

Placement Information: Learners with Learning Difficulties and/or Disabilities at Independent Specialist Providers 2011/12

December 2010

Of interest to local authorities and independent specialist providers

For information

Further information

For further information please contact the appropriate regional YPLA office.

Young People's Learning Agency
Cheylesmore House
Quinton Road
Coventry
CV1 2WT
0845 337 2000
www.ypla.gov.uk

Contents

	<i>Paragraph number</i>
Introduction	1
Statutory funding guidance: funding of 16-19 education and training	3
Local authorities' duties	5
Boarding ('residential') accommodation	10
Changing Policy Context	11
Combining budgets for learners with learning difficulties and/or disabilities	11
Green paper consultation: Children and Young People with Special Education Needs and Disabilities	14
New Learners: Decision-making Process	16
Evidence of education and training needs and possible provision to meet them	18
Data protection	22
Multi-agency working	24
Independent specialist providers	26
New provider process	29
Funding restrictions	31
Indicative allocations and budget monitoring	34
Securing placements	36
Confirmation of Agreed Provision 2011/12 (Annex 6 - TG)	38
Individual learner schedule	42
Funding agreement	47
Funding methodology	48
YPLA review process	50
Existing Learners	51
Learner reviews	51
In-year changes	53
Placement extension	57
Exceptional Funding	61
Requests exceeding £68,829 (residential) or £45,247 (day)	61
Requests exceeding £35,000 above published funding levels: £103,829 (residential) or £80,247 (day)	63

On-programme Delivery	73
Non-delivery	73
Withdrawals	76
Attendance reconciliation report	80
Encryption and transfer of information	81
Other Information	85
Ofsted inspections	85

Annexes

- 1: Flowcharts of the Decision-making Process for New and Continuing Placements at Independent Specialist Providers
- 2: Apprenticeships, Skills, Children and Learning Act 2009
- 3: Independent Specialist Providers
- 4: Support Bands: Rates for 2011/12
- 5: Contact Hour Ranges
- 6: Suggested Education and Training Evidence
- 7: References

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 education and training at independent specialist providers (listed at Annex 3) for 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 continuing placements at independent specialist providers and to new placements for the **2011/12 academic year**. As per the process for 2010/11, the Young People's Learning Agency (YPLA) will fund independent specialist providers directly in 2011/12 on behalf of local authorities and in relation to the statutory duty of local authorities to make available suitable education and training. The YPLA will also consider performance and satisfactory inspection outcomes from Ofsted and other agencies (listed at paragraph 31) 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 in December 2010. 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 2011/12. It also sets out the leadership role of local authorities, including their key statutory duty to secure suitable education and training opportunities for young people, and the role of autonomous schools, colleges and other providers of education and training working in partnership with each other and with local authorities to meet the needs of all young people.
- 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 (detailed at paragraph 11) for funding learners aged 16-25 with learning difficulties and/or disabilities and special educational needs (SEN).

Local authorities' duties

- 5 Section 15ZA of the Education Act 1996, inserted by the ASCL Act, places on local authorities the duty to secure enough suitable education and training to meet the reasonable needs of persons who are over compulsory school age, but under 19, as well as for those aged 19 or over but under 25, who are subject to a learning difficulty assessment. Responsibility for those learners with learning difficulties and/or disabilities aged 19 or over, who do not have a learning difficulty assessment and are accessing education and training provision, will rest with the chief executive of Skills Funding (who together with his employees are known as the Skills Funding Agency). Local authorities have

existing duties to encourage, enable and assist the participation of all young people with learning difficulties and/or disabilities up to 25 years and also in respect of transport arrangements. It is important that all of these duties are aligned with the interests of the learner.

- 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.
- 7 Department for Education (DfE) guidance (DfE, 2010a; 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.
- 8 For further advice on commissioning assessments, reference should be made to DfE guidance (DfE, 2010a) and *Commissioning and Funding 16-19 Education and Training: High-level guide for local authorities* (REACT, 2010).
- 9 This document provides information in relation to the small number of young people with a learning difficulty assessment whose education and training needs can only be met by an independent specialist provider.

