

Supporting young people with learning difficulties to participate and progress - incorporating guidance on Learning Difficulty Assessments

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Introduction

1. This document is in three parts. Part One describes the duties for local authorities arising from the Apprenticeships, Skills, Children and Learning Act 2009 (“the ASCL Act”) as well as from earlier legislation. Part Two sets out a vision for provision and support for learners with learning difficulties and/or disabilities (LLDD) and describes the learning landscape, in particular the opportunities presented by 14-19 reform. Part Three covers statutory guidance made under section 139A (7) of the Learning and Skills Act 2000 (LSA 2000). The assessments conducted under section 139A of the LSA 2000 are referred to throughout this guidance as Learning Difficulty Assessments. References to the Action Plan throughout this document refer to the action plan resulting from the Learning Difficulty Assessment.

2 This guidance will help local authorities to make consistent, effective and robust decisions that will lead to positive outcomes for young people with learning difficulties and/or disabilities but it does not – and could not – tell them what to do in each individual case. The guidance will be of interest to staff working directly with young people and their managers and the Young People’s Learning Agency.

3 In summer 2009, Ofsted began the major review of Special Educational Needs (SEN) provision and transition arrangements, including the assessment processes, for children and young people. We anticipate their report to be published in Summer 2010. Following the outcome of that review, we expect further developments to be considered as part of our intention to continue to improve the outcomes for learners with a learning difficulty and/or disability, including promoting employability to all young people wherever they are in the Further Education system.

4 References in this guidance to Connexions Services and their staff carrying out assessments should be read as applying to whoever is responsible for carrying out assessments on behalf of the local authority in a given area.

Definition of learning difficulty

5 For the purposes of this document we are using the following definition which is taken from Section 15ZA(6) and (7) of the Education Act 1996 (as inserted by section 41 of the ASCL Act).

A person has a learning difficulty if—

(a) he has a significantly greater difficulty in learning than the majority of persons of his age, or

(b) he has a disability which either prevents or hinders him from making use of facilities of a kind generally provided by institutions providing post-16 education or training.

But a person is not to be taken to have a learning difficulty solely because the language (or form of language) in which he is or will be taught is different from a language (or form of language) which has at any time been spoken in his home.¹

¹ Section 15ZA(6) and (7) of the Education Act 1996 (as inserted by section 41 of the ASCL Act) defines a person with a learning difficulty in such terms.

6 Learning difficulties is the term used in legislation while 'learners with learning difficulties and/or disabilities' is a deliberately wide definition in common usage in the FE system, and includes people with mental health difficulties, autistic spectrum conditions, dyslexia, attention deficit hyperactivity disorder, physical, sensory and cognitive impairments and other identified and non-identified difficulties in learning which may (may not) have led to special educational needs interventions at school under the SEN Code of Practice². Both terms cover the broad range of difficulties and disabilities. Increasingly we are aware of more learners with behavioural, emotional, and social difficulties (BESD) Sometimes these difficulties will not be caused by a medical condition but we recommend that they are part of the wider group of learners with learning difficulties and/or disabilities often sharing the same vulnerabilities and requiring similar support and therefore in need of enhanced support and targeted provision.

² www.teachernet.gov.uk/sen

Part 1: Local authority duties

1.1 The Education and Skills Act 2008³ (ESA 2008) places a duty on local authorities to promote participation in education or training of young people in their area. This is particularly important in ensuring that learners who need support to access education and training are appropriately assessed and supported by local authorities in fulfilling their duties under the ESA 2008.

1.2 The ASCL Act signals a significant change away from the circumstances which led to the creation of a Learning Difficulty Assessment (s139A assessment) in 2000. With separate funding streams for learners pre 16 and post 16 there was a need to record support that a learner may require to meet identified needs and to access and sustain post 16 learning. The transfer to local authorities of responsibility for planning, commissioning and funding education and training for young people 16-19 (and for 19-25 year olds with a Learning Difficulty Assessment) establishes a single point of accountability.

1.3 A key challenge for local authorities is to use the opportunity offered by the ASCL Act to improve the outcomes for learners with learning difficulties and/or difficulties, with a specific focus on supporting them to develop the skills and aptitudes to go into sustainable employment and participate in their community. Joined up systems of planning and delivery will be crucial to achieving this.

Learning Difficulty Assessment

1.4 A Learning Difficulty Assessment is the legal term used in the Education Act 1996 (as amended by the ASCL Act⁴) and equates to assessments conducted under section 139A of the LSA 2000 assessment **specifically**. The legislation places local authorities under a duty to arrange for a Learning Difficulty Assessment to be conducted of all persons in respect of whom they maintain a statement of Special Educational Needs and who they expect to leave school to receive post 16 education, training or higher education. Local authorities also have the power to undertake a Learning Difficulty Assessment for those young people who would benefit by one.

1.5 Large numbers of young people have some kind of learning difficulty, which they are enabled to manage well in mainstream provision with the aid of the Additional Learning Support funding available in the Further Education system. Such learners may not require formal assessment, but good identification and support processes will determine what is needed to meet learner needs and how. There are also young people with a learning difficulty but no statement who have stayed on at school after year 11 but plan to leave at end of year 12 or 13 for post-16 further education, training or higher education, and who have needs which may be equivalent to a statement but whose needs have been met without the need for a statement.

1.6 There will also be young people who have been identified by their school as School Action or School Action Plus. We have found varying definitions of these categories and suggest that care should be taken when deciding whether a young person would need

³ Section 10 of the Education and Skills Act establishes a duty on local education authorities to promote participation in education or training of young people in their area who are subject to the duty to participate under section 2 of that Act.

⁴ Section 13(5) of the Education Act 1996 (as amended by section .59, and Schedule 2, paras 1, 2(1), (3) of the ASCL Act defines a learning difficulty assessment as an assessment under section 139A or 140 of the LSA 2000.)

additional support beyond that which they are already receiving to make a successful transition.

1.7 In general s139A Learning Difficulty Assessments undertaken under the power rather than the duty should be reserved for those whose needs are very unclear or very complex, where there may have been a major change in circumstance that has affected needs or where specific highly specialist support may be required. There may also be those who acquire a learning difficulty and/or disability through injury or disease where an assessment will benefit re-orientation of learning plans and consequent life decisions. Additionally those learners who continue learning beyond 19 may well need to be reviewed and a refreshed assessment agreed because of the need to ensure the most appropriate provision and support to meet changing needs.

1.8 It is possible that a learner's conditions may deteriorate requiring new assessment of need. Local authorities should decide whether an assessment would be beneficial to the young person, taking account of this section along with Annex 1 section 2 and Annex 4 which sets out specific scenarios. Having determined that a young person requires a Learning Difficulty Assessment a local authority must continue to support the young person through to positive outcomes up to the age of 25.

