

# Placement Information: Learners with Learning Difficulties and/or Disabilities at Independent Specialist Providers 2010/11

**April 2010**

Of interest to local authorities and independent specialist providers

**Further information**

For further information please contact the appropriate regional YPLA office.

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# Contents

	Paragraph number
<b>Introduction and Context</b>	<b>1</b>
Applicable funding period	2
Apprenticeships, Skills, Children and Learning Act 2009	3
National Commissioning Framework	4
Local authorities' duties	5
Boarding accommodation	10
Learning for Living and Work Framework	11
<b>New Learners: Decision-making Process</b>	<b>13</b>
Evidence of education and training needs and possible provision to meet them	15
Data protection	19
Multi-agency working	21
Independent specialist providers	23
Funding restrictions	30
Commissioning Decisions	34
Individual learner schedule	39
Funding agreement	42
Funding methodology	43
YPLA review process	45
<b>Existing learners</b>	<b>48</b>
Learner reviews	48
In-year changes	56
Placement extension	60
<b>Exceptional funding</b>	<b>64</b>
Requests exceeding £68,829 (residential) or £45,247 (day)	64
Requests exceeding £35,000 above published funding levels: £103,829 (residential) or £80,247(day)	66
<b>On-programme Delivery</b>	<b>76</b>
Placement Technical Guidance for Independent Specialist Providers for 2010/11	76
Non-delivery	77
Withdrawals	78
Quality assurance strategy	82

	Paragraph number
Attendance reconciliation report	85
Encryption and transfer of information	87
Data transmission	90
<b>Other Information</b>	<b>92</b>
Ofsted inspections	92

## 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 2010/11**
- 5: Contact Hour Ranges**
- 6: Individual Learner Schedule Information: Approval of Provider Payments**
- 7: References**

# Introduction and Context

1 This document is intended to support local authorities to fulfil their legal duties and powers in relation to securing the provision of education and training 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) at independent specialist providers (see Annex 3) from 1 April 2010 as detailed in the Apprenticeships, Skills, Children and Learning Act 2009 (ASCL Act).

## Applicable funding period

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 2010/11 academic year. The YPLA will review the impact of, and feedback on, this information document, and in light of this consider whether future information will be statutory in nature and therefore subject to a period of consultation.

## Apprenticeships, Skills, Children and Learning Act 2009

3 In June 2007, the Prime Minister announced a series of changes under the broad agenda of Machinery of Government. This included the creation of two new Departments: the Department for Children, Schools and Families (DCSF) and the Department for Innovation, Universities and Skills (DIUS), since renamed the Department for Business, Innovation and Skills (BIS). These two departments share responsibility for learning and skills for people of all ages and bring together all the key aspects of policy affecting children, young people and adults, including those with learning difficulties and/or disabilities.

## National Commissioning Framework

4 The National Commissioning Framework (NCF) guidance will be published April 2010. The NCF will set out the process for planning and commissioning learning provision for young people in England for the academic year 2011/12 onwards. The NCF details YPLA requirements for commissioning provision for learners with learning difficulties and/or disabilities.

## 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 16-19 year olds as well as for those aged 19-25 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 mainstream provision will rest with the Skills Funding Agency (SFA). Local authorities have existing duties to encourage, enable and assist 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 DCSF guidance (DCSF, 2010a) 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.

7 For the majority of young people who have additional needs, education and training provision will be delivered in a mainstream setting.

8 This document provides information in relation to the small number of young people in receipt of a learning difficulty assessment whose education and training needs can only be met by an independent specialist provider.

9 For further advice on commissioning assessments, reference should be made to *Supporting young people with learning difficulties to participate and progress – incorporating guidance on Learning Difficulty Assessments (DCSF, 2010a) and Commissioning & Funding 16-19 Education & Training High Level Guide (REACT, London, February 2010a)*.

## Boarding accommodation

10 Section 46 of the ASCL Act provides local authorities with the power to secure boarding accommodation for persons who are over compulsory 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.

## **Learning for Living and Work Framework**

11 The Learning for Living and Work (LLW) strategy (LSC, 2006) made recommendations for a closer alignment of decisions on funding with the assessment of need. In order to support the development of provision across the FE system for learners with learning difficulties and/or disabilities the LLW framework was introduced to provide a mechanism that would support agencies in effective and longer term transition planning. The framework should meet the requirements of a learning difficulty assessment and links the assessment of need to funding by collecting information on learners' education, training and support needs. The LLW framework also enables a provider (whether mainstream or independent specialist provider) to identify how it might support a young person.

12 The framework can be used as a transition plan to support all young people with learning difficulties and/or disabilities in transition to adult life; it enables all relevant services and agencies to contribute to the planning process and provides a holistic view of the aspirations, strengths, needs and interests of the young person. The framework is identified as a model of good practice in the DCSF statutory guidance to local authorities (DCSF, March 2010a).

# New Learners: Decision-making Process

13 The flowchart at Annex 1 sets 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.

14 Local authorities should ensure they have documented procedures to facilitate and record their placement decisions and processes. These should include the necessary liaison and provision of information to the relevant regional planning group<sup>1</sup>.

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

15 The establishment of children's trusts in September 2005 has brought increased strength to the co-ordination of multi-agency activity to support young people. Local authorities play a key role in relation to evidence-gathering and preparation for assessments of the education and training needs of learners with learning difficulties and/or disabilities and in the actual provision that is made available to meet those needs.

16 It is recommended that evidence demonstrates the match between the assessed education and training needs and the placement that is actually available to meet those needs. Suggested sources of evidence include:

- learning difficulty assessment
- a relevant and up-to-date report from a local provider who has assessed the young person and has concluded they cannot put in place an appropriate package of support to meet the learner's educational and training needs
- the learner's most recent statement of special educational needs
- 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 educational and training needs set out in the learning difficulty assessment and annex 6 – TG (Placement Request: Rationale of Support) completed by the independent specialist provider as set out in *Technical Guidance for Independent Specialist Providers 2010/11* (Technical Guidance 2010/11) (YPLA, April 2010).