Boarding ('residential') accommodation

- 10 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.

The Changing Policy Context

Combining budgets for learners with learning difficulties and/or disabilities

- 11 There are currently three main funding routes for learners aged 16-25 with learning difficulties and/or disabilities and SEN:
- SEN block grant, which local authorities receive to discharge their statutory duties towards those aged 16-19 with SEN in schools
 - additional learning support (ALS) funding allocated to colleges and independent providers for learners aged 16-25 in local provision
 - provision funded for individual learners with learning difficulties and/or disabilities aged 16-25, as part of the specialist placement budget, which includes provision at independent specialist providers where their needs cannot be met locally.
- 12 During 2010/11, the YPLA, working with local authorities, will develop, model and test an integrated system for funding provision for learners with learning difficulties and/or disabilities across all provider types, including the closer alignment and more effective application of separate budgets.
- 13 As for 2010/11, the YPLA will fund independent specialist providers directly in 2011/12 on behalf of local authorities and in relation to the statutory duty of local authorities to place learners. For 2011/12, the arrangement for funding SEN needs and high-cost ALS will remain largely unchanged.

Green paper consultation: Children and Young People with Special Educational Needs and Disabilities

- 14 On 10 September 2010, the Minister of State for Children and Families, Sarah Teather, invited views from everyone with an interest in services for children and young people with SEN or disabilities in England (DfE, 2010b). This consultation ended on 15 October 2010. All views and perspectives received will be considered as part of developing proposals for a Green Paper on SEN and disability to be published in spring 2011.
- 15 The YPLA will take account of, and respond to, the emerging issues from the work of the green paper and subsequent publications on this matter in developing its programme of work to enable greater flexibility to respond to the needs of the learner.

New Learners: Decision-making Process

- 16 The flowcharts at Annex 1 set out the decision-making process for both new and continuing placements at independent specialist providers. Reference is made throughout this document to the various stages of this process. Local authorities should ensure they have documented procedures to facilitate and record their placement decisions and processes.
- 17 Regional planning groups played a significant role in overseeing the consideration of placements at independent specialist providers. Whilst this is no longer a requirement, local authorities have been encouraged to continue working collaboratively in subregional and regional groups to co-ordinate provision, especially for young people with learning difficulties and/or disabilities. These groups have had a positive impact on transforming provision for young people with learning difficulties and/or disabilities, along with increasing transparency and securing budgetary control.

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

- 18 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.
- 19 Local authorities play a key role in relation to evidence-gathering and preparation for 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.
- 20 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 2011/12') of *Technical Guidance 2011/12* 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.
- 21 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 information depending on the particular circumstances of the learner to inform and support the application for funding at an independent specialist provider.

Data protection

- 22 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.
- 23 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.

Multi-agency working

- 24 Local authorities in considering and securing an education and training programme and the support required by the learner to access the programme, 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 contributions from other agencies as required, during the decision-making process.
- 25 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

- 26 As in 2010/11, 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 funding restrictions; see paragraphs 31 -33 for more information.
- 27 It is pursuant to the terms of the YPLA Education and Training Funding Agreement (the contract) 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.
- 28 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

- 29 If local authorities believe, or know, that there are other providers where they may wish to offer individual learner placements, and which are not already YPLA funded (ie, listed at Annex 3), local authorities should provide details of these providers to the YPLA as soon as possible. This will enable these other potential providers to consider the YPLA independent specialist provider process, and ensure that the provider agrees to be bound by the terms of the contract.
- 30 In the absence of successfully completing the YPLA independent specialist provider process and agreeing to be bound by the terms of the contract, 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 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).

Funding restrictions

- 31 Independent specialist providers that hold a contract 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 Ofsted, Estyn, the Care Quality Commission (CQC) and/or YPLA assurance audits.
- 32 Changes may include restrictions in learner numbers and/or other limitations imposed by the YPLA, which may result in some YPLA-funded learner placements not being available for a specified period of time.
- 33 The YPLA will ensure any changes to Annex 3 are notified to local authorities.