1.9 We expect that, in addition to young people with statements of SEN, local authorities should use their Power to undertake a 139A Assessment for

- Young people whose SEN have been formally assessed but whose needs have been met without this level of support.
- Young people who, in the view of the Special Educational Needs Coordinator (SENCO) or appropriate school staff or parents will struggle to access post 16 learning without support over and above that usually offered within the college
- Young people who will find significant difficulty in coping with the transition to a different learning environment. Potentially this could be a larger group and include those with ASD/Asperger's Syndrome, behavioural, emotional and social difficulties and those with sensory impairments
- Young people who have needs equivalent to those requiring statementing but who have not been formally assessed.

1.10 It is not intended that the changes introduced by the ASCL Act should necessarily lead to an increase or decrease in the numbers of assessments carried out. A Learning Difficulty Assessment should be carried out where the local authority has concluded that the learner may benefit from receiving one. Assessment processes should be the culmination of careful planning, starting at least at 14, placing the learner at the centre of activities and sets them on a pathway to a positive outcome, and wherever possible/appropriate leading to employment.

Other forms of assessment

1.11 Many young people require additional support to help them succeed in learning whether in schools or, post 16, in colleges or other providers. Parents and, especially post 16, young people themselves, have their views and will influence, and in some cases, decide what is best for them. Determining the need and level of additional support happens in various ways and can involve a wide range of professionals – school teachers, college lecturers, local authority or health staff, or voluntary sector workers. This support

may be achieved through schools without the need to conclude in formal assessment, so it is important to establish how support mechanisms are managed in the LA and schools.

1.12 Local authorities and Children's Trusts already use the Common Assessment Framework (CAF). CAF is a useful tool and summation of the different assessments of need of a young person in transition. It is good practice for professionals to share the outcomes from the CAF. As CAF assessments are not specifically education or curriculum focused further elements of assessment may be needed to identify how learning needs will be met. For young people with more complex needs, other assessment or screening tools are often used – whether for social care referrals or, special education needs. It is in the context of these arrangements that local authorities should consider whether a young person with LDD requires a Learning Difficulty Assessment.

1.13 As local authorities develop their commissioning role, we expect that information gathered from pre 16 processes – including the CAF – would inform their commissioning decisions, ensuring a seamless transition from school to further learning without the need for a re-assessment. Local authorities should make every effort to ensure that the provider is able to deliver the course and additional support for a young person based on the information available from existing assessments as well as that in a Learning Difficulty Assessment where one is in place.

1.14 We strongly recommend local authorities determine how they will identify those learners who will benefit from continuing LA support. This may require a review process of learners aged 19-25 who have learning difficulties and/or disabilities which may lead to an s139A assessment in establishing that a learner will benefit from LA support.

Commissioning

1.15 The ASCL Act transfers responsibility for the planning, commissioning and funding of education and training for 16-19 year olds (and 19-25 for learners with a Learning Difficulty Assessment⁵) from the Learning and Skills Council to local authorities. Local authorities will be responsible for all learners aged 19-25 who have a Learning Difficulty Assessment regardless of whether the Action Plan identifies that their needs can be met at a general FE college or a specialist college. Local authorities are also given the power to conduct Learning Difficulty Assessments for young people in custody where this is appropriate to meet their needs. A detailed description of a local authority's strategic responsibilities in relation to commissioning provision is set out in the National Commissioning Framework which will be published shortly.

1.16 These new arrangements mean that local authorities will be responsible for special educational needs (SEN) and for learners with a learning difficulty or disability (LLDD), as well as for children's and adults' social care funding – a single point of accountability. Local authorities will therefore be well placed to work towards creating a seamless system for identifying needs for young people aged up to 25 with SEN or LDD, which moves away from assessment as the main focus towards a single coherent system of support.

1.17 The *16-19 Statement of Priorities and Investment 2010-11*⁶, published by the LSC in January 2010 identifies the need to see continued progress in helping young people with learning difficulties and/or disabilities to overcome the barriers they may face. The

⁵ The Skills Funding Agency will retain responsibility for any LDD learner 19-25 without a Learning Difficulty Assessment.

⁶ <http://readingroom.lsc.gov.uk/lsc/WestMidlands/nat-statementofpriorities-jan10.pdf>

2010-11 specialist provision budget for learners with learning difficulties and/or disabilities has increased by 13% for funding education and training costs for these young people. The Statement of Priorities highlights a key challenge for local authorities to maintain control of the allocations to support learners with learning difficulties and/or disabilities. They can do this through effective commissioning, robust process and by finding a better way of linking placements with funding decisions, particularly for those with high cost support needs. Local Providers such as colleges and training providers can help the local authority by ensuring they respond to local needs to strengthen local provision. Placement decisions should be made against clear criteria for expected outcomes for young people and all decisions on provision should be personalised to support the learning young people need for their career. High quality and timely impartial information, advice and guidance to young people will be essential to ensure that the young person is aware of their options and the type of learning they will need to fulfil their aspirations.

1.18 A local authority's strategic planning for the learning needs of its residents will take account of the learning requirements for learners with a statement of SEN or with learning difficulties and/or disabilities as for all other learners for whom it has a funding responsibility. Local authorities will take account of the breadth and scale of provision available locally, regionally and nationally when considering how best to meet their duties for these individual learners in an appropriate and cost effective way. Local authorities should not seek to replicate a resource locally to meet all learner requirements which exist or emerge this will not necessarily be in the learner's best interests, nor will it be cost effective or demonstrate value for money.

1.19 Local authorities should continue to implement the Learning for Living and Work strategy⁷ by investing in the development of an increased quantity of appropriate/relevant high quality provision available locally for learners with LDD.⁸ This will be agreed at regional level through Regional Planning Groups (RPGs) to ensure that investment decisions are made in a sound strategic context and achieve good value for money, including through a robust review process.

Procurement of provision at Independent Specialist Providers (ISPs)

1.20 Local authorities will undertake Learning Difficulty Assessments for young people who will be leaving school at 16 from year 9 onwards. Local authorities will not confirm commissioning decisions until all requirements are costed and aggregated to a level of affordability agreed through the RPG and YPLA. Where the provision and learning support required to meet a young person's needs are identified as being available only through an ISP, the decision to make such provision can be made provisionally and in the context of budgetary indications. When allocations are finalised, and reflect expected procurement of provision through ISPs by YPLA, decisions can be confirmed to learners and providers.

1.21 Whilst local authorities will make the commissioning decisions, for an initial period up until 2012/13 (if not sooner if it is feasible for local authorities to take on this role), the YPLA will contract with ISPs on behalf of local authorities.

Quality of provision

1.22 Local authorities should take into account the quality of provision when drawing up

⁷ <http://readingroom.lsc.gov.uk/lsc/National/nat-learningforlivingworkFWOCT08-mar09.pdf>

⁸ Since 2006/07, the LSC has invested £67m in development funding to increase more sustainable local, high quality provision and resources.

the Action Plan relating to a Learning Difficulty Assessment⁹. The Framework for Excellence will provide a common framework of performance for all post 16 providers and over time will enable local authorities to make informed judgements about how well a provider is meeting the needs of its learners, including those learners with learning difficulties and/or disabilities. It will provide commissioners and funders of provision with consistent and comparable data across all post 16 providers regardless of type. It will also help the providers themselves to benchmark and self assess their performance. It will provide learners, their parents and carers and advisers with information about the quality of learning provision in their area. It already covers colleges and training providers and is being phased in across schools sixth forms from 2010/11. In the meantime, local authorities should use a range of data to quality assure sixth form provision. Results across all post 16 providers are expected to be published in 2012.

