



Young People's
Learning Agency

National Commissioning Framework

**For the provision of learning for young people
in England aged 16–19, or aged up to 25 if
subject to learning difficulty assessment**

April 2010

This document is intended to be used by local authorities, learning providers, and other organisations involved in the planning, funding and delivery of learning for young people.

Further information

For further information please contact the appropriate regional YPLA office. Contact details for each office can be found on the YPLA's website:

www.ypla.gov.uk

Young People's Learning Agency
Cheylesmore House
Quinton Road
Coventry
CV1 2WT
Tel: 0845 377 2000
ypla.gov.uk

Acknowledgements

This document sets out guidance on the process for planning and commissioning learning provision for young people in England for the academic year 2011/12 to ensure that the system provides better opportunities for learners to participate and progress in learning.

For information

Contents

	Paragraph number
Foreword	—
The Purpose and Scope of the National Commissioning Framework	1
Single equality impact assessment	6
Strategic commissioning	8
Coverage	15
Policy context	19
Key principles underpinning the National Commissioning Framework	24
Key Contributors to the Commissioning Process	25
Introduction	25
Local authorities	26
Children's Trusts	30
14–19 partnerships	32
Sub-regional groups	33
Regional planning groups	37
Providers	41
Department for Children, Schools and Families	43
Young People's Learning Agency	44
Government Offices	47
Regional development agencies	48
Department for Business, Innovation and Skills	49
Skills Funding Agency	50
National Apprenticeship Service	52
UK Commission for Employment and Skills	53
Ofsted	54
The FE Data Service	55
Key Elements of the Process	57
Commissioning timeline for 2011/12 allocations	58
Lead commissioner	61
Other commissioning	68
Apprenticeships	71
Academies	73
Learners with learning difficulties and/or disabilities	75

Paragraph number

Young people in youth custody	77
Private and third sector learning providers	79
Financial assurance and control	80
Provider quality assurance	81
Complaints and issues resolution	84
Young People's Learning Agency intervention	87
In-year adjustment of allocations	89

Foreword



I am delighted to be able to introduce the National Commissioning Framework for the provision of education and training opportunities in 2011/12 for young people in England.

I should like to thank the many individuals and organisations who responded formally to the consultation on the draft

framework, which was published in October 2009, and to the many others who have commented and contributed at events around the country. The document and the funding and planning frameworks it describes are, I believe, simpler to understand as a result of the input that we received and will, therefore, help partners work together more effectively to improve opportunities for young people.

The key commissioning questions which this document is designed to support are ‘what is working well, what is working less well, what do we need more of, what do we need less of, and is there anything new we need to meet young people’s needs better? We need to ask these questions with a clear focus on ensuring that every young person is engaged as plans to raise the participation age to 17 in 2013 and 18 in 2015 are rolled out.

Young people benefit from a wide range of different learning opportunities and environments and some face significant barriers to realising their potential. This guidance sets out how local authorities, a wide range of providers, and other stakeholders can identify, plan for, and provide suitable education and training opportunities for every 16-19 year old and every young person aged up to 25 who is subject to a learning difficulty assessment.

The mission of the Young People’s Learning Agency is to champion young people’s learning and this framework is a means to that end. We are committed to continuous improvement, and we will work with stakeholders throughout the coming year to make the operation of the National Commissioning Framework as smooth as possible and to learn any lessons for subsequent years as it is implemented in practice for 2011/12.

Peter Lauener

Chief Executive Young People’s Learning Agency

1 April 2010

The Purpose and Scope of the National Commissioning Framework

1 The role of the Young People's Learning Agency (YPLA) is to champion young people by providing financial support to young learners, by funding academies for all their provision and by supporting local authorities' commissioning of suitable education and training for all 16- to 19-year-olds.

2 As a key part of that role, the YPLA has developed the National Commissioning Framework (NCF), which provides guidance on the process for planning and commissioning learning provision for young people in England for the academic year 2011/12. Local authorities have assumed responsibility for commissioning this provision under the Apprenticeship, Skills, Children and Learning Act 2009 (ASCL Act 2009). The intention is that the NCF should provide whatever information is necessary for local authorities to prepare for and implement their role as lead commissioner, explain the roles and responsibilities of stakeholders, and describe the processes and timescales to ensure that the new system works. The NCF sets out what needs to change through 2010 and 2011, so that the system can provide better learning opportunities for young people and better integration of resources, so that it contributes significantly to improvements in progression, participation and employment, and so that it is better able to respond to changing demographic patterns.