Indicative allocations and budget monitoring

- 34 As in 2010/11 and in accordance with the budget determined by the DfE, the YPLA will provide local authorities with an indicative budget based on those learners whose programme end-date is beyond September 2011 and for whom, therefore, a continued placement may be agreed on the basis of, among other things, satisfactory progress and forecast new learner placements with a September 2011 start-date.
- 35 The YPLA will continue to work with and support local authorities to enable reporting on budget monitoring and controls to the DfE.

Securing placements

- 36 As part of their ongoing monitoring of young people, and in accordance with a learning difficulty assessment that is in place, local authorities will identify where the provision and learning support required to meet a young person's needs can only be met through an independent specialist provider. Local authorities should be mindful of their indicative budget as part of their decision-making process, which may include consideration of exceptional funding requests exceeding £35,000 that have been reviewed by an independent expert (see paragraphs 63-72).

- 37 The YPLA will monitor spend against the independent specialist provider placement 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 that are communicated to learners and their family or carer, independent specialist providers, other agencies and the YPLA.

Confirmation of Agreed Provision 2011/12 (Annex 6 - TG)

- 38 Once the placement and funding have been agreed by the local authority and the learner has accepted the offer of a placement, the local authority is responsible for completing the local authority sections of Annex 6 - TG ('Confirmation of Agreed Provision 2011/12') in *Technical Guidance 2011/12* and forwarding it to the appropriate regional YPLA. The completed Annex 6 - TG should already contain programme and support information completed by the independent specialist provider.
- 39 Once all sections are complete, Annex 6 - TG should be sent securely (ideally electronically) to the regional YPLA in accordance with YPLA data transmission and encryption policies (see paragraphs 81-84) whilst observing the local authority's legal obligations under the Data Protection Act 1998 and related legislation.
- 40 Upon receipt of Annex 6 - TG, the YPLA will generate an individual learner schedule (see paragraph 42). Delays in the receipt of the completed Annex 6 - TG by the YPLA may result in provider payments being delayed.
- 41 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 63-72). 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

- 42 An individual learner schedule is a summary of the placement, once agreed, between the local authority and independent specialist provider in relation to the programme and support that a learner will receive. The individual learner schedule sets out the requirements of the agreed placement including:
- 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
 - the number of weeks to be funded.
- 43 The individual learner schedule is then forwarded securely to the local authority as a record of the placement and confirms 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, 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 regional YPLA within 10 working days of receipt of the individual learner schedule.

- 44 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 10 working days of receipt. The local authority should then contact the regional 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.
- 45 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.
- 46 The individual learner schedule is an auditable document that completes the terms of the contract for each learner between the independent specialist provider and the YPLA.

Funding agreement

- 47 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 for the duration of one academic year and should be subject to ongoing satisfactory progress, evidenced by annual review reports.

Funding methodology

- 48 The YPLA funding methodology for independent specialist providers is outlined in Annex 4 ('Support Bands: Rates for 2011/12') and Annex 5 ('Contact Hour Ranges'). Further information can also be found in *Technical Guidance 2011/12*. Independent specialist providers are contractually (the contract, schedule 2, clause 1.1 & schedule 3, clause 3.1) bound to operate within the funding methodology.
- 49 The funding methodology reflects the comparable costs of a programme of study for a maximum of 38 weeks a year. The funding 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 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.

YPLA review process

- 50 In 2010/11, to support local authorities, the YPLA provided a review panel process for learners and their family and/or carers as a method of seeking an independent review of a local authority's decision, within a prescribed remit. Arrangements for 2011/12 are currently under consideration.