Assessments for young people detained in custody

1.23 Where local authorities have responsibility for commissioning education and training for young people detained in youth custody¹⁰, this includes provision to meet any learning difficulties young people in youth custody may have. These provisions to make local authorities responsible for education and training for young people detained in youth custody are due to be commenced in Prison Service Young Offender Institutions from September 2010 (and will be commenced for other provision depending on the nature of current contracting arrangements). Local authorities will have the power to conduct Learning Difficulty Assessments for young people in custody from April 2010 and local authorities should use this power to conduct assessments whenever appropriate for the young person.

1.24 Arrangements for young people in custody should, as far as possible, be aligned with arrangements in the mainstream learning sector. From September 2010, all local authorities will have a duty to promote the fulfilment of young peoples' learning potential whilst they are in youth custody and on their release.¹¹ Where a local authority was maintaining a statement of SEN for a child or young person immediately prior to his or her detention, the ASCL Act introduces specific duties on both the home and the host local authority.

1.25 Further local authority guidance relating to learning for young people in youth custody has recently been published for consultation.¹²

Transport for learners 16-24

1.26 The 16-18 Transport Duty – Section 509AA applies to all local authorities in England in respect of arrangements for young people (over compulsory school age) aged 16-18 and those continuing learners who started their programme of learning before their 19th birthday. The overall intention of the duty is to:

⁹ <http://ffe.lsc.gov.uk/>

¹⁰ Section 48 of ASCL Act inserts a new section 18A into the Education Act 1996. New section 18A has the effect that local education authorities in England and Wales with relevant youth accommodation in their area ("host authorities") will be required to secure that enough suitable education and training is provided to meet the reasonable needs of the children and young people in the youth justice system who are held in those establishments.

¹¹ Section 562B of Chapter 5A of Part 10 of the Education Act 1999 (Section 50 of ASCL Act inserts a new Chapter 5A into Part 10 of the Education Act 1996 after section 562.)

¹² <http://www.dcsf.gov.uk/consultations/index.cfm?action=consultationDetails&consultationId=1699&external=no&menu=1>

- ensure that learners of sixth form age are able to access the education and training of their choice; and
- ensure that, if support for access is required, this will be assessed and provided where necessary.

1.27 Local authorities are therefore required to prepare and publish an annual Transport Policy Statement specifying the arrangements for the provision of transport or otherwise that the authority considers it necessary to make to facilitate the attendance of all persons of sixth form age receiving education or training.

1.28 Local authorities must consult with partners and then publish their agreed transport policy statement by 31 May each year. In their transport policy statements, local authorities are required to specify the transport arrangements that are in place to support young people of sixth form age with learning difficulties and/or disabilities to access education and training.

1.29 Section 508F into the Education Act 1996 (as inserted by section 57 of the ASCL Act) re-enacts the existing adult duty and thus requires local authorities to make such arrangements for the provision of transport as they consider necessary to facilitate the attendance of FE learners¹³. In addition section 508G (also inserted by section 57) requires local authorities to publish an annual Transport Policy Statement specifying the arrangements for the provision of transport or otherwise for young people **up to age of 25 with learning difficulties and/or disabilities assessed under section 139A of the Learning and Skills Act 2000. This duty commences in April 2010 and applies to academic year 2011/12.**

1.30 Local authorities may publish this information in a joint statement with their sixth form transport policy statement, or a separate statement, if they prefer. This measure is designed to ensure that young people with learning difficulties **aged 19-24** and their parents are able to access information about what transport is available, so that they are able to make informed choices between institutions.

1.31 The overall purpose of the changes in legislation is to ensure that:

- Authorities take into account the views of young people and their parents when planning transport and financial assistance arrangements;
- Young people everywhere have access to the information they need to make an informed choice of institution and course;
- Young people and their parents know how to complain and Authorities have the power to amend their statements in year to respond to complaints;
- Authorities consider their responsibilities for transport when they are commissioning education and training.

1.32 Further guidance to support local authorities in preparing their Transport Policy Statements is available online¹⁴. From April 2010, this will become statutory guidance

¹³ Section 57 of the ASCL Act inserts new sections 508F to 508I into the Education Act 1996. Section 508F re-enacts the existing transport duty in relation to adult learners.

¹⁴ <http://www.dcsf.gov.uk/14-19/index.cfm?go=site.home&sid=57&pid=554&ctype=None&ptype=Contents>

issued by the Secretary of State for Children, Schools and Families under section 509AB(5) of the Education Act 1996.

Part 2 – The Learning Landscape

2.1 Our aspirations are as high for young people with learning difficulties as they are for any other young person. All young people should have the opportunity to participate in appropriate learning that leads to progression and positive outcomes, including employment.

2.2 We want there to be a seamless system for identifying needs for all learners aged 0-25 years with Special Education Needs, placing responsibility with a single accountable body. Consistency of standards within local flexibility will help to ensure that all young people can benefit from the opportunities available and ultimately progress into employment regardless of where they live.

2.3 The *Getting a Life* project¹⁵ finds that aspirations are often far too low for young people with learning difficulties and/or disabilities, and that some post-16 assessments focus too much on what young people cannot do rather than on what they can. The project suggests that there needs to be:

- a greater emphasis on the voice of learners and their families at the local level;
- employer engagement in the pathway for learners from year 9;
- an emphasis on the needs of the individual throughout the Learning Difficulty Assessment process; and
- a consistent way to use the information coming from Action Plans centred on individual needs to inform strategic planning and commissioning.

2.4 More than ever we need Learning Difficulty Assessments to be high quality and consistently delivered, ensuring continuity and appropriateness of support when it is needed. This process should be actively supported by Children's Trusts and Directors of Children's Services monitoring the quality and sufficiency of the assessments produced through robust quality assurance systems operating in local authorities and commissioned services.

Children's Trusts

2.5 The Children's Trust is the sum total of co-operation arrangements and partnerships between organisations with a role in improving outcomes for children and young people. Children's Trusts have an important role to play in ensuring positive outcomes for all children and young people including those with learning difficulties and/or disabilities. The ASCL Act 2009 strengthens Children's Trust co-operation arrangements by requiring all areas to have a Children's Trust Board by April 2010 and extending the number of statutory "relevant partners" who will be represented on the Board to include schools, colleges, Job Centre Plus and the management committees of Pupil Referral Units (PRUs)/short stay schools.

2.6 The Board has responsibility to prepare and publish the Children and Young People's Plan (CYPP). The CYPP is the joint strategy of the Children's Trust partners which sets out in detail how they will co-operate to improve well-being for local children and young people across the 5 Every Child Matters outcomes. The CYPP should reflect the shared priorities of all the key local agencies, which include the Primary Care Trust

¹⁵ The project operates in 12 sites, and is focused on determining what works in provision and support, what barriers exist and how these may be removed. for more information see <http://www.gettingalife.org.uk/>
11/26

who are best placed to co-ordinate and plan the delivery of a range of specialist services for children with additional needs in schools.