3 Young people are at the heart of the new system, in which a wide range of partners will work together to make a difference to all young people's lives by raising their aspirations and helping them get the knowledge and skills they need to prosper in the economy. The NCF makes clear the key roles and responsibilities of those partners: local authorities, colleges, schools and other providers, including the third sector, members of 14–19 partnerships and Children's Trusts, employers and key delivery organisations.

4 The NCF is issued in two parts. This, the first part, is intended to give a broad overview of the new system and is aimed at a wide audience. The second part provides a set of technical annexes and is aimed at those people in local authorities who will be directly involved in commissioning and procuring provision.

5 The NCF is issued by the Young People's Learning Agency (YPLA) as statutory guidance. Its primary role is to set out the mandatory elements of planning and commissioning, as well as the arrangements for the quality assurance of provision. It also provides guidance, advice and links to further information on how the process should be managed in 2010–11 for the 2011/12 academic year, following the transfer of responsibilities to local authorities. It is expected that the NCF will be revised annually, so an updated version should be published in March 2011 to support the planning and commissioning of provision for the 2012/13 academic year.

Single equality impact assessment

6 The consultation draft of the NCF was the subject of a full and independent single equality impact assessment to provide:

- an evaluation of the extent to which the introduction of the NCF could have a positive or negative impact on learners by race, gender, disability, or other equality areas where evidence is available;
- identification of specific areas of the implementation that might impact adversely on particular learner groups;

- recommendations for actions required to address or monitor any potential benefits, including performance indicators; and
- identification of an appropriate process for future monitoring of the NCF.

7 The single equality impact assessment will be published at the same time as the NCF, and has been taken fully into account during revision of the consultation draft.

Strategic commissioning

8 Agreeing a baseline funding position for individual providers should not be seen as an indication that the mix and balance of provision delivered by a provider should stay exactly the same. The nature and volume of education and training places and opportunities will need to change and develop as the needs of learners and employers change, and in working towards longer-term objectives for participation.

9 The process of commissioning provision from – and agreeing allocations to – individual providers must be seen as sitting within the wider and longer-term context of strategic plans for 16–19 provision for local authority areas and across local authority boundaries.

10 Local authorities and other key partners in the planning process will need to review some key strategic questions, including:

- what provision will need to be in place in order to ensure participation in education, training or work with training by all 16-year-olds from 2013 and all 17-year-olds from 2015); and
- how will local authorities work with providers and other partners to decide on the best configuration of provision in an area (and across local authority boundaries).

11 Addressing these strategic questions will need local authorities and other stakeholders to take a number of actions, including:

- producing a clear statement of the current position in terms of the level of participation and the mix, the balance and the quality of provision;
- working with (in particular) the YPLA regional strategic analysis teams to review and agree forecast future needs (volume and types of provision);

- identifying the likely future budget and funding position;
- identifying the main risks and perceived gaps, and also the major changes that might be required in terms of altering the configuration of provision within an area and across boundaries; and
- aligning capital and revenue spending plans to support significant changes in the pattern and nature of provision.

12 Further work will be carried out in 2010 across the Department for Children, Schools and Families (DCSF), YPLA, local authorities and other stakeholders, in order to review the need to produce further guidance and detail on strategic commissioning.

13 Local authorities have a range of commissioning responsibilities, and they will use different processes, as appropriate, for the commissioning of different services. Good commissioning processes all involve:

- understanding the needs of the community;
- planning the best approach to meet those needs;
- taking action to make appropriate provision (including procurement, funding and market and workforce management); and
- reviewing services and requirements regularly.

14 Good commissioning results in a diverse and sustainable provider base, with provision that meets the needs of the community and will enable diverse outcomes to be achieved.

Coverage

15 The young people who are covered by the NCF are, in general, those who:

- at 31 August have reached the age of 16 but have not reached the age of 19;
- have not reached their 25th birthday (if a learning difficulty assessment is in place); or
- are aged between 10 and 18 and are in youth custody.

16 However, the NCF also applies to a small number of young people who have not reached the age of 16 but are pursuing programmes designed for those over that age (for example, a 15-year-old pursuing a full Level 3 programme).

17 Provision will be commissioned from a wide range of providers, including:

- school sixth forms;
- general further education (FE) colleges;
- sixth form colleges;
- specialist colleges, such as land-based colleges and colleges of art and design;
- higher education institutions, including some universities;
- private training providers;
- third sector providers;
- independent specialist providers for learners with learning difficulties and/or disabilities;
- employers; and
- Young Offender Institutions.

