mainstream or special school and who are not educated at home, whether for behavioural, health, or other reasons. AP includes Pupil Referral Units (PRUs), AP academies and free schools, and hospital schools, as well as a variety of independent, registered, unregistered and further education settings.

Arranging Alternative Provision - February 2025

The LA commissioned an external review of Alternative Provision (AP) in 2020/21. Following the recommendations a refreshed approach was proposed to be procured/commissioned.

The detail is outlined in the report that went to Kirklees Council Cabinet in December 2022.
[Alternative Provision - Cabinet Report - Dec 22 - final.pdf \(kirklees.gov.uk\)](#)

To make sure there was a comprehensive approach to a sufficient AP offer for all key stages (including Day 6 and Medical provision which are Local Authority statutory duties) and there was best value for the High Needs block the LA tendered for 8 'lots', and since that time, we have been able to work with new providers as a result of the commissioning approach as well as existing providers in the local area.

The quality of providers has meant that this strengthened the pathways of support available for children locally and has allowed for more children to be successful in Kirklees by securing high quality and sufficient Alternative Provision to meet the needs of our children and young people. Together with a range of supporting projects featured within the SEND Transformation Plan, AP is a fundamental element of Kirklees' strategy to improve outcomes for children, parents and carers.

Once in place, in September 2024, we introduced our Inclusion Multi Agency Panel that enables access to support, advice and Kirklees commissioned provision. The purpose of the Kirklees Inclusion Multi Agency Panel is to meet the short-term, bespoke learning needs of Children and Young People who may be supported with access to LA commissioned Alternative Provision (AP) or those with Medical Needs. To do this, the panel considers evidence submitted by schools using a triage process. Members of the panel work to the terms of reference to enable collaborative outcomes that focus on support for young people.

Provision allocated by the Inclusion Multi Agency Panel is expected to be a short to medium-term intervention, with the aim for learners to be able to be fully re-integrated back into mainstream. This approach fits with the Department for Education's 3 tier model shown above and referrals into Inclusions Multi Agency Panel have been significant with 322 referrals made in the Autumn term of this academic year.

We undertook a review of what provision the LA commissions in September 2025, and, sought feedback from school leaders, this informed a market development day that took place in November 2025, so we can continue to explore additional and different opportunities for our learners. Our internal data sets including Inclusion Multi Agency Panel referral data tells us there is a growing need for time limited provision for our children. In addition, data shows there is a growing need in Key stage 1 and 2 with sooner intervention and diagnosis of possible unmet need. There has been a significant increase in the numbers of pupils who are attending Alternative Provision who have a complex level of need and have an EHCP which has led to increased challenges around sufficiency.

As we were embarking on the process for securing our refreshed AP offer in 2022, the DfE opened up an opportunity for Multi Academy Trusts (MATs) and Local Authorities to work in partnership to apply to establish new Alternative Provision Free Schools. The detail is outlined in published government guidance. The guidance sets an expectation that a partnership between, and shared commitment by, the LA and provider is required at all stages.

There were 2 partner MATs that approached us and it was agreed that they both submit an Expression of Interest to open a Free School in Kirklees, however we anticipated that, should we be successful, plans would progress with only one AP Free School.

AP free school places would attract some direct revenue funding (£10k per place), enabling a potential opportunity for significant cost saving. This is also relevant because where we commission AP from providers that are independent, the total cost is funded from the Dedicated Schools Grant (DSG) as we are unable to draw down the place funding.

The original timeframes were:

- Pre-application form completed between 19/9/22 and 24/10/22
- Full Application submitted by 17/02/23.
- Interviews - May 2023.
- Successful applications announced Autumn 23

Both applications progressed to interview stage in Summer 2023. Decisions about approved Free Schools were delayed beyond the original Autumn 2023 expectation, but, on March 6th 2024, the DfE announced that the joint proposal with Delta Academy Trust had been successful.

Since that time, all Free School projects nationally were paused, so the partnership was unable to progress to delivery of establishing the Free School and we have awaited further announcements whilst the new government reviewed all school capital projects.

In December 2025, the DfE contacted Kirklees Council in relation to the Alternative Provision Free School and made us aware that there are two options open to Kirklees Council;

- A. Progress with the establishment of a 125 place Alternative Provision Free School (serving Key Stages 2 - 4) with the appointed Multi Academy Trust, or,
- B. Accept a total capital allocation of £5,875,000 (paid over 3 financial years), as an alternative to enable the Council to secure the places that are needed locally using a different approach.

Option	Opportunities	Challenges
<p>A. AP Free School</p>	<ul style="list-style-type: none"> • Direct DSG place-funding (£10k per place) reduces long-term High Needs Block pressure. • Access to potential DfE capital investment for premises. • Creates sustained, high-quality local AP capacity (KS2–4). • Reduces reliance on external/independent AP placements. • Strong alignment with SEND Transformation Plan and inclusion strategy. • Supports long-term financial sustainability. 	<ul style="list-style-type: none"> • Must meet DfE conditions, including securing a compliant site. • Potential longer implementation period, with phased pupil intake. • Requires sustained partnership governance with the MAT.
<p>B. Capital Allocation (£5.875m)</p>	<ul style="list-style-type: none"> • Immediate capital injection to expand or reconfigure provision. • Offers greater local flexibility in design and delivery. • Can enhance existing provision without structural change. 	<ul style="list-style-type: none"> • No DSG place-funding, meaning long-term costs remain fully with the Council. • Does not create the scale or stability of a free school. • Risks ongoing AP insufficiency and reliance on costly external placements. • Does not reduce High Needs Block pressure.

Taking into account the above, it is recommended that the option to establish the Free School is agreed in order that we may secure high quality sufficient places, now and to meet longer term need from a state funded provider.