2.7 The CYPP includes young people up to the age of 25 if they have A S139A assessment. In preparing the CYPP, the Board is required to include a local area needs assessment for children and young people in the local area and an outline of the key actions (as identified in the needs assessment) to improve outcomes for certain groups including children who are disabled. The Children's Trust Board is required to outline the key actions planned to improve outcomes for disabled children as identified in the needs assessment. This means that although individual assessments will be focused on the single child and their carers - each assessment should also feed into a more general description of disabled children's needs - which will inform priorities in the Plan. A robust data planning process will need to be put in place and embedded within the CYPP to ensure the information is actively used to inform strategic planning.

2.8 New guidance, *Children's Trusts: statutory guidance on co-operation arrangements, including the Children's Trust Board and the Children and Young People's Plan*¹⁶, sets out the essential steps the Children's Trust Board must take in preparing the CYPP, including consulting with people and bodies representing children and young people as the Board considers appropriate.

14-19 partnerships

2.9 14-19 Partnerships have an integral role to play in ensuring better outcomes for all learners. 14-19 partnerships exist in each local authority area with responsibility for agreeing the vision for all 14-19 year olds in their area and for developing the 14-19 plan, including a strategy for monitoring and evaluating the effectiveness of delivery. The partnerships include schools, colleges, training providers, work-based learning providers and employers. They are responsible for setting the strategy for delivering the 14-19 duties and for supporting and advising the local authority in their commissioning roles agreeing the long-term vision for all 14-19 year olds across an area. This will include planning for meeting entitlements for Foundation Learning, Diplomas and Apprenticeships for all learners; learners' access to the entitlements, including through e-learning, peripatetic teachers, mobile provision, skills centres or transport where necessary, and facilities. 14-19 partnerships should be fully involved in the process to review and estimate the demand for provision for learners in their area with learning difficulties and/or disabilities including for 19-25 year olds with a Section 139A assessment, and provision made by Independent Specialist Providers.

Supporting participation

2.10 Young people with learning difficulties and/or disabilities are twice as likely to be not in education, training or employment (NEET) as those without. *Investing in Potential*¹⁷, the cross departmental Strategy to increase the proportion of 16-24 year olds in education, employment or training sets out how Government, local authorities and other partners can work together effectively to support young people during their crucial formative years.

2.11 All young people reaching the compulsory education age are entitled to an offer of a suitable place in education or training by the end of September. A thorough assessment of the young person's learning and support needs will help to make sure that they receive

¹⁶ <http://www.dcsf.gov.uk/everychildmatters/about/aims/childrenstrusts/childrenstrusts/>

¹⁷ <http://publications.dcsf.gov.uk/eOrderingDownload/01145-2009DOM-EN.pdf>

a suitable offer under the September Guarantee, make a successful transition, and that they get the ongoing support they need to progress and achieve.

2.12 This will be particularly important as local areas prepare to implement the raising of the participation age, so that every young person is participating in some form of education and training to age 17 in 2013 and age 18 in 2015. The document *Raising the Participation Age: supporting local areas to deliver*,¹⁸ emphasises the importance of key transition points in a young person's life and sets out the key steps towards implementation which will include personalised support to choose options and help the most vulnerable.

2.13 Assessments relating to learning difficulties should not be seen as a separate process from other transition planning processes that support young people as they move on to further education or training. The Learning Difficulty Assessment should be part of the process of ensuring that young people with learning difficulties receive an offer, by the end of September, of a place that is appropriate and meets their needs. Clear pathways laid out in the Assessment that focus on employment as an outcome will help to identify learning opportunities in one of the four major learning pathways (Foundation Learning, GCSEs and A levels, Diplomas, and Apprenticeships).

Foundation Learning

2.14 Foundation Learning is the national suite of learning for 14-19 year old learners (including young people up to age 25 where a learning difficulty assessment is in place) and for adults working predominantly at Entry Level or Level 1. It will be implemented between 2010 and 2013 and will form one of the four main qualification routes for 14-19. Foundation Learning is an integral part of the 14-19 reforms, with progression wherever possible on to GCSEs, Diplomas, Apprenticeships, employment with training or, where appropriate, support for independent living or supported employment.

2.15 Foundation Learning is flexible and inclusive with no pre-entry provision. Learners' achievements are recognised using qualifications from the Qualifications and Credit Framework (QCF). For those who would find most Entry Level 1 qualifications provision too stretching, there are 'Personal Progress' qualifications based on a set of units and a fully inclusive ten-stage continuum that starts, for example, by recognising successful 'encounters' for learning. Taken together, these units can cover all three components of Foundation Learning¹⁹. More information can be found

2.16 Local collaboration through 14-19 Partnership and consortia is critical to enable choice for learners, economies of scale and cross phase coherence. For those with learning difficulties and/or disabilities working towards supported employment and job coaching can play a role – drawing on Additional Learning Support (ALS) and (for 16-18s) entitlement funding. DCSF, LSIS and others are working with specific areas to explore how this can operate in practice.

¹⁸ <http://www.dcsf.gov.uk/everychildmatters/news-and-communications/news/151209nirpa/>

¹⁹ www.excellencegateway.org.uk/foundationlearning

CASE STUDY

A diverse group of 12 special schools are working together with a mainstream school and a Pupil Referral Unit to develop and deliver personalised programmes for 14-16 year old learners. Mapping existing curricula and activities against qualifications available for Foundation Learning, practitioners were thrilled at the opportunities to recognise learning that was previously unaccredited.

The Abbey School also helped to develop a simple but effective individual learning plan template to support ongoing progress reviews. By making joint decisions on qualifications and liaising with 16+ providers, they have also ensured real progression opportunities for their learners, including some who may continue to work towards the same qualification but in a 16+ setting. The collaborative is also actively working to disseminate good practice to all secondary schools in the county.

The Surrey Foundation Learning collaborative

GCSEs and A levels

2.17 If GCSEs or A levels are considered to be the appropriate route for a learner with learning difficulties and/or disabilities providers must consider whether a 'reasonable adjustment' is necessary (otherwise known as access arrangements) to enable them to demonstrate what they have learnt under assessment conditions. It is important that providers discuss with these learners and their parents or carers what 'reasonable adjustments' (otherwise known as 'access arrangements') may be appropriate to their needs early on in their course.

2.18 The Special Educational Needs Coordinator (SENCO) or equivalent should take the lead in liaising – either via their Examinations Officer or direct – with the qualifications Awarding Body or Bodies concerned in good time to ensure that the necessary arrangements can be made, and to gather any evidence that may be required to support the applications for reasonable adjustments to the Awarding Body or Bodies.

2.19 The Joint Council for Qualifications (JCQ) produces common guidance on access arrangements on behalf of the GCSE and A Level awarding bodies. The awarding bodies interpret and apply this guidance on a case-by-case basis when assessing applications from providers on behalf of students.