Existing Learners

Learner reviews

- 51 Independent specialist providers are contractually (the contract, schedule 2, clause 1.1 and schedule 3, clause 3.1) required to undertake learner reviews at the end of the first term of the first year of the placement, each summer term and in the final term 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 (the contract, schedule 2, clause 1.1). Further information is set out in *Technical Guidance 2011/12*.
- 52 Independent specialist providers are required to forward completed 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 funding decisions for those learners who are due to continue for a further academic year. *Technical Guidance 2011/12* requires independent specialist providers to forward completed end-of-year review reports to the learner's home local authority no later than 30 May.

In-year changes

- 53 As set out in *Technical Guidance 2011/12*, independent specialist providers should discuss and agree in-year adjustments relating to individual learner placements with the learner's home local authority.
- 54 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 in *Technical Guidance 2011/12*.
- 55 Where a local authority agrees to the changes and the new funding level, the independent specialist provider is contractually (the contract, schedule 2, clause 1.1 and schedule 3, clause 3.1) required by the YPLA to complete an amended Annex 6 - TG ('Confirmation of Agreed Provision 2011/12') of *Technical Guidance 2011/12* 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.
- 56 On completion of this agreement, the learner's home local authority must confirm any in-year changes to the regional YPLA 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.

Placement extension

- 57 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.

- 58 Effective transition planning should be 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.
- 59 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 problems 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.
- 60 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.

Exceptional Funding

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

- 61 Where placement requests are received by the local authority and the evidence shows that contact hours 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.
- 62 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 2011/12* (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 referred to at paragraphs 36-37 of this document.

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

- 63 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.
- 64 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 (the contract, schedule 2, clause 3). The independent reviews will be commissioned and funded by the YPLA following ministerial approval.
- 65 As set out at paragraph 72 of this document, 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, to the point at which a placement would be offered to the learner.
- 66 At this stage, the request, together with the completed Annex 7 - TG ('Exceptional Funding Request Summary Form') of *Technical Guidance 2011/12*, will be forwarded 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 2011/12') of *Technical Guidance 2011/12*. Requests should be accompanied by supporting evidence (the latter is detailed at Annex 6 of this document).

- 67 The role of the YPLA is to facilitate the independent review process and use the outcomes to disseminate effective practice and monitor budgetary efficiencies.
- 68 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 22-23 and paragraphs 81-84.
- 69 In the interests of the learner, the national 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.
- 70 The purpose of the review is not for the independent expert to make a decision on behalf of a local authority, but to support its 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.
- 71 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.
- 72 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 (paragraphs 36-37).

On-programme Delivery

Non-delivery

- 73 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, clause 6) 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 2011/12') of *Technical Guidance 2011/12*.
- 74 Following discussion and agreement to any placement changes, it will be necessary for the local authority to communicate these changes to the appropriate regional YPLA by revising the local authority sections of Annex 6 - TG within 10 working days of the change being agreed. The YPLA will, in accordance with paragraphs 42-46, issue a revised individual learner schedule, which will trigger the changes to payments made to the independent specialist provider.
- 75 If the YPLA does not receive notification of such changes within 10 days of receipt, 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.

Withdrawals

- 76 It is a contractual obligation (the contract, schedule 3, clause 5.12) 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 2011/12*.
- 77 Where a withdrawal is due to a learner fatality, the independent specialist provider, at the earliest opportunity, must inform the learner's home local authority and the YPLA in line with health and safety guidance and as per the obligations set out in schedule 3, clauses 6 and 7 of the contract.
- 78 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 2011/12*, completed by the independent specialist provider, to the appropriate regional YPLA.
- 79 It should be noted that, as set out in the contract (schedule 2, clause 6.3), the independent specialist provider may or may not be funded, depending on the reason for withdrawal.

Attendance reconciliation report

- 80 To support local authority planning and reconciliation processes, the regional YPLA will, annually (in the summer term), send to each independent specialist provider based within its region an attendance reconciliation report (ARR). Independent specialist providers are contractually (the contract, schedule 2, clause 5) required to check the details and return a signed copy within 10 working days of receipt, highlighting any changes, to the relevant regional YPLA. This is an important process as payments may be recovered in the light of any changes to individual learner attendance.