18 Many of these providers recruit significant numbers of young people from outside the local authority area in which they are based (in some cases from throughout England), and some have centres in other local authority areas. This framework makes clear that this should continue.

Policy context

19 The transfer to local authorities of responsibility for 16–19 learning provision is an essential element of the Government's long-term strategy to make the UK the best place in the world for children and young people to grow up. It gives local authorities the tools they need to deliver the best outcomes for young people.

20 From April 2010, every local area is required to have a Children's Trust board, which is responsible for producing the local Children and Young People's Plan, which sets out the joint strategy for Children's Trust partners to co-operate in improving the well-being of children and young people. The Children and Young People's Plan sets out the overarching needs assessment for the local area and agreed local priorities, and these frame the context within which Children's Trust partners (including local authorities) commission services for young people. The Children's Trust board is responsible for monitoring progress on the delivery of the Children and Young People's Plan and for producing a report on the extent to which Children's Trust partners have delivered on their commitments in it.

21 Alongside a new approach from local authorities, the new system will help to achieve a number of key outcomes:

- to lay the foundations for the successful raising of the participation age to 18 from 2015;
- to make sure that the right provision is in place, allowing every young person to access their entitlement to learning, including Diplomas and Apprenticeships, and ensuring delivery of the September Guarantee;
- to make sure that provision supports the achievement of all five of the Every Child Matters outcomes; and
- to provide opportunities for every young person to participate in learning and avoid having any young person suffer the long-term effects of not being in education, employment or training.

22 The new approach from local authorities to support the delivery of these outcomes needs to include:

- strong leadership, so as to ensure the provision of a coherent learning and support offer for young people through strategic, integrated commissioning;
- provision that is flexible enough to meet the needs of some young people who have to re-engage in learning at different times of the year (including young people who are leaving youth custody) and that allows those in employment without training to access learning and training alongside their jobs;
- provision to enable progression to full participation by all 16-year-olds from 2013 and all 17-year-olds from 2015, including young people from vulnerable groups and young people who participate in learning part time, while they are in full-time employment;
- a way of ensuring that information, advice and guidance (IAG) is sufficient, effective and relevant to the needs of young people; and
- an approach that takes a critical look at the mix and balance of provision and at the support needed to meet the requirements of all young people.

23 An impact assessment of the ASCL Act 2009 (which underpins the new arrangements) was undertaken and published. The assessment noted that there was limited but significant evidence that local authority commissioning services for young people had been successful in raising standards and improving the services provided, thus demonstrating the experience and expertise that local authorities had built up around commissioning.

Key principles underpinning the National Commissioning Framework

24 The development and operation of the NCF are guided by a set of key principles.

- The system will operate in the interests of the learner, addressing learner choice and diversity, and will ensure access to learner entitlements and curriculum pathways.
- The system will take account of the needs of employers and employability.
- The system will seek to involve providers as key strategic partners.
- Commissioning should be sustainable, impartial and provider neutral, securing high-quality provision from the most appropriate quality-assured providers.
- Funding – based on the national funding formula and applied at the level of the provider – will follow the learner.
- The process will provide and encourage flexibility for local authorities and other partners to respond to needs.
- The system will ensure consistency in such key features as the timing of stakeholder involvement, the timing of allocations, quality assurance, outcomes (including the offer to learners), data submissions and flows, and the funding formula/rates.
- The system must be transparent, equitable and compliant with the principles contained in the Third Sector Compact.
- The system will deliver value for money.
- Accountability should be secured with the minimum bureaucracy between partners.

Key Contributors to the Commissioning Process

Introduction

25 This section outlines the specific roles and responsibilities of key contributors in the commissioning of education and training provision for young people, as local authorities take up their role as the strategic leaders of 14–19 reform.

Local authorities

26 Within the context of the local area agreement framework, local authorities are champions of young people in their area, and focus on achieving better outcomes for them – even when those outcomes are achieved in a different local authority area.

27 As commissioners of 16–19 learning, they will have new duties and powers, including the duty to secure sufficient provision of education and training for young people residing in their area (regardless of where they want to learn) and for young people who are held in youth custody in their area. Local authorities will also normally be expected to procure learning provision with providers located in the area on behalf of other local authorities whose residents travel into their area to learn. This should sit alongside the commissioning of IAG services (through Connexions or elsewhere). Local authorities will also take account of strategic planning issues which go beyond their boundaries, through joint working in city regions.

