

# Placement Information: Learners with Learning Difficulties and/or Disabilities at Independent Specialist Providers 2012/13

**March 2012**

VERSION 4

Of interest to local authorities and Independent Specialist Providers

For information

## Further information

For further information please contact the appropriate YPLA territory.

### Northern Territory

Arndale House  
Arndale Centre  
Manchester, M4 3AQ

Moongate House  
5th Avenue Business Park  
Team Valley  
Gateshead  
Tyne and Wear, NE11 0HF

Mercury House  
4 Manchester Road  
Bradford  
BD5 0QL

### Eastern Territory

17a Meridian East  
Meridian Business Park  
Leicester, LE19 1UU

Felaw Maltings  
42 Felaw Street  
Ipswich, IP2 8SJ

### Southern Territory

Sanctuary Buildings  
Great Smith Street  
London, SW1P 3BT

Bridge House  
1 Walnut Tree Close  
Guildford  
Surrey, GU1 4GA

### Western Territory

NTI Building  
15 Bartholomew Row  
Birmingham, B5 5JU

St Lawrence House  
29-31 Broad Street  
Bristol, BS1 2HF

We understand that the Education Funding Agency (EFA) will be operating from the following offices from 2 April 2012. These locations may be subject to change and it is advisable to check the EFA website.

### Northern Territory

Piccadilly Gate  
Store Street  
Manchester  
M1 2WD

Mowden Hall  
Staindrop Road  
Darlington  
County Durham, DL3 9BG

### Eastern Territory

1-3 Trust Court  
Chivers Way  
Histon  
Cambridge, CB24 9PW

Lime House  
Mere Way  
Ruddington  
Nottingham, NG11 6JS

### Southern Territory

Sanctuary Buildings  
Great Smith Street  
London, SW1P 3BT

Bridge House  
1 Walnut Tree Close  
Guildford  
Surrey, GU1 4GA

### Western Territory

Freshfield House  
Redcliffe Way  
Bristol, BS1 6NL

Earlsdon Park  
Butts Road  
Coventry, CV1 3GD

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# Introduction

- 1 This document is intended to support local authorities in fulfilling their legal duties and powers under the Apprenticeships, Skills, Children and Learning Act 2009 (“ASCL Act”; see Annex 2) in relation to securing the provision of suitable education and training at Independent Specialist Providers (listed at Annex 3) to meet the reasonable needs of learners with learning difficulties and/or disabilities who are over compulsory school age but under 25 and are subject to a learning difficulty assessment.
- 2 This document is issued pursuant to section 72(4) of the ASCL Act and relates to decisions made by local authorities in relation to continuing placements at Independent Specialist Providers and to new placements at Independent Specialist Providers for the **2012/13 academic year**. The Young People’s Learning Agency (YPLA) complying with its own obligations will fund Independent Specialist Providers directly in 2012/13 based on decisions made by local authorities. The YPLA will also consider performance and satisfactory (or otherwise) inspection outcomes from the Inspectorates (The Office for Standards in Education, Children’s Services and Skills (Ofsted), Care Quality Commission, Estyn) as a condition of funding.

## **Statutory guidance: funding arrangements for 16-19 education and training**

- 3 The statutory guidance was issued by the YPLA under section 72(1) of the ASCL Act 2009 on 25 November 2011. It sets out guidance for local authorities about the performance of their duties under sections 15ZA(1), 15ZB, 15ZC(1)(b) and 18(A)(1) of the Education Act 1996. It describes the system for the funding of education and training for young people in England for the academic year 2012/13.
- 4 The statutory guidance describes how a simplified allocations and funding system will be put into practice, whilst referring to the current three main routes (SEN block grant; specialist placement budget includes provision at Independent Specialist Providers where needs can not be met locally; additional learning support) for funding learners aged 16-24 with learning difficulties and/or disabilities and special educational needs (SEN).

## **Local authorities’ duties**

- 5 Local Authorities duties arising from ASCL Act in relation to education and training are set out in detail at Annex 2.

- 6 For the majority of young people who have learning difficulties and/or disabilities, education and training provision will be delivered in a mainstream setting. This document provides information in relation to the small number of young people with a learning difficulty assessment where the local authority follows the view that their education and training needs can only be met by an Independent Specialist Provider.
- 7 The flowcharts at Annex 1 set out the decision-making process for both new and continuing placements at Independent Specialist Providers. Local authorities should ensure they have documented procedures to facilitate and record their placement decisions and processes.
- 8 Department for Education (DfE) guidance (DfE, 2012; see Annex 7 for references) sets out the way it expects the new arrangements for young people with learning difficulties and/or disabilities to operate, including reference to learning difficulty assessments.

### **Boarding ('residential') accommodation**

- 9 Section 46 of the ASCL Act provides local authorities with the power to secure boarding accommodation for persons who are over compulsory school age, but under 25, and subject to a learning difficulty assessment. This is referred to as 'residential provision' throughout this document, except in extracts from the legislation at Annex 2.

### **Education Funding Agency**

- 10 The YPLA will be closed on 30 March 2012. The EFA will begin to operate on 2<sup>nd</sup> April 2012. It will be one of four executive agencies that form part of the DfE family.
- 11 The EFA will bring together Partnership for Schools, and some functions currently within DfE itself. The new agency will cover all education funding from ages 3 to 19 with an annual budget of around £50 billion.

# The Changing Policy Context

## **SEN and Disability Green Paper: Support and Aspiration: A new approach to special education needs and disability**

- 12 The Green Paper on SEN and disability (“SEND”) published in March 2011 makes it clear the aim that children and young people with SEND and learning difficulties and/or disabilities should be supported on a consistent basis from ages 0-25. The YPLA is working with the DfE, Local Government Association (LGA), local authorities and providers to review the options for new models of funding provision for learners with learning difficulties and/or disabilities to support a more consistent approach, which, if introduced, would start in 2013/14 at the earliest.

### **Direct payments**

- 13 The Special Educational Needs (Direct Payments) (Pilot Scheme) Order 2012 came into force on 30 January 2012. This establishes a pilot scheme to allow local authorities in the SEN and Disability Green Paper pathfinder programme and the Individual Budgets (IB) for Families with Disabled Children pilot to test the use of direct payments for special educational provision for children and young people. A copy of the order can be found online at [www.legislation.gov.uk](http://www.legislation.gov.uk)
- 14 The DfE will be providing further advice on the use of direct payments shortly. Further support for authorities in the pilot will be available through the pathfinder support team including a number of workshops and an action learning set on personal budgets (including direct payments).
- 15 Further information on how a young person placed in an Independent Specialist Provider may apply for a direct payment, subject to agreement by all relevant parties, will be published shortly as an addendum to this Placement Information.