2.20 Examples of access arrangements that may be required would be additional time allowed to complete an exam paper, modification of exam papers (such as enlarged print or Braille papers), a reader to help read the questions, a scribe who writes down a student's dictated answer, or the use of a word processor to record answers. More information is available via the Joint Council for Qualifications (JCQ) website²⁰

Diplomas

2.21 The Diploma is a flexible qualification that allows learners to build up the constituent components until full achievement. This approach to the Diploma will allow young people to build up their credits, be assessed and to move on at their own pace. Part of the planning for the offer and delivery of Diplomas is to look at the progression opportunities available locally and regionally and to make sure that all learners are catered for in their aspirations.

²⁰ <http://www.jcq.org.uk>

2.22 Diplomas cover a range of learning: the principal learning and projects allow the learner to build and apply the knowledge, understanding and skills relevant to the particular line; the generic element of functional skills and Personal Learning and Thinking Skills develop essential skills that all young people require for the future – in English and mathematics and ICT as well as the broader skills of working with others in teams or problem solving. These are skills that are important for all learners to acquire and develop for future success in life and work including learners with learning difficulties or disabilities.

2.23 All learners will have by 2013 an entitlement to access Diplomas – it is the local authority's duty to secure that. We want local authorities to be working towards that entitlement by encouraging all schools and colleges to work together in the planning of Diplomas and in doing so to make the offer of Diplomas as inclusive as possible. In many areas a consortium wide approach has been developed for learners with learning difficulties and/or disabilities and those with statements of SEN to provide learners with the necessary support at each stage of their Diploma learning programme.

Apprenticeships

2.24 The Apprenticeships Offer, as set out in the ASCL Act, puts the National Apprenticeships Service (NAS) under a duty to offer an Apprenticeship place to all suitably qualified young people, provided they meet minimum requirements. The offer places a duty on NAS to work with local authorities to do everything they can to secure an Apprenticeship for someone, as far as is reasonable. Local authorities and the Chief Executive of Skills Funding Agency have a duty to co-operate in terms of identifying the demand from young people for Apprenticeships within a particular area. Local authorities must inform the Chief Executive of the Skills Funding Agency (in practice the National Apprenticeship Service) as to the numbers of young people who are, in their opinion, able to meet the alternative evidence requirements to take up an Apprenticeship.

2.25 The Apprenticeships programme must ensure equality of access for those with learning difficulties and/or disabilities to participate in the programme and to achieve their full potential. Local authorities should demonstrate a pro-active approach to identifying and removing barriers to entry and progression to ensure the programme remains inclusive.

2.26 As with other publicly funded training provision, additional support arrangements have been put in place for apprentices with special needs. Extra funding for training provision is available above normal funding rates for both young people and adults. For those learners with additional needs the training provider accesses additional learning support (ALS) funds from the YPLA. Providers are able to draw on the funding for as long as the additional needs continue. The ASCL Act provides for regulations for young people with learning difficulties and or disabilities in relation to the Apprenticeship Offer.²¹ It is intended that these should include provision for a 'portfolio of evidence' which may be submitted by learners with learning difficulties and/or disabilities in place of formal qualifications to demonstrate eligibility for the offer. This portfolio will enable young people with LDD to demonstrate that they have the skills and capacity to complete an Apprenticeship.

²¹ Part 1 of the ASCL Act.

CASE STUDY

A partnership was created between YMCA Training in Welwyn Garden City and the Lincolnsfields Centre in Bushey, to design provision around the educational and social needs of a learner with behavioural emotional and social difficulties. Lincolnsfields' role was to deliver training in Animal Care and Skills for Working Life, and YMCA, as the LSC accredited provider, was responsible for overseeing and monitoring the project. This has enabled the learner to develop skills in his particular area of interest in a work situation, and to become more confident in his social interactions. He is now considering an apprenticeship as his next step.

Moving into employment

2.27 The assessment process should raise learners' expectations, particularly of work. The strategy *Valuing Employment Now* recognises that learning disabled people have the lowest employment rate of any vulnerable group.²² The Strategy challenges entrenched views that people with learning disabilities cannot work. The process of supporting learners with learning disabilities including assessment should reinforce and promote notions of work and the assessment should identify how provision and support will lead to work.

2.28 The White Paper: *Building Britain's Recovery: Achieving Full Employment* sets out how the Government plan to support young people into jobs and training more quickly.²³ It highlights that currently too many disabled people and people with a health condition are out of work. The White Paper sets out the steps the Government will take to help ensure that disabled people are given the opportunity to work so that by 2013/14, everyone who is able to work will have access to greater support to help them back into work, or to prepare for work in the future, and Work Capability Assessments which focuses on what people can do rather than what they cannot.

Department of Health reform of day care provision

2.29 Local authorities currently spend £3.45bn on adults with learning disabilities, of which £660million is spent on day services at a cost of £291 per adult per week. All local authorities are in the process of developing their day services as part of the wider transformation of adult social care agenda. The Department of Health is encouraging Learning Disability Partnership Boards to review these plans to ensure that proposals for all adults of working age have employment at their heart; and that any employment projects that do not themselves provide paid jobs offer a clear short-term pathway to real work.

²²http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_10140

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²³ <http://www.dwp.gov.uk/docs/building-britains-recovery.pdf>

CASE STUDY

West Herts College/Dimensions/ACS

West Herts College set up and currently manage a 4 day a week off-campus programme for a young learner with Autistic Spectrum Disorder (ASD) and complex medical needs. Through this individualised approach, the learner was able to access further education and complete ASDAN Towards Independence. The college set up an agreement with Dimensions to deliver supported learning in the community. Adult Care Services provided 10 hours per week of personal care, and also funded continuation of some of the programme through the school holidays, to maintain routines for the learner. The multi-agency package has worked well, and has now been continued for a second year. The learner and his family are pleased with the programme and are now able to consider a gradual introduction into college.

2.30 Supported employment is a model proven to deliver better employment outcomes and investing in it will not only benefit individuals, it may also help Local authorities to achieve their efficiency targets, by releasing resources from day services to invest in supported employment as well as savings in wider health and social care services. In 2010-11, as a priority for the Valuing People Now strategy, the Department of Health will be working with the Local Government Association (LGA), The Association of Directors of Adult Social Services (ADASS) and the Learning Disability Coalition to demonstrate the return on investment for local authorities investing in supported employment, using cost-benefit research.

Individual Budgets and Right to Control

2.31 Local authorities should use the Learning Difficulty Assessment and the Action Plan arising from it to raise the expectations of young people with learning difficulties. This should include empowering young people to make decisions about their future. The DCSF/DH Aiming High for Disabled Children Individual Budgets pilots²⁴, currently running in 6 local authorities from 2009 – 2011 are testing ways to give young people and their families more control over how their budget is spent, this does not cover purchasing education provision.

2.32 The local authorities involved in the pilots identify young people with learning difficulties and/or disabilities and provide practitioners to help them clarify their support needs; design and cost their personal support plans (which could include cash or services in kind) and help them manage their individual budget. In these pilots, families have choice and control over how their allocated budget is spent for/on them, supported by an adviser to help them clarify the outcomes they want to achieve and the types of support available.