28 Individual local authorities will have been considering how they should amend their constitutional arrangements in order to deal with the new duties and powers. Typically, these arrangements will have included specified delegations to the directors of, and lead members for, children's services, and arrangements for scrutiny committees to take an overview. Sub-regional groups (SRGs) will already have considered their decision-making processes and the proper engagement of elected members in both decision-making and dispute resolution. The detail of the involvement of elected members is a matter for individual local authorities, but it would be good practice for lead members formally to endorse local commissioning statements and commissioning plans, with the operational management of allocations being delegated to directors of children's services.

Children's Trusts

29 Children's Trusts are local partnerships which bring together the organisations responsible for services for children, young people and families in a shared commitment to improving children's lives.

30 Statutory relevant partners in the local Children's Trust include local authorities, youth offending teams, schools, pupil referral units, FE and sixth form colleges.

31 Non-statutory partners include the third sector, the wider schools sector, the wider FE and work-based learning sector and youth custodial establishments.

14–19 partnerships

32 The 14–19 partnerships, as a subset of the Children's Trust arrangements, provide area-wide strategic assessments, owned and driven by key stakeholders and delivery partners. Through the Children's Trust arrangements, the partnerships provide local authorities with essential information on priorities to improve outcomes for young people: increased participation and attainment in learning and delivery of the 14–19 entitlement. The partnerships have the responsibility for developing the local 14–19 plan. The key role of members of the 14–19 partnerships, including learning providers, is set out in 14–19 Partnerships and planning.

Sub-regional groups

33 SRGs provide a forum in which local authorities can work together to construct a picture of learner demand and flows between local authorities and across travel-to-learn areas, see how well the curriculum is being delivered and determine what future entitlements will mean for learner demand in the area.

34 They enable local authorities to arrange the planning and commissioning of learning provision in collaboration with neighbouring authorities, to share responsibility for securing the most appropriate learning provision that meets the needs of young people across the travel-to-learn area, and to ensure the most effective deployment of commissioning resources.

35 They maintain dialogue with local authorities that are not part of the SRG but whose learners may be learning in the SRG area (or vice versa).

36 SRGs will also agree which local authority is the most appropriate to be the lead commissioning authority with any particular provider – or the lead commissioning authority for learning provision, if there are issues that cross local authority boundaries.

Regional planning groups

37 Regional planning groups (RPGs) bring together regional education and strategic skills agendas. They draw together and review local authority commissioning intentions, endorsed by the SRGs, against regional priorities, and they manage affordability.

38 The RPG will include key partners from across the region, with representatives from local authorities, employers, the regional development agency (RDA), the Government Office, the YPLA and the Skills Funding Agency (SFA). In addition to the core membership of the RPG, it is recognised that colleges, schools, third sector and independent training organisations and employers can all make distinctive and positive contributions. RPGs will need to develop and implement effective communication with these organisations, and should, therefore, develop appropriate arrangements for their representation and engagement. It is, however, for RPGs to agree how this should be determined most effectively.

39 The RPG will scrutinise **local commissioning plans** for the region to ensure that they are coherent, can be funded within the region's total funding allocation and will deliver the 14–19 entitlement. The RPG will have close links with the regional skills partnerships to make sure that the commissioning plans reflect regional skills needs. The RPG will progress specialist issues (for example, it might establish working groups on the development of the common application process (CAP), effective IAG, learners with learning difficulties and/or disabilities (LDD), capital, transport or youth offending) and will moderate the local commissioning plans before submitting a **regional commissioning plan** to the YPLA.

40 The DCSF has published additional guidance on RPGs.

Providers

41 Learning providers encompass the full range of organisations that deliver education and training to young people. In return for public funds, they deliver training and education that meets student learning and skills requirements, in line with the 14–19 entitlement and employers' skills needs. Furthermore, they are responsible for ensuring that provision

is accessible through the area prospectus and CAP, and for Apprenticeships through Apprenticeship vacancies online.

42 Providers also play a key role as strategic partners, participating in 14–19 partnerships and informing commissioning by 'feeding in' their learners' views and their young people's ambitions and views, and by engaging in dialogue with local authorities about the nature and scope of the provision they are able to offer.

Department for Children, Schools and Families

43 The DCSF will set the overall national policy and priorities for 16–19 learning, agree national funding allocations, set national targets and review YPLA performance.

Young People's Learning Agency

44 The YPLA is a non-departmental public body that reports to the DCSF. Its main role is to support local authorities in their new duties.

45 The YPLA will ensure consistency and propriety across the commissioning process by issuing local authorities with statutory guidance on the performance of their new duties, to which all local authorities must have regard. The NCF forms the core part of this guidance.