# Decision-making Process

## Evidence of education and training needs and possible provision to meet them

- 16 Local authorities have a strategic role to meet the education and training needs of young people by influencing and shaping provision, identifying gaps, encouraging new provision and developing the market by working with their partners.
- 17 Local authorities play a key role in relation to evidence-gathering and preparation for their decisions regarding the education and training needs of learners with learning difficulties and/or disabilities and in determining the actual provision that is realistically available to meet those needs. It is recommended that evidence demonstrates the match between the assessed education and training needs (learning difficulty assessment) and the learning placement that is actually available to meet those needs. Suggested sources of evidence are detailed at Annex 6. The list of potential evidence in Annex 6 of this document is not exhaustive, and local authorities may wish to seek additional relevant and up-to-date evidence.
- 18 To inform and support local authority decision-making, it is the responsibility of the Independent Specialist Provider to complete and send to the learner's home local authority Annex 6 - TG (titled 'Confirmation of Agreed Provision 2012/13') of *Technical Guidance 2012/13* with the provider pre-entry assessment report for the young person. These can be used to enable the local authority to determine the appropriateness of the placement and associated funding request, and reach a decision on whether or not to agree to the placement based on other up-to-date information, as suggested at Annex 6 of this document.

## Learner reviews

- 19 Independent Specialist Providers are contractually (schedule 2, clause 2.2) required to undertake learner reviews at the end of the first term of the first year of the placement, in the first half of the summer term, and the final year of the placement. The review report should clearly set out the progress made by the learner in relation to the agreed programme of study. It is expected that any areas of concern will be highlighted within these reports and as required in the contract (schedule 2, clause 2.2). Further information is set out in *Technical Guidance 2012/13*.
- 20 Independent Specialist Providers are required to forward complete review reports to the learner's home local authority no later than four weeks after the learner review has been completed. It is expected that



local authorities will use the reports to inform future decisions for those learners who are due to continue for a further academic year. *Technical Guidance 2012/13* requires Independent Specialist Providers to forward completed end-of-year review reports to the learner's home local authority no later than 30 May.

### **Data protection**

- 21 The local authority should seek the permission of the person for whom a placement request is being made (and/or his or her family or carer where appropriate) to share copies of all relevant supporting information with the YPLA and potential providers.
- 22 The sharing of information is to ensure that a prospective provider can make an informed decision on whether it can meet the person's education and training needs as set out in the learning difficulty assessment. It also ensures that the YPLA can maintain (based on information provided by the local authority) an accurate record of the learner placement, to ensure that the agreed contracted provision is in place and that correct payments are made to the provider. The learner's home local authority must also ensure that the learner (and/or his or her family or carer where appropriate) is fully aware of any information submitted to the YPLA and potential providers.

### **Encryption and transfer of information**

- 23 Where the YPLA is requested to share electronically stored learner data (which is likely to include personal and possibly sensitive personal data) with an Independent Specialist Provider or local authority (schedule 4, clause 2.1.2), the information will be encrypted using WinZip. A password for the data will not be provided until confirmation has been received from the recipient that the encrypted data has been received.
- 24 When it is necessary to share data by post (schedule 4, clause 2.1.3), it must be sent securely packaged (an envelope within an envelope), using Royal Mail Special Delivery service (not Royal Mail recorded delivery) or an equivalent secure delivery service provided by a specialist courier (where the service is trackable, delivered to the intended recipient who will sign to confirm safe receipt and the delivery date and time are specified, ie the day after posting).

### **Multi-agency working**

- 25 Local authorities in considering and securing an education and training programme and the range of support required by the learner to access the programme, including health, social care and/or medical, will be well-placed to maximise the efficient use of funds. This may include pooling resources between different agencies, encouraging the formation of partnerships, and building community capacity to secure appropriate funding from other agencies during the decision-making process.

- 26 This approach will enable a more responsive match to the assessed learner needs, enable the creation of appropriate multi-agency support packages for learners, and ensure that the available budget is most effectively deployed.

### **Independent Specialist Providers**

- 27 As in 2011/12, the YPLA will continue to contract with the Independent Specialist Providers listed in Annex 3 on behalf of local authorities. Some of these providers are subject to contractual restrictions; see paragraph 33 for more information.
- 28 It is pursuant to the terms of the YPLA Conditions of Funding that funding shall be passed from the YPLA to Independent Specialist Providers. The contract will also aim to ensure the appropriate transfer of data and other information to allow local authorities, Independent Specialist Providers and the YPLA to comply with the duties and processes they are subject to.
- 29 As set out in section 63 of the ASCL Act, the YPLA has the power to assess the performance of those providers delivering education and training and to take into account the outcome of these assessments when making contracting decisions.

### **New provider process**

- 30 If local authorities believe, or know, that there are other providers from whom they may wish to commission individual learner placements, and which are not already YPLA funded (ie, listed at Annex 3), local authorities should refer these potential providers to the YPLA Independent Specialist Application Process at their earliest opportunity. The process is available from the following link:  
[http://readingroom.ypla.gov.uk/ypla/180810\\_application\\_process\\_-\\_guidance\\_stage\\_1\\_final.pdf](http://readingroom.ypla.gov.uk/ypla/180810_application_process_-_guidance_stage_1_final.pdf)
- 31 In the absence of successfully completing the YPLA Independent Specialist Provider Application Process and agreeing to be bound by the YPLA Conditions of Funding, the YPLA believes that provision at such providers is not actually and realistically available to be funded by the YPLA and, as such, any learning difficulty assessment that specifies such provision, with the perceived benefit of YPLA funding, may fail to comply with section 139A, following the case of R v London Borough of Bromley ex parte Alloway (2008 EWHC 2499).
- 32 The Secretary of State for Education has imposed conditions on how the grants made to the YPLA are to be used which are set out in the YPLA Framework Document. The conditions include the restriction that funds shall only be paid to providers/bodies who have agreed to the terms of the YPLA's Conditions of Funding.

### **Contractual restrictions**

- 33 Independent Specialist Providers that agree to the YPLA Conditions of Funding may be subject to specific changes in relation to their individual YPLA funding status. These changes can be in response to, for example, cases where the Independent Specialist Provider is newly approved, or where concerns are raised by the inspectorates, YPLA assurance audits, and/or YPLA financial health assessment.

### **Notional allocations and budget monitoring**

- 34 In accordance with the budget determined by the DfE, the YPLA will provide local authorities with a financial year (1 April 2012 to 31 March 2013) notional budget based on those learners whose programme end-date is beyond September 2012 and for whom, therefore, a continued placement may be required, and local authorities' forecasts of likely new learner placements with a September 2012 start-date.
- 35 Local authorities should be mindful of their notional budget as part of their decision-making process. This may include consideration of exceptional funding requests exceeding £35,000 that have been reviewed by an independent expert (see paragraphs 68-78).
- 36 The YPLA will monitor spend against the budget on behalf of local authorities. In the best interests of the learner, it is recommended that local authorities make timely decisions on placement applications and communicate these in a timely manner to learners and their family or carer, Independent Specialist Providers, other agencies and the YPLA.
- 37 The YPLA will continue to work with and support local authorities to enable reporting on budget monitoring and controls to the DfE.