2.33 We announced in *Raising the Participation Age; supporting local areas to deliver* that, from April 2010, we will trial a 'young person as a budget holder' model that will enable young people to direct their notional individual budget to access the services they choose, with the aid of an adviser. This will build on the existing DCSF/Department of Health Aiming High for Disabled Children Individual Budgets pilots, and in the first instance be aimed at 16–18 year olds with learning difficulties or disabilities. Our intention is to trial this approach in one of the existing Raising the Participation Age trial areas.

²⁴<http://www.dcsf.gov.uk/everychildmatters/healthandwellbeing/ahdc/individualbudgets/individualbudgets/>

Part 3 – Statutory Guidance relating to Learning Difficulty Assessments

3.1 This section with Annex 1 comprises statutory guidance to which local authorities must have regard when carrying out Learning Difficulty Assessments under section 139 (A) of the Learning and Skills Act 2000.

3.2 The transition from school to a new learning establishment can be a difficult time for any young person. Those with Learning Difficulty Assessments are at particular risk of not making a successful transition. Annex 1 provides information on the actual assessment process including the legislative framework. This section highlights the principles that should underpin all Learning Difficulty Assessments.

3.3 The purpose of Learning Difficulty Assessments is to enable young people to *progress*; to learning that will lead to employment and independent living wherever possible, by identifying learners' needs, the right support and appropriate provision. Ultimately it is for the local authority to design a system which identifies benefits as part of the process. However a set of common principles to underpin all assessments will help to ensure that the assessment process is a consistently delivered and high quality service which ensures continuity and appropriateness of support when it is needed.

There should be clear process setting out when the power to assess is used

3.4 Paragraph 1.4-1.7, and Annexes 1 and 3 set out our expectations about when we would expect local authorities to use their power to assess. Local authorities must have a transparent process setting out the circumstances in which they will use the Power to assess.

All Learning Difficulty Assessments should result in a clear action plan focusing on outcomes.

3.5 An assessment relating to learning difficulties is an assessment of a person that results in a written report of:-

- (a) His/her educational and training needs and aspirations, and
- (b) The learning provision and support required to meet those needs.

3.6 The assessment report should be viewed as a long term document that is used to inform decisions about the type of education or training provision a person being the subject of such an assessment should receive. It should clearly identify their needs and appropriate provision that can actually and realistically be provided to meet them. This reflects the legal ruling made in the case of *Alloway v London Borough of Bromley* (dated 17 September 2008)²⁵. Local authorities should seek their own legal advice if they are unsure about the practical implications of this ruling. The intention of the assessment report is to protect the recipient of the assessment from receiving provision that is unsuitable for their needs, or having provision identified which is subsequently unsuitable for their needs.

3.7 The Action Plan should focus on the expected outcomes for the young person on completion of their learning. There should be a clear emphasis on the learner's aspirations, focusing on progression and eventual employment where appropriate. It is

²⁵ [2008] EWHC 2499 Admin.

vital for the person conducting the assessment to ensure that the assessment report they produce with the person being assessed is thorough, clear and specific about their identified needs and the provision required to meet their needs. This will inform the continued refinement of the Action Plan.

3.8 To carry out effective action planning activity the assessor (s) will need to have up to date information about education and training provision, relevant support services and of future plans for provision in the local area and, to some extent, nationally. This will inform decisions about the options that should be agreed. The benefits of such an approach have been proven through *Learning for Living and Work*²⁶ and continued other agency involvement in achieving learner goals.

All Learning Difficulty Assessments should be supported by an appropriately trained workforce

3.9 Assessment can be a challenging task and those undertaking a Learning Difficulty Assessment should have the relevant expertise and a professional responsibility to stay within the bounds of their competence. For cases where assessment issues are particularly difficult, local authorities would want to decide what actions (such as further training or consultancy support) are needed in order to produce reports that are fit for purpose. We expect that professionals conducting assessments have access to managers trained in reflective practice to ensure proper professional supervision and support.

3.10 A Learning Difficulty Assessment should always be conducted by the person/s who is/are best placed to identify - and make judgements about - the needs a learner is likely to have when they undertake further education, training or higher education. Assessors should be independent of any provider both locally and nationally. However, where other people have had a significant involvement with the person being assessed in the past, their contribution should where possible be included.

3.11 Whilst many people will contribute to the Assessment it is expected that one person will work closely with the young person and their parent/carer and be responsible for co-ordinating the information and the process. The process should be actively supported by senior leadership teams monitoring the quality and sufficiency of the assessments produced through robust quality assurance systems operated in local authorities and commissioned services. It is for a local authority to decide the mechanics of the assessment, but it is likely that whoever is conducting the assessment will work closely with the young person, their parents and/or carers, and other professionals involved in supporting the recipient, to ensure the assessment of their educational and training needs and the provision needed to meet them, is evidence based and valid.

3.12 We expect professionals conducting assessments to be qualified to NVQ level 4 and to have received sufficient training to enable them to act with authority on their judgements. This should include disability impacts and differentiation of needs according to different disabilities, disability equality and the social model as well as technical details about specific disabilities. For example in Manchester Connexions all staff undertake training emphasising the social rather than medical model of LDD.

3.13 Further training may be essential and we expect continuing personal development to encompass widening skills and knowledge of specific disabilities to improve the service to learners. All people conducting Learning Difficulty Assessments should have received

²⁶ http://readingroom.lsc.gov.uk/lsc/National/learning_for_living_and_work_complete_2.pdf
19/26

basic disability awareness training but this is not sufficient to carry out assessments. It is also essential to maintain a thorough knowledge of learning and training provision both locally and nationally, as well as employment opportunities. It is not good practice to expect trainees or staff working towards a NVQ level 4 qualification to undertake Learning Difficulty Assessments until after the completion of their qualification and additional training.

There should be a consistent approach to all Learning Difficulty Assessments

3.14 The Common Assessment Framework (CAF) is a national standard approach to conducting an assessment of the needs of an infant, child or young person when there is concern about their health, welfare, behaviour or progress in learning. Therefore it has an important part to play, when available, to feed into the assessment under Section 139A of the Learning and Skills Act 2000. The Framework can inform the transition planning process and provide information on a learner's needs relevant to the planning of post-16 provision.

3.15 Those conducting assessments may also use the CAF, assessment tools and other mechanisms to contribute to the assessment. If used, the CAF should identify gaps in the overall understanding of a young person's needs and circumstances and to focus on these. It is important to recognise that young people with learning difficulties and/or disabilities may also face other barriers to making a successful transition and the CAF process can assist with the identification of these. **The CAF can not in itself constitute a Learning Difficulty Assessment.**

3.16 To avoid a range of methodology emerging, which in turn means that the experience of young people may lack consistency across the country, the Action Plan must meet the requirements of the YPLA. This could be achieved through the use of the Learning for Living and Work (LfLW) framework²⁷, which is a planning document to support transition and is an appropriate means of providing information about a young person and the support they need to access learning or training. The framework facilitates the collection of pertinent information from a range of agencies, meets the requirements of S139A and allows the allocation of the correct level of funding from the relevant agencies to be secured. Where a CAF is available the processes are complementary.