46 The YPLA also has powers to intervene if it is satisfied that a local authority is failing (or is likely to fail) in its new duties. It will not have a direct commissioning relationship with schools, colleges or other providers, apart from in exceptional circumstances or where it is appropriate for a national commissioning approach to be in place. The YPLA will handle procurement from some groups of providers, particularly academies.

Government Offices

47 Government Offices will play a key role in supporting and challenging local authority performance by agreeing local authority priorities, setting and monitoring local area agreement (LAA) targets. Through the RPGs, they will also offer a strategic perspective. Government Offices will ensure that overall performance on 16–19 education and training is considered alongside other elements of the children and young people's agenda.

Regional development agencies

48 Regional Development Agencies (RDAs) hold the remit for improving the economic well-being of a region working with the Education and Skills Boards. Under the NCF, this remit will extend to informing lead commissioners and learning providers about what skills are required in the region over the longer term. The RDA will be involved in the RPG and will use its long-term strategic planning analysis and outputs to help inform and challenge 16–19 commissioning strategies and decisions, collectively endorsed by the SRGs, in pursuit of alignment with regional skills and economic regeneration and development policies.

Department for Business, Innovation and Skills

49 The Department for Business, Innovation and Skills (BIS) was created to draw all the levers of the economy together in one place. Its policy areas – from skills and higher education, to innovation and science, to business and trade policy – can all help economic growth. BIS will set the overall national priorities for adult learning and Apprenticeships.

Skills Funding Agency

50 The SFA is an executive agency within BIS. Its main function is to direct funding for adult skills quickly and efficiently to FE colleges and other skills providers. It takes an active approach to delivering the skills that employers and individuals need now and in the future, supporting skills development in areas of strategic importance to the economy.

51 The SFA is responsible for the performance management and sponsorship of FE colleges and training providers.

National Apprenticeship Service

52 The National Apprenticeship Service (NAS) is housed within the SFA. It works with local authorities in their SRGs to identify the likely demand from young people for Apprenticeships. To assist in this, information will be provided about employer support and the nature and quality of existing local provision. The NAS will be represented on RPGs, where the regional Apprenticeship requirements will be agreed. The NAS will procure all Apprenticeship provision through the SFA.

UK Commission for Employment and Skills

53 The UK Commission for Employment and Skills has a central role in providing nation-wide labour market intelligence to underpin the development of national priorities and to inform discussions on regional and sub-regional labour market needs.

Ofsted

54 Inspection by Ofsted – both of schools and of FE provision – will continue and, as now, will trigger support and intervention. The YPLA, local authorities and the SFA will share information in arriving at decisions about post-inspection actions that should be taken with regard to providers. Ofsted will use a range of available data, including the Framework for Excellence, to determine the urgency/priority of inspecting a provider or service, and so will inform inspection planning.

The FE Data Service

55 The FE Data Service will generate the core dataset, based primarily on the individualised learner record and termly School Census data, but also using a number of supplementary data sources. The FE Data Service will provide the core dataset to YPLA regional teams – rather than direct to local authorities – in order to ensure that the commissioning processes for 16–19 provision are underpinned by relevant and timely data.

56 The data required by local authorities, SRGs and RPGs to support the planning, allocation and provider quality assurance processes will then be passed on by the YPLA regional teams. This core dataset will enable local authorities, Government Offices and the YPLA to analyse activity across programmes, between providers and by both curriculum and geographical areas, thus ensuring that appropriate plans and subsequent commissions are made.

Key Elements of the Process

57 The planning, allocation and funding elements of the commissioning process occur on a cyclical basis. The NCF applies to the processes that will support participation in the 2011/12 academic year. Each element needed to establish learning provision for 16- to 19-year-olds is underpinned by comprehensive learner, provider and performance data.

Commissioning timeline for 2011/12 allocations

58 In summary, the process is made up of four stages, as set out in Table 1 below.

Table 1: The four stages of the commissioning process

2010	
Analysis and planning	
May onwards	YPLA supplies data and analysis to local authorities
May–July	Local authority uses data from YPLA and other local data (including intended destinations from Connexions) to provide analysis of likely local need
June/July	Local authority, working with 14–19 partnerships and SRGs, reviews its 14–19 plan to identify local priorities and develop an interim local commissioning statement Early dialogue with providers to discuss performance and future plans
July onwards	Local authorities share early information on planning, in the form of an interim local commissioning statement , with SRGs and RPGs
National and local commissioning statements	
July–October	Work to develop local plans
October/November	Grant letter issued by DCSF YPLA issues national commissioning statement