### **Securing placements**

- 38 Whilst it is acknowledged that the total length of an individual learner programme may be in excess of one year, the funding of a learner placement will only be confirmed on an annual basis for the duration of one academic year. Funding is subject to ongoing satisfactory educational progress, evidenced by annual learner review reports produced by the Independent Specialist Provider in the first half summer term, YPLA Conditions of Funding, and any restrictions/conditions thereafter.
- 39 The YPLA funding methodology for Independent Specialist Providers is outlined in Annex 4 ('Support Bands: Rates for 2012/13') and Annex 5 ('Contact Hour Ranges'). Further information can also be found in *Technical Guidance 2012/13*. Independent specialist providers are contractually (schedule 2, clause 1.1) bound to operate within the funding methodology.

- 40 The funding methodology reflects the comparable costs of a programme of study for a maximum of 38 weeks a year. The funding level agreed by the local authority covers all elements of the programme and the support required by the learner to access a programme of learning, including residential provision where appropriate. The local authority may also wish to consider the appropriateness of pooling resources between difference agencies to meet the range of learner support needs. The funding also covers the costs of the pre-entry assessment of the learner by the Independent Specialist Provider. No separate fees should be charged to the learner or agencies in respect of this pre-entry assessment.

### **Confirmation of Agreed Provision 2012/13 (Annex 6 - TG)**

- 41 Once the placement and funding level have been agreed by the local authority and the learner has accepted the offer of a placement, ('Confirmation of Agreed Provision 2012/13' in *Technical Guidance 2012/13*) the local authority must complete an Annex 6 - TG and forward it to the appropriate YPLA territory. The completed Annex 6 - TG must already contain programme and support information completed by the Independent Specialist Provider.
- 42 Upon receipt of Annex 6 - TG, the YPLA will generate an individual learner schedule based on the agreed provision and taking account of payments made by other agencies (see paragraphs 25-26). Delays in the receipt of the completed Annex 6 - TG by the YPLA may result in provider payments being delayed.
- 43 Where placement costs include exceptional funding in excess of £35,000 over the published support band rates (see Annex 4), these will be subject to an independent review commissioned by the YPLA (see paragraphs 68-78). This independent review must be undertaken (where costs exceed £35,000) before the local authority submits Annex 6 - TG to the YPLA and before an individual learner schedule and payments can be generated.

### **Individual learner schedule/Annex 6 -TG**

- 44 The Annex 6-TG ('Confirmation of Agreed Provision 2012/13') of *Technical Guidance 2012/13* confirms the terms of the placement agreed, between the local authority and Independent Specialist Provider including a full breakdown of the programme and support that a learner will receive as follows:
- a breakdown of the level of support that is required to be in place for the learner
  - the agreed and proposed length of the programme(s) to be studied
  - the duration of the funding

- confirmation of whether the placement is day or residential
  - funding from other agencies
  - the number of weeks to be funded.
- 45 The YPLA will create the individual learner schedule, based on the information contained within the Annex 6-TG and forward securely to the local authority as a record of the placement and confirmation of the payment terms between the YPLA, on behalf of the local authority and the Independent Specialist Provider, in relation to each learner. If the details shown on the individual learner schedule are deemed to be accurate and reflect the information provided on the Annex 6 - TG, the learner's home local authority should retain it with the learner file. If inaccuracies are identified and changes required, the learner's home local authority should contact the territory YPLA within 5 working days of receipt of the individual learner schedule.
- 46 The YPLA will also forward a copy of the individual learner schedule to the Independent Specialist Provider. Any discrepancies identified by the Independent Specialist Provider should be raised with the learner's home local authority within 8 working days of receipt. The local authority should then contact the territory YPLA with details of the inaccuracies, which will enable the details to be amended by the YPLA and a revised individual learner schedule to be raised. The individual learner schedule should reflect the information provided on the Annex 6 – TG.
- 47 If the YPLA does not receive notification of changes, an assumption will be made that both the learner's home local authority and the Independent Specialist Provider consider the information contained within the individual learner schedule to be an accurate record of the agreed placement.
- 48 The individual learner schedule is an auditable document that, along with the Annex 6-TG, completes the terms of the contract for each learner between the Independent Specialist Provider and the YPLA.

### **In-year changes**

- 49 It may be helpful for the local authority's documented procedures to include a process for reviewing in-year changes aligned to those set out at paragraphs 32-34 in *Technical Guidance 2012/13*.
- 50 Where a local authority agrees to the changes and the new funding level, the Independent Specialist Provider is contractually (the contract, schedule 2, clause 2.3) required by the YPLA to complete an amended Annex 6-TG and forward it to the learner's home local authority, together with the appropriate review report, and any other evidence that may be requested by the local authority to support the change.
- 51 On completion of this agreement, the learner's home local authority must confirm any in-year changes to the YPLA territory to enable a revised

individual learner schedule to be raised, and ensure any adjustments to Independent Specialist Provider payments are made in a timely manner.

## Incidents

- 52 Independent Specialist Providers are contractually required to report to the YPLA territory and learner home local authority:
- all incidents within 72 hours of their occurrence.
  - all fatal accidents and major injuries (as defined in Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR)) immediately.
  - All RIDDOR events within 10 days of the provider becoming aware of the event.

## Placement extension

- 53 In the majority of cases learners complete their programme within the initially agreed timeframe. It is expected that requests to extend an individual learner placement beyond the duration of the programme's original end-date would only be made under **exceptional** circumstances.
- 54 It is expected that effective transition planning is embedded within the learner placement at an individual specialist provider to ensure that there is a clear plan of progression at the end of the agreed placement. It is not expected that extension requests should be sought to offer additional time at a provider where effective transition planning has not taken place.
- 55 An example of where a placement extension may be considered to be a genuine requirement may include cases where a learner has been unable to complete his or her learning aims due to unexpected medical reasons. It is expected that any concerns or delays relating to achievement will be raised in termly reviews, documented within review and progress reports and discussed by the Independent Specialist Provider with the learner's home local authority at regular intervals.
- 56 Generally, it would not be expected to see transition from one Independent Specialist Provider to another or for further education or training provision beyond that initially commissioned. It is expected that a placement will equip learners with the necessary skills and knowledge to allow them to progress beyond independent specialist provision of education and training. Where the learner is nearing the end of his or her placement, it is suggested that this update includes opportunities and support for the learner to consider alternative provision (further education, higher education, supported employment, voluntary work and so on). It would also be helpful to include opportunities for input and guidance from other agencies (guidance counsellors, social care professionals, medical practitioners, local authority officers and so on).