Encryption and transfer of information

- 81 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 (the contract, schedule 3, clauses 5.1-5.12.), the information will be encrypted using WinZip and a pass phrase sent separately via an alternative means; for example, telephone or separate email. Once the intended recipient has confirmed safe receipt of the encrypted email, the pass phrase to open the file will be shared.
- 82 When it is necessary to share information of the type described above by post, 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).
- 83 When the YPLA shares personal data with third parties, it will act as processor of data on behalf of local authorities.
- 84 Current arrangements for sending information to the YPLA that includes personal data can found on the YPLA website (<https://knowledgezone.ypla.gov.uk/kzscripts/default.asp?cid=184>).

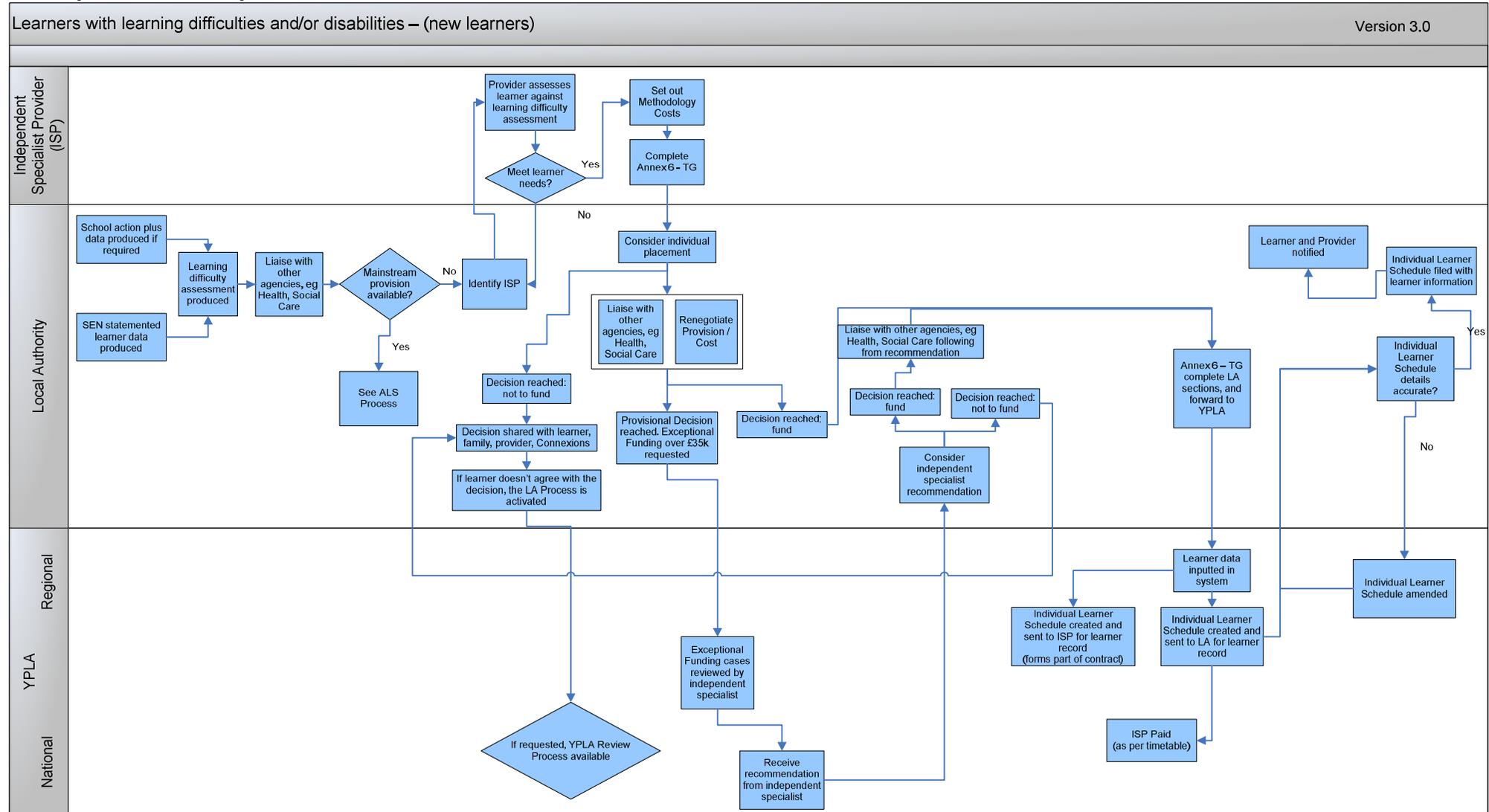
Other Information

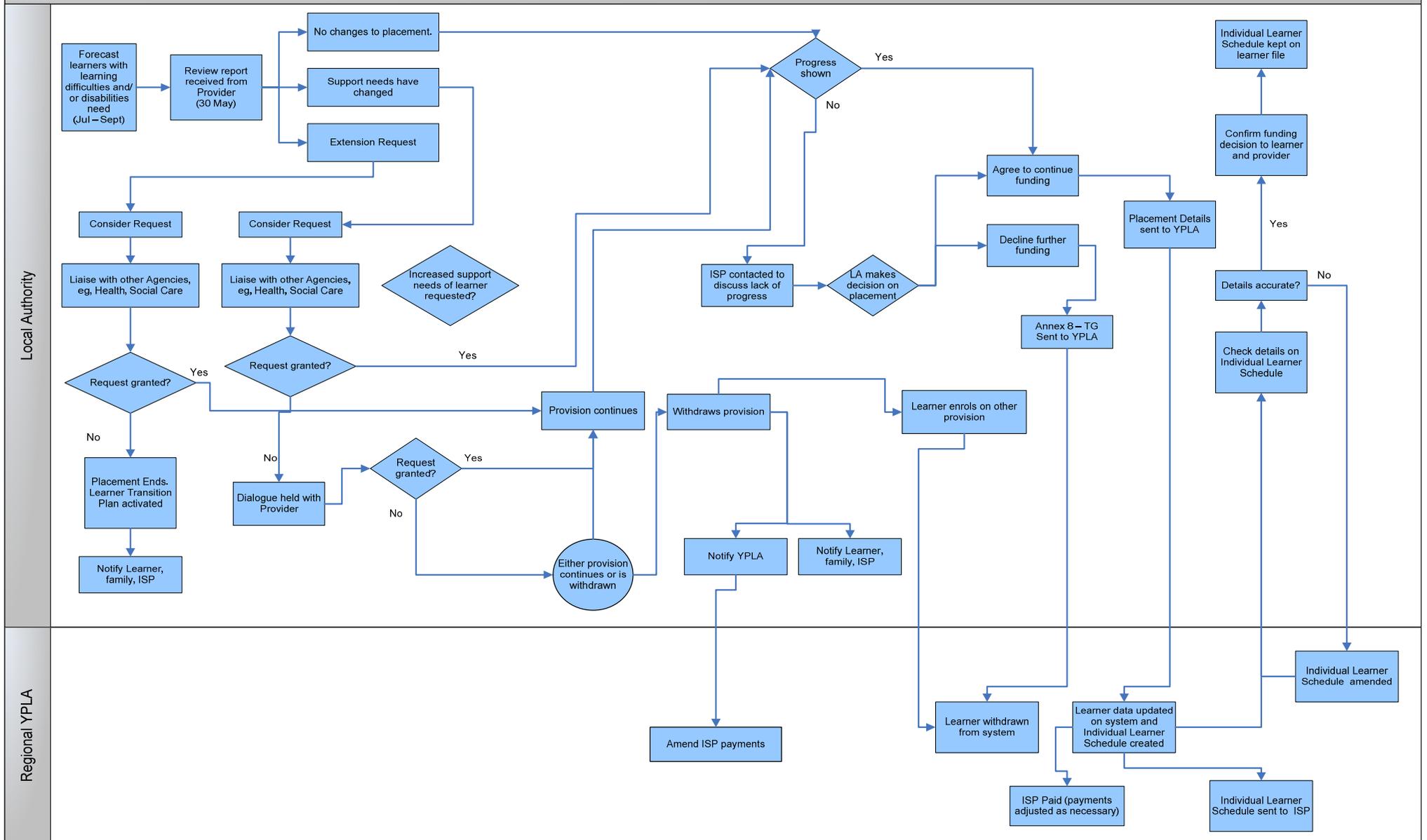
Ofsted inspections

- 85 Ofsted has adopted a risk-proportionate approach to inspection to enable inspectors to focus their efforts where they have the greatest impact. The framework (Ofsted, 2009) applies to the inspection of provision contracted by the YPLA.
- 86 Provision delivered through an independent specialist provider will be subject to regular inspection against the criteria contained within the framework. The arrangements for this are available from the Ofsted website (www.ofsted.gov.uk). Other regulatory bodies may also carry out inspections at some independent specialist providers.