Table 1: The four stages of the commissioning process (continued)

National and local commissioning statements	
November	<p>YPLA provides local authorities with an initial funding position, based on 2010/11 allocations data</p> <p>RPG produces a regional commissioning statement, which includes:</p> <ul style="list-style-type: none"> ● data, intelligence and priorities provided by the RDA and NAS; ● priority strategic issues for the region, drawn from the local commissioning statements; and ● priorities and planning assumptions for the region, drawn from the national commissioning statement <p>Local authorities confirm local commissioning statements</p> <p>Apprenticeship, independent specialist provider (ISP) and specialist provider places aggregated across the SRG</p> <p>Local authority open and competitive tendering needs agreed/aggregated across the SRG</p>
November–December	<p>YPLA confirms the national funding rate</p> <p>YPLA provides local authorities with an updated funding position</p>
October–December	Dialogue between lead commissioners and providers on allocations
December	Indicative distribution of funds from YPLA
2011	
Finalising allocations	
January	Lead commissioner establishes baseline position for each provider
by February	<p>Local authorities complete local commissioning plans and agree with SRGs</p> <p>RPGs moderate reports from SRGs and submit proposed regional commissioning plans to YPLA</p>
February– March	YPLA considers and agrees regional commissioning plan
March	<p>YPLA informs lead commissioners of each local authority's funding position</p> <p>Lead commissioners inform providers of final allocations</p>
Contracting and funding	
May–June	Lead commissioner finalises local commissioning plan
May–August	Local authorities issue contracts to providers, who sign and return them
August	Payments to providers begin

59 At the end of this process, the YPLA will provide each local authority with a grant. That grant will list the allocation to each provider that is to be funded by the local authority. The local authority must fund the provider at the level identified in the grant. The grant may also include other funds, to be allocated at the discretion of the local authority.

60 The process described above is based on a set of assumptions and conditions relating to, for example, the availability of data and the agreement of budgets. The DCSF, YPLA and local authorities will need to be flexible, in order to respond to any emerging issues. If necessary, the process can be revised and contingency plans put in place.

Lead commissioner

61 The lead commissioner is the organisation – usually a local authority – that commissions and procures provision from a school, college or other provider (usually located in its area) on behalf of young people in the area and young people who choose to travel in to learn from other local authority areas, including those in the SRG and beyond.

62 Sections 15ZA(1) and 18A(1) of the Education Act 1996, inserted by the ASCL Act 2009, place duties on a local authority to make sure that enough suitable education and training is provided to meet the reasonable needs of children in youth detention, persons in their area who are over the compulsory school age but under 19 (including those in youth detention) and persons in their area who are aged 19 or over but under 25 and are subject to learning difficulty assessment. Where a significant number of learners access provision in a local authority other than their home local authority, there will be a need for discussions between the two local authorities. This will normally be through the SRG arrangements, but the discussions may also be cross-SRG and possibly cross-region.

63 A local authority will normally be the lead commissioner for providers located within its area, acting on behalf of the SRG and any authorities beyond the SRG.

64 The home local authority will advise the SRG if it might need the YPLA to procure and contract any specialist, regional or third sector provision. Working with the NAS, it will define the 16–18 Apprenticeship requirements, and the NAS will then procure and contract for that provision.

65 The lead commissioner will be responsible for working with providers (individually and collectively) to discuss implementation of the **local commissioning statement's** priorities and development of the detailed **local commissioning plan**. The lead commissioner will be responsible for:

- negotiated procurement through provider dialogue; and
- competitive procurement through restricted or open and competitive tendering (excluding the European Social Fund (ESF)).

66 The actions that are required to establish the lead commissioner include the following.

- Local authorities within their SRG will determine who is to be the lead commissioner for each of the providers in the SRG area.
- Each local authority that acts as lead commissioner will notify all relevant providers.
- The SRG will provide the YPLA with a list detailing the lead commissioner for each provider within the SRG area (for payment and data/management information purposes).

67 The YPLA will maintain a list of lead commissioners, with contact details, and will publish this on its website, in order to facilitate inter-authority communication.

Other commissioning

68 Local authorities will invariably be the strategic commissioners of provision for young people and will be responsible for identifying the learning provision requirements. However, other organisations may have responsibility for procuring certain types of provision (such as Apprenticeships) on behalf of local authorities, or for such providers as academies or ISPs.