- 57 In the best interests of the learner, Independent Specialist Providers should make an extension request to the learner's home local authority no later than the end of the penultimate term of the academic year in which the learner's existing placement ends.

### **Non-delivery**

- 58 Where an Independent Specialist Provider is unable to deliver any element of support identified in the learning difficulty assessment and as set out in the individual learner schedule, it is a contractual obligation (schedule 2, clauses 2.3 and 5) for the Independent Specialist Provider to inform the learner's home local authority of this and to submit a revised Annex 6 - TG ('Confirmation of Agreed Provision 2012/13') of *Technical Guidance 2012/13*.
- 59 Following discussion and agreement to any placement changes, it will be necessary for the local authority to communicate these changes to the appropriate YPLA territory by revising the local authority sections of Annex 6 - TG within 10 working days of the change being agreed with Independent Specialist Provider. The YPLA will, in accordance with paragraphs 45-47, issue a revised individual learner schedule, which will trigger the changes to payments made to the Independent Specialist Provider.

### **Withdrawals**

- 60 It is a contractual obligation (schedule 2, clause 5) for Independent Specialist Providers to advise the learner's home local authority and the YPLA as soon as possible if a learner is no longer attending the placement, by completing Annex 8 - TG ('Withdrawal Notification for YPLA-funded Learners at Independent Specialist Providers') of *Technical Guidance 2012/13*.
- 61 Where a withdrawal is due to a learner fatality, the Independent Specialist Provider, must immediately inform the learner's home local authority and the YPLA in line with health and safety guidance and as per the contractual obligations (schedule 3, clauses 6 and 7).
- 62 The local authority, on receiving information on withdrawal, should report all withdrawals at the earliest opportunity by submitting Annex 8 - TG (titled 'Withdrawal Notification for YPLA-funded Learners at Independent Specialist Providers') of *Technical Guidance 2012/13*, completed by the Independent Specialist Provider, to the appropriate YPLA territory.
- 63 It should be noted that, as set out in the contract (schedule 2, clause 5), the Independent Specialist Provider may not be funded for the whole term, depending on the reason for withdrawal.

### **Attendance reconciliation report**

- 64 To support local authority planning and reconciliation processes, the YPLA territory will, annually (in the summer term), send to each Independent Specialist Provider based within its territory an attendance reconciliation report (ARR). Independent Specialist Providers are contractually (schedule 4, clause 2.7) required to check the details and return a signed copy within 10 working days of receipt, highlighting any changes, to the relevant territory YPLA. This is an important process as payments may be recovered in the light of any changes to individual learner attendance.

### **Destination Data**

- 65 The YPLA is collecting data on destinations. Independent Specialist Providers are currently completing/submitting the Individual Learner Record (ILR), and any collection of data outside of the ILR is an interim measure. Refer to Annex 10 – TG: Record of Learner Destination, within the Placement Technical Guidance for Independent Specialist Providers 2012/13.



# Exceptional Funding

## Requests exceeding £68,829 (residential) or £45,247 (day)

- 66 Where placement requests are received by the local authority and the evidence shows that contact hours requested to be provided to a learner will be in excess of the funding limits defined by the contact hour range (ie, £68,829 for a residential placement and £45,247 for a day placement – see Annex 4), this would indicate that the learner is in need of support that requires exceptional funding.
- 67 To enable local authorities to consider a request for exceptional funding, the Independent Specialist Provider is required to complete and submit Annex 7 - TG of *Technical Guidance 2012/13* (titled 'Exceptional Funding Request Summary Form'), together with supporting evidence, to the learner's home local authority. The Independent Specialist Provider must clearly indicate which elements of support are considered exceptional, the associated costs of providing those elements of exceptional support and justification for the requested support. Local authorities should consider the request in accordance with their **own decision-making processes**.

## Requests exceeding £35,000 above published funding levels: £103,829 (residential) or £80,247(day)

- 68 To support a nationally consistent approach for the consideration of higher cost placements at Independent Specialist Providers, exceptional funding requests in excess of £35,000 above the published funding levels outlined in Annex 4 will be subject to an independent review facilitated by the national YPLA.
- 69 The placements for independent review will include any requests that exceed £103,829 for residential placements and those that exceed £80,247 for day placements. This process is one of a suite of key YPLA budgetary controls that are supported and monitored by the DfE, and is a requirement set out in the contract for Independent Specialist Providers (schedule 2, clause 3). The independent reviews will be commissioned and funded by the YPLA following ministerial approval.
- 70 On receipt of a request in excess of £35,000 above the published funding levels, local authorities should consider the request in accordance with their **own decision-making processes**, prior to the point at which a placement would be offered to the learner.

- 71 At this stage, the request, together with the completed Annex 7 - TG ('Exceptional Funding Request Summary Form') of *Technical Guidance 2012/13*, will be securely forwarded (in accordance with paragraphs 23 and 24) to the national YPLA. Where the request is for in-year changes, Annex 7 - TG should be sent with an amended Annex 6 - TG ('Confirmation of Agreed Provision 2012/13') of *Technical Guidance 2012/13*. Requests should be accompanied by supporting evidence (the latter is detailed at Annex 6 of this document).
- 72 The role of the YPLA is to facilitate the independent review process and use the outcomes to disseminate effective practice and monitor budgetary efficiencies.
- 73 Please note that any personal data or other sensitive information sent to the YPLA should be encrypted and comply with data security as set out at paragraphs 21-24.
- 74 In the interests of the learner, the YPLA will endeavour to co-ordinate a response within 14 working days of receiving the information from the local authority to the return of the review recommendations from the independent expert to the local authority.
- 75 The purpose of the review is not for the independent expert to make a decision on behalf of a local authority, but to support and support the local authorities decision-making process and make recommendations on:
- the strength of evidence and appropriateness of support and/or costs made in the exceptional funding request
  - suggestions for any additional information or clarification that might assist the local authority in confirming its decision on whether to agree to fund the placement.
- 76 The independent expert will securely forward its recommendations, together with the learner information to the named contact at the learner's home local authority, copying recommendations to the national YPLA.
- 77 After consideration of the review recommendations, the local authority will determine whether any further action is required and confirm its decision to the learner in accordance with its own decision-making processes.
- 78 Desk instructions are available from the following link to support local authorities in this process:  
[http://readingroom.lsc.gov.uk/ypla/200410\\_ypla\\_efdeskinstructions\\_la.doc](http://readingroom.lsc.gov.uk/ypla/200410_ypla_efdeskinstructions_la.doc)