- 87 As the contract holder, the YPLA will be responsible for the consideration of actions to be taken with providers as a result of inspection. This could include restrictions on future contracting.
- 88 Some independent specialist providers may have funding (or other) restrictions that are informed by the response to inspection outcomes. Independent specialist providers with such restrictions are indicated in Annex 3 by the use of italics.

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 contracts, which legally allows for the transfer of YPLA funds to be made.
- 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>Conover 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
Loppington House	Shropshire
<i>Mencap National College Lufton College</i>	<i>Somerset</i>
The Mount Camphill Community Ltd	East Sussex
Nash College of Further Education	Bromley
The National Centre for Young People with 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
<i>Mencap National College Pengwern College</i>	<i>Shropshire</i>
Pennine Camphill Community	Wakefield
Portland College	Nottinghamshire
Queen Alexandra College	Birmingham
Queen Elizabeth's Foundation Brain Injury Centre**	Surrey
Regent College**	<i>Stoke-on-Trent</i>
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
Treloar College	Hampshire
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 2011/12

- 1 This annex gives the funding approach that will be used for all learners within independent specialist providers and is implemented from September 2011 onwards.

Band	Day	Residential
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 2011/12') in *Technical Guidance 2011/12*.

Annex 7:

References

DfE (2010a) *Supporting young people with learning difficulties to participate and progress - incorporating guidance on Learning Difficulty Assessments*. [online]. Main document at <http://publications.education.gov.uk/eOrderingDownload/DCSF-00378-2010.pdf> [accessed 18 Dec 2010]. Annexes at <http://publications.education.gov.uk/eOrderingDownload/DCSF-00378-2010A.pdf> [accessed 18 Dec 2010].

DfE (2010b) *Children and Young People with Special Educational Needs and Disabilities* [green paper]. London: Department for Education. At www.education.gov.uk/consultations/downloadableDocs/SEN%20views%20consultation%20document.doc [accessed 18 Dec 2010].

HM Government (2009) *Apprenticeships, Skills, Children and Learning Act 2009*. London: Office for Public Sector Information. At www.opsi.gov.uk/acts/acts2009/pdf/ukpga_20090022_en.pdf [accessed 18 Dec 2010].

Ofsted (2009) *Common Inspection Framework for Further Education and Skills 2009*. London: Ofsted. At www.ofsted.gov.uk/Ofsted-home/Forms-and-guidance/Browse-all-by/Other/General/Common-inspection-framework-for-further-education-and-skills-2009 [accessed 18 Dec 2010].

REACT (2010) *Commissioning and Funding 16-19 Education and Training: High-level guide for local authorities*. [online]. At www.lga.gov.uk/lga/aio/9658849 [accessed 18 Dec 2010].

YPLA (2010) *Placement Technical Guidance for Independent Specialist Providers 2011/12*. Coventry: Young People's Learning Agency.

Young People's Learning Agency
Cheylesmore House
Quinton Road
Coventry
CV1 2WT
0845 337 2000
www.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: www.ypla.gov.uk

Publication reference: YPLA-G-105/2010