Delta Multi Academy Trust were successful in securing the contract from January 2024 to provide our 'Day 6' offer for Key stage 2, 3 and 4 excluded pupils. At the present time, the provision is delivered from The Elland Academy, which is located just across the Kirklees border in Leeds. From our quality assurance and contract monitoring a strong working partnership has developed and our learners are receiving a very good education offer. The opportunity to secure more places, and have those located in Kirklees means that places will be more accessible to more pupils and with less travel time. In the original application Delta outlined 'Delta places pupils at the heart of the learning process providing a safe and secure learning environment where every young person can achieve their potential. We recognise that for some pupils, learning poses more challenges than for others, and we work collaboratively to put in place the support necessary to successfully overcome these challenges.'

3. Implications for the Council

3.1 Council Plan

One of the cornerstones of our SEND Big Plan is building provision within Kirklees to ensure there is sufficient capacity locally to meet need wherever possible. We recognise that some children may need to receive support outside of Kirklees, but we want to ensure that is kept to a minimum through better integration of provision and support across partners and Alternative Provision forms an essential part of our graduated approach of provision for Children with SEND, and those who require an alternative curriculum, across Kirklees. We are passionate about ensuring services are accessible to our Children and Young People and their families and plan to move towards a place-based approach of joined up working with services across Education, Health and Care.

3.2 Financial Implications

There are positives for both of the options that the Department for Education has asked us to consider.

Whilst the capital funding would be well received by Kirklees Council, it would not be allowable to utilise that investment to establish an Alternative Provision Free School. Whilst the capital could be invested in other sufficiency projects, it would not enable us to secure the Alternative Provision places that would meet our assessed need, nor would it support the ongoing revenue efficiencies we could realise to the High Needs Block.

The AP Free School option would allow for savings against the High Needs Block expenditure of approximately £1.9m per annum. This is based on the fact that Place funding of £10K per place would not need to be paid for the first 3 years after opening providing a saving of £1.25m (£10k x 125 places). Additionally, savings would be made from being able to review current AP contracts with a view to reducing or de-commissioning contracts as the new AP Free School would accommodate this offer.

3.3 Legal Implications

The Education Act 1996 requires that the local authority shall (so far as their powers enable them to do so) contribute towards the spiritual, moral, mental and physical development of the community by securing that efficient primary education, and secondary education are available to meet the needs of the population of their area.

Section 19 of the Education Act 1996. states that local authorities must arrange suitable and (normally) full-time education for children of compulsory school age who, because of exclusion, illness or other reasons, would not receive suitable education without such provision being arranged. The availability of additional AP places in the Council's area will support compliance with this duty.

3.4 Climate Change and Air Quality

The aspiration for our SEND Big Plan is that fewer young people will leave or travel outside of Kirklees. By having services more local and accessible within existing settings to where people live in communities can have a positive impact on their mode of travel and in doing so, we will contribute to the Council's net zero ambition.

3.5 Risk, Integrated Impact Assessment (IIA) or Human Resources

Section 149 of the Equality Act 2010 establishes the public sector equality duty (PSED), which requires public authorities to have due regard to the need to:

- Eliminate discrimination, harassment, and victimization.
- Advance equality of opportunity between those who share a protected characteristic and those who do not.
- Foster good relations between persons who share a relevant protected characteristic and those who do not.

An Integrated Impact Assessment (IIA) was completed underpinning the Cabinet report of 2022 with regards to sufficient Alternative Provision places. The positive impacts for addressing inequalities and on the green agenda are noted. All impacts recorded were positive or neutral. If we are able to progress with establishing the Free School the IIA will be revisited as we develop the school.

Tackling inequalities is fundamental to the SEND programme and this opportunity for an AP Free School which would enable children and young people to have sufficient places in the local area. Work is focussed on ensuring an individual's needs are understood and met at the earliest opportunity. The subsequent wrap around support is cognisant of protected characteristics. Pivotal to our approach is the positive promotion of SEND, the dispelling of myths and the embedding of inclusive approaches and practices across the system and within communities.

Human Resources

The staff in a Free School would be employed directly by the Multi Academy Trust. There are no direct human resource implications therefore for Kirklees Council staff.

4 Consultation

The DfE expect that in taking a decision about the preferred option, that we consult with the named partner Multi Academy Trust, Delta to ensure that both parties are still willing to move forwards with the planned Free School. We have been able to liaise with Delta

Multi Academy Trust who are committed to work with us in partnership to establish the Free School.

5 Engagement

When the outcome of the original application was communicated to ourselves and the partner Multi Academy Trust, Delta, we began to consider what the delivery of the project would involve and how we would engage both with the wider system, including schools and education partners, as well as parents and carers. This would form part of the next steps of the delivery of the school if this is the option that is approved.

6 Next steps and timelines

The DfE have set a deadline of the end of February 2026 for Kirklees Council to inform them of the option that they would like to pursue.

Once a decision has been taken that will determine the timeline for next steps but will be determined in conjunction with the Department for Education and the Multi Academy Trust.

7 Contact officer

Jo-Anne Sanders – Service Director – Learning and Inclusion
Jo-anne.sanders@kirklees.gov.uk

8 Background Papers and History of Decisions

[Alternative Provision - Cabinet Report - Dec 22 - final.pdf](#)

[Special Educational Needs and Disabilities \(SEND\) and Alternative Provision \(AP\) Improvement Plan](#)

[Alternative provision specialist taskforces](#)

[Arranging Alternative Provision - guide for LAs and schools](#) (February 2025)

9 Appendices

10 Service Director responsible

Jo-Anne Sanders – Service Director Learning and Inclusion