# Other Funding

## Learners aged 24 and over

- 79 The local authority's duty to secure education and training for learners with learning difficulties and/or disabilities, who are subject to a learning difficulty assessment, and the YPLAs duty to secure the provision of funding, ceases when the learner reaches the age of 25.
- 80 The Chief Executive of the Skills Funding Agency ("Chief Executive") has the responsibility for securing the provision of reasonable facilities for education and training suitable to the requirements of persons who are aged over 19 and this includes learners with learning difficulties and/or disabilities who were, or are, subject to a learning difficulty assessment once they have reached the age of 25.
- 81 Local authorities are requested to take into account the respective legal responsibilities of the YPLA and Chief Executive when agreeing placements for learners with learning difficulties and/or disabilities at Independent Specialist Providers, which last beyond a learner's 25<sup>th</sup> birthday.
- 82 Local authorities should not assume that the Chief Executive will continue to fully fund any placement for learners with learning difficulties and/or disabilities at ISPs once they have reached their 25<sup>th</sup> birthday.
- 83 It is therefore advisable for local authorities to enter into dialogue with the Chief Executive in the year in which the young person reaches their 24<sup>th</sup> birthday to enable the planning for future funding to take place.

## **General Further Education (GFE) providers funded from the LLDD Placement Budget (Over £19,000 Additional Learner Support and Specialist Placements)<sup>1</sup>**

- 84 In addition to placements at Independent Specialist Providers the specialist placement budget also covers additional learning support (ALS) over £19,000 and specialist placements in general further education providers for those young people over compulsory school age but under 25 and are subject to a learning difficulty assessment.
- 85 To enable local authorities to meet their duty of securing enough suitable education and training to meet a persons reasonable needs (as set out

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<sup>1</sup> Reference page 3: Merging of the Budget

in the ASCL Act and detailed at Annex 2), for the 2012/13 academic year GFE providers will be required to obtain approval in advance from a learner's home local authority for ALS costs in excess of £19,000 and specialist placements:

- **Over £19,000 ALS:** part funded from the specialist placement budget. Only the costs in excess of £19,000 will be funded as ALS from the specialist placement budget. The initial £19,000 for a young person will be sourced from the provider's learner responsive allocation i.e. if support needs were costed at £21,000 the provider would fund £19,000 from their learner responsive allocation, with the remaining £2,000 funded as ALS from the specialist placement budget. Programme costs would be funded from the learner responsive allocation.
- **Specialist Placements:** programme and support costs funded from the YPLA specialist placement budget (held on behalf of local authorities) i.e. local programme at GFE with support package that meets the learner's needs and agreed as a local alternative to an out of county residential placement.

In January each year providers also have the opportunity to submit a business case for increases to their learner number allocation for the forthcoming academic year. Local authorities and providers may wish to work together to investigate the opportunity to integrate these learners into future learner responsive allocations.

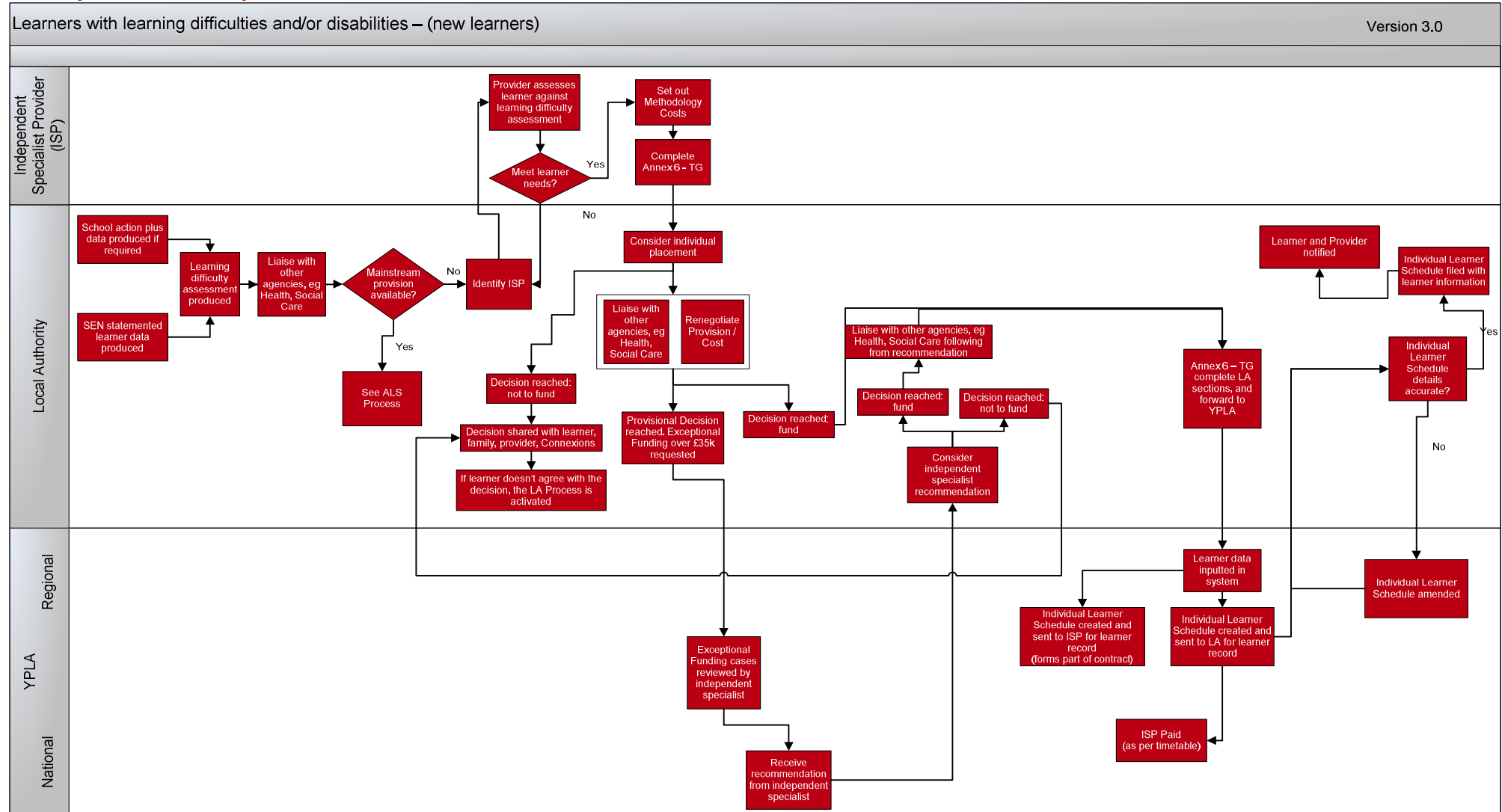
- 86 The local authority will be responsible for determining and agreeing the programme and associated support costs, along with reviewing the progress of learners who are resident in their area.
- 87 When transferring sensitive learner information to the local authority for approval of costs, the provider must ensure that they comply at all times with the terms and obligations imposed by the Data Protection Act 1998, the Data Protection Principles, and all guidance issued by the Information Commissioners Office. The provider must agree with the local authority the data transmission method to be used which must be one of the following:
- Electronically using WinZip encryption. A password for the data is not provided until confirmation has been received from the recipient that the encrypted data has been received; or
  - Data is sent via Royal Mail Special Delivery (not Recorded Delivery) with notification provided prior to sending the information so that the delivery is expected and confirmation received that there will be someone present to receive the delivery as appropriate.
- 88 Once approval for the provision has been provided by the local authority, the YPLA will issue an Agreement (forming part of the GFE provider's