Learning Difficulty Assessments should have a person centred approach focusing on Progression.

3.17 We expect person centred planning to commence as early as possible in a young person's life and transition planning centred around the individual to build on developments through the Transition Support Programme. The aim of the Transition Support Programme within Aiming High for Disabled Children is investment to improve local processes for supporting disabled young people through transition to adulthood /adult services. The assessment at age 16 should be a seamless transition from pre 16 assessments. The system for pre 16 assessments is described at Annex 3.

3.18 Discussions focusing on the wider aspirations of the young person should take place at an early stage. Discussion should focus on progression, emphasising learning that will lead to employment as an outcome. Person centred planning should be at the heart of this discussion, focusing on an in depth analysis of the appropriate learning

²⁷ <http://readingroom.lsc.gov.uk/lsc/National/nat-learningforlivingworkFWOCT08-mar09.pdf>

provision for the young person, promoting a positive culture leading to independence and a future career.

3.19 Learning Difficulty Assessment Action Plans completed or reviewed after the age of 19 should continue to reflect the individual needs of learners. Learning Difficulty Assessments for older learners may include a greater emphasis on pathways to independent living and links to job seeking eg Job Centre Plus.

3.20 The Government's IAG Strategy, *Quality, Choice and Aspiration*²⁸ sets out the steps that we are taking to ensure that every young person, wherever they live and whatever their talents, receives excellent IAG developing high aspirations. Local authorities in conjunction with IAG Services should consider the opportunities for IAG Services to engage earlier with the young person, influencing the interventions towards job outcomes and helping the young person become more job ready with regard to independent living skills.

3.21 Directions and Statutory Guidance for local authorities on Information, Advice and Guidance Services for Young People has just been issued for public consultation²⁹ This defines the Government's expectation of local authorities in commissioning and managing IAG services for all 13-19 year olds and those up to 25 with a Learning Difficulty Assessment.

3.22 The Cross Departmental *Getting a Life*³⁰ project which is working with young people with learning disabilities has developed an evidence based pathway to promote access into employment for young people with learning difficulties. The diagram at Annex 6 shows how a person centred approach can work in practice.

Learning Difficulty Assessments must take account of the young person's views and wishes

3.23 Those undertaking the Learning Difficulty Assessment should seek to gain the agreement of the person receiving the assessment to share the outcomes of the assessment with the local authority and appropriate education and training providers. The most straightforward way to do this is likely to be obtaining written consent to disclose the assessment report. The local authority must be mindful of the restrictions concerning disclosure of information in reports of Learning Difficulty Assessments without the appropriate written consent from the person being assessed. Annex 1 section 11 of this document provides further guidance on obtaining consent.

3.24 Those conducting the assessment should make every effort to ensure that the person being assessed (and where appropriate their parents and/or carers) understands that the assessment is necessary to help safeguard their interests. The individual being assessed should play an active part in the assessment. The assessor should explain to the person being assessed that the purpose of the assessment is to enable well informed decisions to be made about the kind of post 16 education and training or higher education they need to succeed, building on their aspirations and on their chosen career path.

3.25 It is important to recognise the wider context in which decisions are being made by the learner. For example there may be person-centred planning approaches being

²⁸ <http://publications.dcsf.gov.uk/eOrderingDownload/IAG-Report-v2.pdf>

²⁹ <http://www.dcsf.gov.uk/consultations/index.cfm?action=consultationDetails&consultationId=1696&external=no&menu=1>

³⁰ <http://www.gettingalife.org.uk/>

adopted by a local authority which may provide choice and control over services being provided for the learner such as in housing or care services. These are effective means to creating independence and it is important that the individual is actively involved in decisions about learning provision and next steps. There may also be new work on person-centred approaches being undertaken by local authorities through Aiming High for Disabled Children and the Transition Support Programme, and we would expect assessments to reflect new and effective practice.

3.26 If the learner has significant communication difficulties, the assessor(s) conducting the assessment may need to establish their views and wishes through (as appropriate) their teachers, parents/carers, other representative, or an interpreter. Even where communication difficulties are profound the person(s) conducting the assessment should use best efforts to involve the person being assessed to the greatest extent possible. The young person and family may have already been very involved in the Transition Plan in Year 9, and review of this annually since, so they might not need to go through all the details again. The assessment should build on this earlier process.

3.27 The Secretary of State asked Brian Lamb, the Chair of the Special Educational Consortium, to lead an inquiry into parental confidence in the SEN system following a Select Committee report, *Special Educational Needs: Assessment and Funding*. The Lamb Inquiry³¹ focused on provision for school pupils with SEN and did not cover provision for young people with learning difficulties and disabilities in FE colleges or the transition from school to FE or training in any depth. However, messages from the final Inquiry report are of direct relevance to those conducting Learning Difficulty Assessments. The report highlighted the importance of those working with children and young people with SEN and their parents, including when they carry out assessments, being knowledgeable about children's SEN and SEN processes; valuing the input of young people and parents; dealing with them in an open and honest way; and providing them with all the information they should have.

Young person's wider needs must be considered during the Learning Difficulty Assessment

3.28 The assessment should set out clear progression pathways for the learner focussing on the practical implications of the Action Plan which should include the support that may be available.

3.29 Local authorities should view the transport needs of learners with learning difficulties and/or disabilities as integral to achieving their learning outcomes when commissioning transport for this group of learners. Paragraphs 1.25-1.32 set out the local authorities' statutory duty in relation to transport. Where transport needs are identified these should be communicated to the authority's transport commissioner and to those responsible for 'travel training' and other similar schemes. A tool³² has been developed to help local authorities to monitor the cost-effectiveness of their Independent Travel Training programme in a consistent way. The tool is intended to support local authorities in making a case for mainstream funding for their Independent Travel Training programmes by showing the financial savings that can be realised through implementing such programmes.

3.30 The personal adviser should also use the assessment process to make the young person aware of the financial support that they may be able to claim to help them to

³¹ www.dcsf.gov.uk/lambinquiry

³² www.dcsf.gov.uk/14-19/transport

participate in learning, including Education Maintenance Allowance for learners aged 16-18 from lower income households and the discretionary learner support funds in colleges. Information on the financial support schemes can be found at www.direct.gov.uk/moneytolearn. Personal Advisors should encourage and support learners with learning difficulties and or disabilities to apply for financial support if appropriate.

3.31 Support to meet the additional costs of learning related to an assessed need is provided through the Additional Learning Support Fund which is non income assessed. Providers should use previous assessments and their own evaluations to determine what reasonable adjustments are needed to ensure access and sustain learning. This should be done with the learner's active involvement and agreement.