69 The YPLA may also agree, exceptionally, that it is more appropriate for it to procure learning provision that has been identified as required by local authorities, but where it is clear that no local authority has the capability to act as the lead commissioner for a specific provider. For example, this could be because of a particularly large and diverse spread of provision or of learners accessing the learning, or because of the range and type of provision. The YPLA may also commission and procure provision that has common requirements across the country.

70 The YPLA also has powers under the ASCL Act 2009 to intervene in the event that a local authority is unable to carry out its commissioning functions and cannot ensure that young people and providers are not thereby disadvantaged. This could be, for example, because SRGs are not yet ready to take on this role or because a local authority is failing (or is likely to fail) to fulfil its duty under Section 15ZA and/or Section 18A of the Education Act 1996, as inserted by the ASCL Act 2009, to commission suitable education or training. In such circumstances, the YPLA may commission provision itself.

Apprenticeships

- 71 As part of their local commissioning plan, local authorities will identify the volume of Apprenticeships they need. To do this, they will work with the NAS and their 14–19 partnerships to identify the level of demand among learners and employers and the requirements of national target trajectories, and to ensure that suitable opportunities exist within each area.
- 72 The SFA, on behalf of the NAS, will conclude funding agreements with providers and will monitor overall performance. Where there are significant issues that affect the quality and performance of Apprenticeship provision, these will be discussed with the local authorities concerned.

Academies

- 73 Together with open academies, and as part of their overall 16–19 commissioning planning process, local authorities will identify the provision that is to be commissioned to meet the local needs, and the SRG will consider the aggregated needs across the travel-to-learn area.
- 74 The YPLA will procure the agreed provision with open academies and will deal direct with the academies on issues of grants and funding for agreed commissioning requirements, including the grant agreement, payment flows and financial assurance and control.

Learners with learning difficulties and/or disabilities

- 75 A local authority has responsibility for those people in its area who are over the compulsory schooling age but under the age of 19, and for those who are aged 19 or over but under the age of 25 if they are subject to learning difficulty assessment. It will arrange appropriate provision, with support from the YPLA, which will provide an indication of the region's anticipated commissioning needs. The DCSF has issued guidance on learning difficulty assessments.

- 76 Local authorities will decide if the required learning provision is best provided through mainstream providers (usually supported through additional learning support) or if there is a higher level of support required through specialist arrangements with either mainstream providers or ISPs. Wherever necessary, access and transport arrangements to provision will need to be considered at the outset.

Young people in youth custody

- 77 Under the ASCL Act 2009, local authorities will be responsible for securing the provision of education and training for children and young people who are over compulsory schooling age but under the age of 19 and in

youth detention. As a result, local authorities with youth detention establishments in their areas ('host' local authorities) will need to incorporate their plans for learning in youth detention into their commissioning plans.

- 78 Specific funding allocations will be provided by the YPLA in order to secure learning provision for young people in youth custody. Local authorities will work with the Youth Justice Board, youth offending teams, custodial establishments and the YPLA to assess the needs of those young people and to arrange suitable learning provision to meet those needs.

Private and third sector learning providers

- 79 It will be important for local authorities to be aware of the contribution that providers other than schools and colleges make to 16–19 education and training. Private and third sector providers not only offer learning but are also key players in the design and planning of services to young people. They often have particular skills and experience in engaging young people who are not ready for more formal education or training, and those who are not in education, employment or training, or who need additional support to re-engage, working with both the young person and their family.

Financial assurance and control

- 80 Local authorities, the YPLA and the SFA will establish a financial monitoring and audit framework that will minimise the burden on providers, yet at the same time offer full assurance as to the use and safeguarding of public funds. The framework will make the maximum use of existing assurance and exchange of the results of assurance, and will involve one funding audit of each provider, covering the needs of all stakeholders (other than in relation to ESF funding).

Provider quality assurance

- 81 Individual providers are responsible for their own performance and quality, but will be held accountable for delivery of commissioned provision. All post-16 providers will be assessed annually against a clear set of national measures. Quality and performance assessments will not focus solely on achievements, but will seek to provide a more rounded picture of a provider's performance, taking account of other important factors that influence learner outcomes.

82 Interventions relating to each provider's performance will be overseen by a single sponsoring agency.

- Schools will be the responsibility of the commissioning local authority.
- Sixth form colleges will be the responsibility of the commissioning local authority, acting under guidance from the YPLA.
- Academies will be the responsibility of the YPLA, acting on behalf of the Secretary of State for Children, Schools and Families.
- FE colleges will be the responsibility of the SFA.
- Providers of Apprenticeships will be the responsibility of the SFA, working on behalf of the NAS.
- Independent training providers delivering Apprenticeships will be the responsibility of the SFA.
- Higher education institutions will be the responsibility of the Higher Education Funding Council for England.