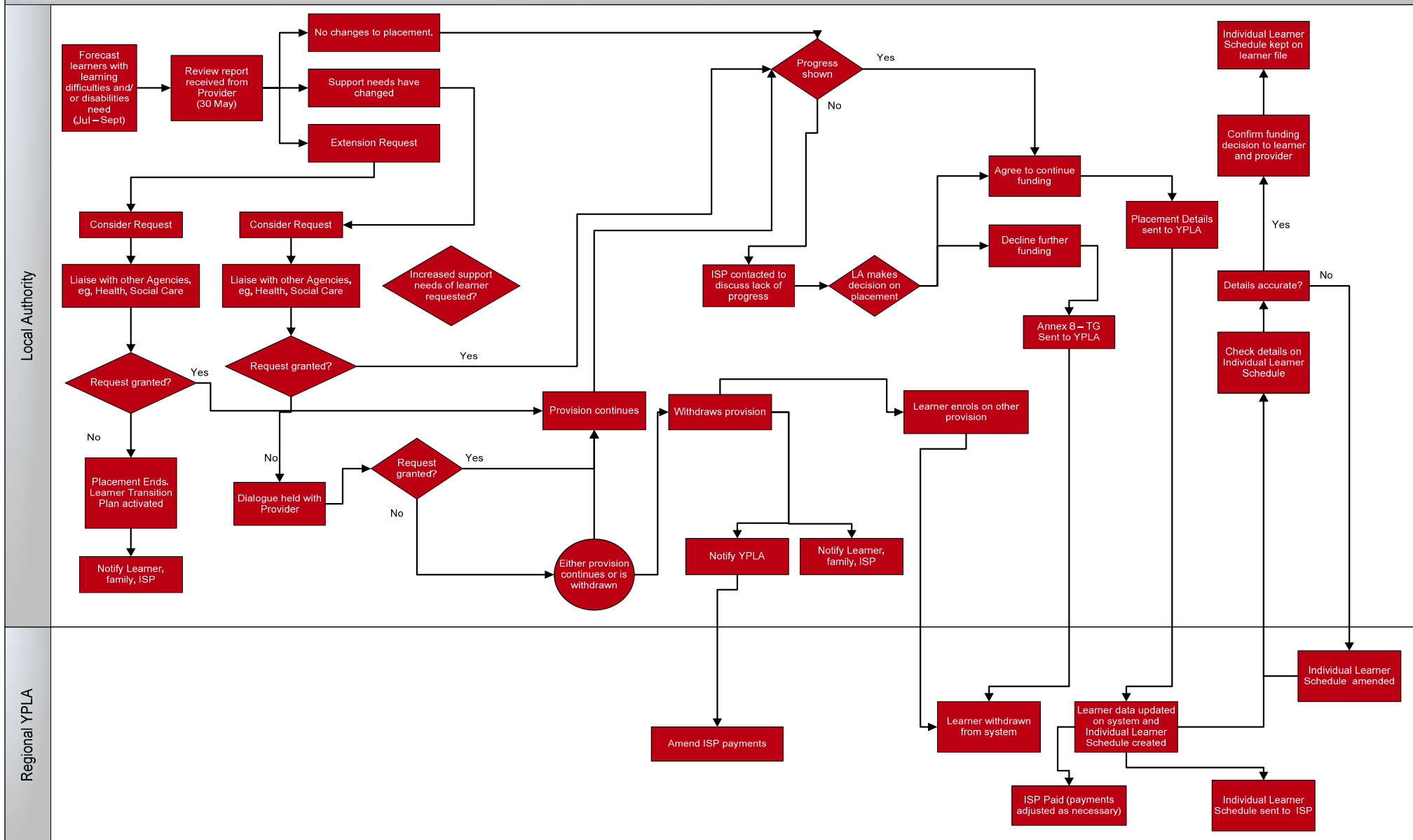
main YPLA contract) to enable the transfer of funds from the YPLA to the provider on behalf of the local authority.

- 89 The Agreement will detail all learners (including those from other local authorities) who are funded at the provider from the LLDD placement budget (for ALS over £19,000 and Specialist placements).
- 90 If there are any proposed changes to the Agreement i.e. addition of a new learner, the provider must firstly agree costs with the learner's home local authority, before an Agreement variation can be issued to the provider by the YPLA on behalf of the local authority. No varied agreement will be issued without the consent of the learner's home local authority.
- 91 Provider payments will be made in accordance with their Agreement.
- 92 Providers are contractually required to provide a reconciliation return on, or before 9 November 2013. Funding recoveries will be made against a future agreement or by issuing an invoice to the provider. The YPLA territory will provide details of any planned recovery and return of monies to the specialist placement budget.
- 93 The YPLA does not anticipate any underpayments will occur against the contract.
- 94 The provider will be contractually required to record all provision on the Individual Learner Responsive (ILR) when submitting their return as set out in the Agreement.
- 95 Providers will be required to operate in accordance with the YPLA's High Cost ALS guidance, (available from [http://www.ypla.gov.uk/colleges\\_and\\_providers/funding/funding-guidance/](http://www.ypla.gov.uk/colleges_and_providers/funding/funding-guidance/) ) including completion of an ALS cost form.

# Annex 1:

## Flowcharts of the Decision-making Process for New and Continuing Placements at Independent Specialist Providers





## **Annex 2:**

# **Apprenticeships, Skills, Children and Learning Act 2009**

### **Legal duties**

- 1 The information in this annex is quoted from the Apprenticeships, Skills, Children and Learning Act 2009 (ASCL Act).