Multi agency working

3.32 Including a young person's wider needs during the assessment process will enable the local authority to gain a better understanding of the needs of learners with learning difficulties and/or disabilities within their area and so ensure that services are planned and commissioned effectively to meet these needs. Therefore, the local authority will want to ensure that the relevant links are in place across services. For example for travel needs as outlined in paragraph 3.29. Similarly Learning Difficulty Assessments should make clear what the health and care needs are to enable specific commissioning from the Primary Care Trust and through Social Services. In some areas it will be beneficial to involve third sector and voluntary organisations. We expect good person-centred transition planning to be in place and for all Learning Difficulty Assessments to inform the person centred career plan.

3.33 All Learning Difficulty Assessments should be recorded on the Client Caseload Information System (CCIS). This will also enable local authorities to make sure that all eligible young people have received an assessment and to identify any that have been missed. Local authorities, through the Children's Trust partnership arrangements, should also consider how the information held on CCIS is shared with other local authority services and partner organisations.

3.34 We expect local authorities will embed multi-agency approaches which lead to good decisions about the need for assessments and high quality Learning Difficulty Assessments where these are needed for the benefit of learners. There should be a strong focus on seeking information from other professionals, so that the Learning Difficulty Assessment process is not duplicated and that specialist services and resources of all relevant agencies are co-ordinated to benefit each young person.

3.35 The Learning Difficulty Assessment should be the culmination of an on-going process of assessment and reviews. The Learning Difficulty Assessment is designed to update, add to and build on previous assessments and interventions taking account of changing needs and circumstances – it should not duplicate them or be viewed as a separate, one-off event. The principle the assessor (s) should try to follow is to reduce the burden of assessment and to gather and utilise existing information and assessment data wherever possible.

3.36 The relevant professionals should carry out a holistic, multi-agency assessment process, recognising that there are other assessments processes that might be helpful but ensuring repetition of assessment is avoided wherever possible. Assessments should be carried out independently of providers. In particular, the assessment needs to link to the

young person's Transition Reviews and Plan and the Common Assessment Form.

3.37 Even if there are other assessments in existence, it may be necessary for those conducting the Learning Difficulty Assessment to arrange for specialist assessments by those who can offer specialist support and resources, targeted at individuals with specific needs. For example, if the learner wanted to arrange independent living accommodation but needed additional support in order to do so it may be appropriate to refer them to the social services Learning Disability Team in the area. They will be able to carry out an assessment of support needs and offer support and advice on new living arrangements.³³

3.38 The assessment should build on the views and expertise of other people who have already supported the person being assessed and on the processes they have used. The following may contribute to the process:

- The SENCO, or the teacher who leads on transition planning where this is not the SENCO. They will provide information about support provided in school and access to any Individual Education Plans. The SENCO or other appropriate teacher may also be able to share information about strategies which have previously been used successfully to help the learner overcome barriers in school.
- Statements, annual reviews and other statutory assessment processes and school reports.

3.39 Others who may be required to contribute to the assessment include:

- Parents and/or carers and/or other representatives
- Educational Psychologists
- Clinical Psychologists
- Social workers
- Other LAs where young person educated away from own LA
- Other teachers
- GPs, hospital consultants, psychiatrists
- Other professionals – e.g. youth offending case worker
- Work experience providers
- An advocate for the young person
- Personal advisers for looked after young children

3.40 Local authorities should consider whether there is a need to ensure that there is effective support and liaison in place in those cases where the person is being educated outside the area where they normally reside and therefore where more than one Connexions provider could be involved. More details setting out expectations about which local authority is responsible for the Learning Difficulty Assessment is given in annex 1 section 3. In most cases it is expected that the home LA should complete the assessment seeking support from the host LA.

3.41 Relying on evidence from possible future providers in making the Learning Difficulty Assessment could be compromising if the institution is likely to be affected by the result of the Assessment. Formal acceptance by the provider before the Learning Difficulty

³³ Further information can be obtained from: "Funding Guidance: Placement for Learners with Learning Difficulties and/or Disabilities at Specialist Colleges" which can be found on the LSC's website. <http://readingroom.lsc.gov.uk/lsc/National/nat-221208BFINALLLDDFundingGuidance200910-dec08.pdf>

Assessment should not influence the assessment process. Learning Difficulty Assessments should be conducted **independently** of providers and of any other provider assessments, and should recognise the learner need. That said there are real advantages in young people attending a prospective institution(s) to receive tasters and to explore the kind of support that may be needed. Evidence from this process, rather than being the central plank of the assessment, should be seen as evidence for refining how a provider might meet the needs of a learner using an assessment that is already in place, but this should not be used to influence the outcome. Under the *Alloway* it is important to ensure there is some provider interaction, but this should not influence the assessment decision.

3.42 It is good practice to share the Learning Difficulty Assessment with providers once placement decisions have been agreed.

Useful documents

3.43 The following documents may be helpful when considering multi agency assessment:

- Transition Plan
- Last annual review
- Individual Education Plan (if in place)
- Pastoral Support Plan (if in place)
- Connexions Action Plan (if in place)
- Record of Achievement (Progress File)
- The Health Plan or Health Action Plan
- Leaving Care Plan and Personal Education Plan for young people in care

Local authorities should take into account value for money considerations when making Learning Difficulty Assessments

3.44 The Learning Difficulty Assessment must result in an Action Plan that is clear and specific about the learner's identified needs setting out the provision required to meet those needs. Placement decisions should be made in the light of the overall budget available. The model for commissioning provision should take account of value for money considerations ensuring that funding allocated by the YPLA match the placement proposals that local authorities make, remaining within the national allocation. This will require an iterative way of working, involving parents, young people, local authorities and the YPLA which allows for adjustments to be made during the process.

There should be a clear complaints/appeals process

3.45 Local authorities have the legal responsibility to make arrangements for assessments of learning difficulties to be conducted. Should a young person who requires such an assessment not receive one, or the assessment does not comply with the provisions in the Act, then local authorities would be open to legal challenge through judicial review and/or complaint to the Local Government Ombudsman.

3.46 Learners with learning difficulties and/or disabilities should have a choice in the learning provision that is made available to them and wherever possible the system should allow an individual's preferences to be met. However, as with other learners, choice is constrained both by the availability and cost, both of learning and additional support. Through the assessment process pre- and post-16, the system should encourage agreement to be reached between young people and their parents and the local authority.

This will not always happen, and parents or the young person may wish to challenge the decisions of the local authority. How this will happen will vary according to the circumstance:

i) If the local authority decides not to carry out a section 139A Learning Difficulty Assessment, the parent could appeal using the local authority's complaints procedure.

ii) Where a parent does not agree with the placement decision of the local authority, following a section 139A Learning Difficulty Assessment, the local authority should undertake an initial review of the decision, most usually by a senior officer not involved in the original consideration. This initial review needs to be undertaken in a timely manner to enable later stages of the challenge process to be undertaken. Where the local authority upholds the original decision the young person or parent would have the right to ask for a review of the decision by an independent panel convened by the YPLA.

3.47 The YPLA will establish an independent review panel (IRP) which will consider whether the decision of the local authority has been taken in line with national guidance. The IRP could support the original decision or recommend that the local authority reviews its decision.

3.48 Having complained to a local authority, residents are able, if they remain dissatisfied, to raise the issue with the Local Government Ombudsman or to seek a judicial review.