83 The YPLA will provide data on performance to the local authority, the appropriate Government Office and to SRGs and RPGs at specified times of the year, to support the commissioning process. Local authorities will be responsible for using this data to commission high-quality provision and to work with providers to ensure that the provision they secure is appropriate and meets quality standards.

Complaints and issues resolution

84 Commissioning decisions will be reached by local authorities, SRGs, RPGs and lead commissioning bodies (almost invariably a local authority) through dialogue with providers and other key stakeholders. The expectation is that a mature and collaborative relationship will develop through the preparation of the local authorities' local commissioning statements and through dialogue during planning for how these strategic plans can be implemented and delivered. This should ensure that stakeholders understand the wide range of considerations that influence fair, diverse and transparent commissioning decisions.

85 There will, however, be clear routes for the escalation of complaints. In all instances (apart from in the case of academies), this should be to the RPG, which, working closely with the YPLA, should convene a sub-committee to hear those complaints and to make recommendations. Complaints involving academies will be escalated to the YPLA. The reason for the difference is that the YPLA is the direct funding body for academies, on behalf of the

Secretary of State for Children, Schools and Families: had the transfer of academies' functions not taken place, the route of appeal for academies would have been to the Secretary of State, not the local authority, for the same reason. The YPLA will be proactive in supporting and, where necessary, facilitating discussions on commissioning to avoid the need for complaints (note: further detail on the complaints process will be set out in a consultation document that will follow the publication of the NCF).

86 For 2011/12, the YPLA will review all complaints and their resolution, in order to build a picture of how well commissioning is being conducted in and across local authorities. This will form part of its annual report, and will also inform future commissioning processes. Where it identifies issues in any of these, the YPLA will work with and support the local authority to improve its processes, and will provide advice to RPGs or SRGs.

Young People's Learning Agency intervention

87 The YPLA's key focus will be on supporting and enabling local authorities to carry out their new functions. Section 67 of the ASCL Act 2009 gives the YPLA powers to give directions to a local authority if it is satisfied that the authority is failing (or is likely to fail) in its duty to secure enough suitable education and training for children who are in youth detention, for young people over compulsory school age but under 19 (including those in youth detention) and for those aged 19 or over but under 25 and subject to learning difficulty assessment.

88 The YPLA will adopt a staged, transparent and risk-based approach to managing intervention if a local authority is at risk of failing to meet its statutory duties. It will work with other partners and agencies, including the appropriate Government Office, Ofsted and other local authorities (including other local authorities working in the same SRG) to develop, agree, provide and monitor effective, appropriate support and challenge before any intervention takes place. It is anticipated that the YPLA's use of its powers of intervention will be extremely rare, and will be just one element of wider arrangements aimed at addressing unsatisfactory commissioning of provision. The YPLA will consult on the development of the intervention policy.

In-year adjustment of allocations

89 For 2010/11, the YPLA, working with the lead local authorities involved, will introduce a system of in-year adjustment for 16–19 participation funding (including Foundation Learning), which moves funding from providers who significantly under-deliver on learner numbers against their allocation to those who have significantly over-performed on recruitment. It is important that funding flows

in line with learner choice. It is unfair on both learners and providers where providers are significantly over-funded in relation to the learners they recruit while other providers are significantly under-funded in relation to recruitment. In-year adjustment will be undertaken at a national level, and will involve all learning routes. This will be of particular importance in the context of the September Guarantee of an offer of a suitable place in learning for all young people.

90 The academic year 2010/11 will be a trial year, during which the YPLA will continue to work with partners to refine the system and ensure that it achieves its objectives without additional burden on providers. Any such process will apply only to significant levels of under- or over-performance (as a percentage of the total allocation and/or a fixed minimum amount) and will be simple and straightforward, operated by the YPLA through a national formula with thresholds and tolerances. The process will not be purely formulaic, but will take account of the need to ensure provider stability and certainty of funding.

Young People's Learning Agency
Cheylesmore House
Quinton Road
Coventry
CV1 2WT
ypla.gov.uk

©YPLA 2010
Young People's Learning Agency

Extracts from this publication may be reproduced for non-commercial educational or training purposes on condition that the source is acknowledged and the findings are not misrepresented.

This publication is available in electronic form on the Young People's Learning Agency website:
ypla.gov.uk

Publication reference: YPLA-G-002/2010