### **Young People's Learning Agency Duties**

#### **Section 61 Provision of Financial Resources (Chapter 2)**

- (1) The YPLA must secure the provision of financial resources to:
  - (a) education (other than higher education) suitable to the requirements of persons who are above compulsory school age but have not attained the age of 19;
    - (i) who are over compulsory school age but under 19, or
    - (ii) who are 19 or over but under 25 and are subject to learning difficult assessment;
  - (b) persons providing or proposing to provide suitable educations to children subject to youth detention;
  - (c) local education authorities, for the purposes of their functions in relation to education or training within paragraph (a) or (b)
- (2) The YPLA must also secure the provision of financial resources in accordance with any directions given to it by the Secretary of State.
- (3) The YPLA may secure the provision of financial resources to –
  - (a) persons providing or proposing to provide education or training to persons who are of or under compulsory school age;
  - (b) persons providing or proposing to provide education or training to persons aged 19 or over, in respect of education or training begun by them before reaching the age of 19;
  - (c) local education authorities, for the purposes of their functions in relation to education or training in respect of which the YPLA has power to secure the provision of financial resources under paragraph (a) or (b).
- (4) The YPLA may also secure the provision of financial resources –
  - (a) to or in respect of persons (of any age) for purposes related to enabling, facilitating or encouraging their participation in education or training;
  - (b) to persons providing or proposing to provide goods or services in connection with the provision by others of education or training within subsection (1)(a) or (b) or (3)(a) or (b);
  - (c) to persons undertaking or proposing to undertake research relating to education or training;
  - (d) to persons providing or proposing to provide work experience for persons receiving education;



- (e) to persons carrying out means tests under arrangements made under section 64;
  - (f) to persons providing or proposing to provide information, advice or guidance about education or training or connected matters (including employment).
- (5) In performing its functions under this section the YPLA must make the best use of its resources.
- (6) The YPLA may secure the provision of financial resources under this section –
- (a) by providing the resources;
  - (b) by making arrangements for the provision of resources by another person;
  - (c) by making arrangements for the provision of resources by persons jointly (whether or not including the YPLA).
- (7) YPLA may under subsection (4)(a) secure the provision of financial resources by reference to –
- (a) any fees or charges payable by the person receiving or proposing to receive the education or training, or
  - (b) any other matter (such as transport or childcare).
- (8) The reference in subsection (1)(a) to persons –
- (a) who are over compulsory school age but under 19, or
  - (b) who are aged 19 or over but under 25 and are subject to learning difficulty assessment, does not include persons who are subject to adult detention within the meaning given in section 121(4).
- (9) Directions given under subsection (2) may not concern the provision of financial resources to or in respect of a particular person or persons.

### **Section 63 Performance assessments (Chapter 2 – Main Functions, Part 3)**

- (1) The YPLA may adopt or develop schemes for the assessment of the performance of persons in providing education or training funded (directly or indirectly) by the YPLA in the exercise of its functions under section 61.
- (2) The YPLA may take the assessments into account in deciding how to exercise its functions under section 61.

### **Section 72 Guidance by YPLA (Chapter 2 – Main Functions, Part 3)**

- (1) The YPLA must issue guidance to local education authorities about the performance of their duties under sections 15ZA(1), 15ZB, 15ZC(1)(b) and 18A(1) of the Education Act 1996 (c. 56).
- (2) Local education authorities must have regard to any such guidance in performing those duties.
- (3) Before issuing guidance under subsection (1) the YPLA must consult –
- (a) local education authorities in England, and

- (b) such other persons as it thinks appropriate.
- (4) The YPLA may also issue guidance about any other matter in respect of which it has a function.

### **Local Education Authority Duties**

#### **Section 41 Education and training for persons over compulsory age: general duty (Chapter 2, part 2)**

#### **Education and training for persons over compulsory school age: general duty**

Before section 15A of the Education Act 1996 (c. 56) insert— **“15ZA Duty in respect of education and training for persons over compulsory school age: England**

- (1) A local education authority in England must secure that enough suitable education and training is provided to meet the reasonable needs of—
  - (a) persons in their area who are over compulsory school age but under 19, and
  - (b) persons in their area who are aged 19 or over but under 25 and are subject to learning difficulty assessment.
- (2) A local education authority may comply with subsection (1) by securing the provision of education or training outside as well as within their area.
- (3) In deciding for the purposes of subsection (1) whether education or training is suitable to meet persons’ reasonable needs, a local education authority must (in particular) have regard to –
  - (a) the persons’ ages, abilities and aptitudes;
  - (b) any learning difficulties the persons may have;
  - (c) the quality of the education or training;
  - (d) the locations and times at which the education or training is provided.
- (4) In performing the duty imposed by subsection (1) a local education authority must –
  - (a) act with a view to encouraging diversity in the education and training available to persons;
  - (b) act with a view to increasing opportunities for persons to exercise choice;
  - (c) act with a view to enabling persons to whom Part 1 of the Education and Skills Act 2008 applies to fulfil the duty imposed by section 2 of that Act;
  - (d) take account of education and training whose provision the authority think might reasonably be secured by other persons.
- 5) A local education authority must, in –
  - (a) making any determination as to the provision of apprenticeship training that should be secured under subsection (1), or
  - (b) securing the provision of any apprenticeship training under that subsection, co-operate with the Chief Executive of Skills Funding.

- 6) For the purposes of this section a person has a learning difficulty if –
- (a) the person has a significantly greater difficulty in learning than the majority of persons of the same age, or
  - (b) the person has a disability which either prevents or hinders the person from making use of facilities of a kind generally provided by institutions providing education or training for persons who are over compulsory school age.
- 7) But a person is not to be taken to have a learning difficulty solely because the language (or form of language) in which the person is or will be taught is different from a language (or form of language) which has at any time been spoken in the person’s home.
- (8) In this section – “apprenticeship training” means training provided in connection with –
- (a) an apprenticeship agreement (within the meaning given in section 32 of the Apprenticeships, Skills, Children and Learning Act 2009),
  - (b) any other contract of employment, or (c) any other kind of working in relation to which alternative English completion conditions apply under section 1(5) of that Act (meaning of “completing an English apprenticeship”); “education” includes full-time and part-time education; “training” includes –
    - (a) full-time and part-time training;
    - (b) vocational, social, physical and recreational training;
    - (c) apprenticeship training.
- (9) The references in subsection (1) to –
- (a) persons in a local authority’s area who are over compulsory school age but under 19, and
  - (b) persons in a local authority’s area who are aged 19 or over but under 25 and are subject to learning difficulty assessment, do not include persons who are subject to a detention order.

### **15ZB Co-operation in performance of section 15ZA duty**

Local education authorities in England must co-operate with each other in performing their duties under section 15ZA(1).”

### **Section 46 Boarding accommodation: persons subject to learning difficulty assessment (Chapter 2, part 2 LEA Functions)**

After section 514 of the Education Act 1996 (c. 56) insert—

#### **“514A Provision of boarding accommodation for persons subject to learning difficulty assessment**

- (1) A local education authority in England may secure the provision of boarding accommodation in connection with the provision of education or training for a person in their area who is –
- (a) over compulsory school age but under 25, and
  - (b) subject to learning difficulty assessment.

- (2) A local education authority may secure the provision of boarding accommodation under subsection (1) either within or outside their area.
- (3) For the purposes of subsection (1) it is immaterial who provides, or secures the provision of, the education or training.
- (4) In this section “education” and “training” have the same meanings as in section 15ZA.”

## Annex 3:

### Independent Specialist Providers

- 1 The following list details the Independent Specialist Providers that hold YPLA Contract for Services (Education and Training), which legally allows for the transfer of YPLA funds to be made. The YPLA will be notify local authorities of any changes throughout the year.
- 2 Certain Independent Specialist Providers may have funding (or other) restrictions; for example, where the Independent Specialist Provider is newly approved, a school, a day placement, or in response to inspection outcomes.
- 3 Providers that are newly approved or have other restrictions are indicated by the use of italics. School, day and 19-plus status and where a day to residential ratio applies are indicated using the symbols \*, \*\*, + and † respectively (see key at the end of this list).

Provider	Provider's host local authority
Arden College	Sefton
Beaumont College	Lancashire
Bridge College**	Stockport
<i>Coleg Elidyr</i>	<i>Worcestershire</i>
<i>Condoover College Limited</i>	<i>Shropshire</i>
David Lewis College*	East Cheshire
Derwen College	Shropshire
Mencap National College, Dilston	Northumberland
Doncaster College for the Deaf	Doncaster
<i>Dorton College of Further Education</i>	<i>Kent</i>
Education and Services for People with Autism	Sunderland
Exeter Royal Academy for the Deaf*	Devon
Fairfield Opportunity Farm	Wiltshire
Farleigh Further Education College, Frome	Somerset
Farleigh Further Education College, Swindon†	Swindon
The Fortune Centre of Riding Therapy	Hampshire
Foxes Academy	Somerset
Freeman College	Sheffield

Provider	Provider's host local authority
Glasshouse College	Dudley
Hereward College of Further Education	Coventry
Hinwick Hall College of Further Education	Bedford Borough
Homefield College	Leicestershire
Hope Lodge School (Aspin House)*	Southampton
Henshaws Society for Blind People (Henshaws College)	North Yorkshire
Landmarks**	Derbyshire
Langdon College	Salford
Lindeth College of Further Education	Cumbria
Linkage Community Trust	Lincolnshire
Mencap National College Lufton College	Somerset
The Mount Camphill Community Ltd	East Sussex
Nash College	Bromley
Young Epilepsy	Surrey
National Star College	Gloucestershire
New College Worcester*	Worcestershire
North East Autism Society (Thornbeck College)	Sunderland
Northern Counties College	Newcastle-upon-Tyne
Oakwood Court	Devon
Orchard Hill College of Further Education**	Sutton
Mencap National College Pengwern College	Shropshire
Pennine Camphill Community	Wakefield
Portland College	Nottinghamshire
Queen Alexandra College	Birmingham
Queen Elizabeth's Foundation Brain Injury Centre**	Surrey
Regent College**	Stoke-on-Trent
Royal College, Manchester*	Stockport

Provider	Provider's host local authority
Royal National College for the Blind	Herefordshire
RNIB College, Loughborough	Leicestershire
Ruskin Mill College	Gloucestershire
<i>SENSE</i> **	<i>Peterborough</i>
St Elizabeth's Centre**	Hertfordshire
St John's School and College**+	Brighton and Hove
Strathmore College	Stoke-on-Trent
<i>Treloar College</i>	<i>Hampshire</i>
West of England School and College (for Young People with Little or No Sight)	Devon
Westgate College	Kent
William Morris Camphill Community	Gloucestershire

### Key

- \* = school status
- \*\* = day placements only
- + = 19-plus placements only
- † = day to residential ratio applicable
- italic* = capped, restricted or newly approved

## Annex 4:

### Support Bands: Rates for 2012/13

- 1 This annex gives the funding approach that will be used for all learners within Independent Specialist Providers and is implemented from August 2012 onwards.

<b>Band</b>	<b>Day</b>	<b>Residential</b>
D	£13,186	£26,689
E	£17,841	£36,249
F	£22,495	£42,303
G	£32,967	£49,069
H	£45,247	£68,829



## Annex 5: Contact Hour Ranges

- 1 In the tables below, 'expected hours' are a benchmark figure for the split between the two main categories. 'Total volume' is an absolute minimum level that must be adhered to. Flexibility will exist between the two main categories.

### Day learners

Band	Education and independent living skills: expected hrs/wk	Care and therapy: expected hrs/wk	Total volume (minimum hrs/wk)
D	4–6	0–1	5
E	6–8	0–1	7
F	8–10	0–2	9
G	11–15	0–3	14
H	11–21	0–13	20 (maximum 30)*

*\*This is the maximum average weekly hours funded within the band, and more hours would ordinarily qualify for exceptional support.*

### Residential learners

Band	Education and independent living skills: expected hrs/wk	Care and therapy: expected hrs/wk	Total volume (minimum hrs/wk)
D	7–10	4–6	13
E	8–12	5–7	15
F	10–20	5–10	22
G	14–20	10–14	31
H	18–29	14–25	44 (maximum 50)*

*\*This is the maximum average weekly hours funded within the band, and more hours would ordinarily qualify for exceptional support.*

## Annex 6:

### Suggested Education and Training Evidence

- 1 The following items are suggested sources of evidence that local authorities may use when gathering evidence in relation to the education and training needs of learners with learning difficulties and/or disabilities, along with consideration of the actual provision that is realistically available to meet those needs. The list is not exhaustive and local authorities may wish to seek additional relevant and up-to date information depending on the particular circumstances of the learner.
  - learning difficulty assessment
  - a relevant and up-to-date pre-entry assessment report from a local provider that has fully considered the young person's needs and where it has been concluded they cannot put in place a suitable package of support to meet the learner's educational and training requirements
  - the learner's most recent statement of SEN
  - the learner's most recent school report and transition plan
  - a relevant and up-to-date social care report
  - a relevant and up-to-date medical and psychological report
  - a report from the Independent Specialist Provider detailing how the provider can meet the learner's assessed education and training needs set out in the learning difficulty assessment and Annex 6 (TG) ('Confirmation of Agreed Provision 2012/13') in *Technical Guidance 2012/13*.

## Annex 7:

### References

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Young People's Learning Agency  
Cheylesmore House  
Quinton Road  
Coventry  
CV1 2WT

[www.ypla.gov.uk](http://www.ypla.gov.uk)

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Young People's Learning Agency

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