17 It is the responsibility of independent specialist providers to complete and forward to their home local authority annex 6 – TG (Placement Request: Rationale of Support – *Technical Guidance 2010/11*) with the assessment report for the young person. These can be used to enable the local authority to determine the accuracy of the funding request and reach a decision on whether or not to agree to the placement based on up-to-date information, as suggested at paragraph 16.

18 The list in paragraph 16 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.

## Data protection

19 The local authority should seek the permission of the learner for whom a placement request is being made (and/or his or her family and/or carer where appropriate) to share copies of all relevant supporting information with YPLA, an independent specialist provider and any other potential providers as appropriate.

<sup>1</sup> Regional planning groups bring together regional education and strategic skills agendas. They will review and aggregate local authority commissioning intentions (for young people with learning difficulties and/or disabilities), endorsed by the sub-regional group against regional priorities, and manage affordability.

20 The sharing of information is to ensure that a prospective provider can make an informed assessment of whether it can meet the learner's education and training needs as set out in the learning difficulty assessment. It also ensures that YPLA can raise and maintain (based on information provided by the local authority) an individual learner schedule, which is an element of the main contract between YPLA and the independent specialist provider, setting out with sufficient certainty the details relevant to that individual learner, as well as being the mechanism for making payments to the provider. The home local authority must also ensure that the learner (and/or his or her family and/or carer where appropriate) is fully aware of the information submitted to YPLA.

### Multi-agency working

21 From April 2010, local authorities will have responsibility for both further education (FE) funding and social care funding and will be well-placed to use these and other appropriate budgets to maximise the efficient use of funds for the benefit of learners. Pooling resources between different bodies can support mutual goals leading to efficiency savings and better value for money as well as encouraging the formation of partnerships and building community capacity. Through a variety of channels, such as children's trust boards and strategic partnerships, it will be important to secure appropriate contributions from other services as required during the local authority decision-making process.

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

### Independent specialist providers

23 Where the provision and learning support required to meet a young person's needs are identified as only being available through an independent specialist provider, whilst local authorities will make the commissioning decisions, YPLA, for an initial period, will contract with independent specialist providers (listed in Annex 3) on behalf of local authorities. An element of this contract is the individual learner schedule. This is a summary of the agreement made between the local authority and independent specialist provider setting out the requirements of the agreed placement, including funding and learner support arrangements (referred to in fuller detail at paragraphs 39-41).

24 YPLA is contracting with independent specialist providers, on behalf of local authorities, for the provision of education

and training to be made before and including the academic year 2010/11. It is pursuant to the terms of the YPLA contract that funding shall be passed from YPLA to independent specialist providers. The contract will also aim to ensure the transfer of data and other information to allow local authorities and YPLA to comply with other duties and processes they are subject to.

25 It is intended that this is an interim contracting process to support local authorities whilst they increase their own capacity and develop procedures and systems to be able to undertake contracting directly. A review of the current arrangements will take place following the first year of operation.

26 Annex 3 sets out a list of independent specialist providers that have successfully completed the LSC new provider process and that continue (following reviews, audits and inspections) to maintain a standard of provision that will ensure the provision being offered is of the required standard and ensure the best use of resources. Some of these providers are subject to funding restrictions, see paragraph 30-33 for more information.

27 As set out in section 63 of the ASCL Act, YPLA has the power to assess the performance of those providers delivering education and training. It is the intention, at this stage, for YPLA to develop a scheme of assessment in relation to existing and potential independent specialist providers.

28 If local authorities believe, or know, that there are other providers where they may wish to offer individual learner placements, and which are not on the list at Annex 3, local authorities should provide details of these providers to YPLA as soon as possible. This will allow these other potential providers to be assessed under the YPLA scheme of assessment for the performance of persons providing education and training funded by YPLA in the exercise of its functions under section 61 of the ASCL Act. It will also give YPLA and the potential provider time to consider the standard form contract and ensure that the provider agrees to be bound by the terms of the contract.

29 In the absence of successfully completing the new provider process and agreeing to be bound by the terms of the standard contract, YPLA believes that provision at such providers is not actually and realistically available and, as such, any learning difficulty assessment that specifies such provision may be an learning difficult assessment that fails to comply with section 139A, following the case of *R v London Borough of Bromley ex parte Alloway* (2008 EWHC 2499).



## Funding restrictions

30 Independent specialist providers that hold a current YPLA contract may be subject to specific changes in relation to their individual YPLA funding status. These changes can be in response to, for example, the case where the independent specialist provider is newly approved, or where there are concerns raised, eg by Ofsted, Estyn, the Care Quality Commission and in YPLA audit team reviews.

31 Changes may include caps on learner numbers and/or other restrictions imposed by YPLA, which may result in additional YPLA-funded learner placements not being available for a specified period of time.

32 YPLA regions will provide an up-to-date list (including changes to independent specialist provider status) to the regional planning groups.

33 The independent specialist provider list available at Annex 3 details where restrictions are currently in place by the use of italics.

## Commissioning Decisions

34 Local authorities will undertake ongoing monitoring of young people who will be moving on from school or learning. Where the provision and learning support required to meet a young person's needs are identified as being available only through an independent specialist provider, the decision to agree the placement can be made provisionally in the context of the resources available. Decisions can be confirmed to learners and providers once consideration has been given in the context of indicative funding allocations by Regional Planning Groups.

35 Following consideration of funding requests, local authorities through sub-regional groups<sup>2</sup> (SRGs) as appropriate will make proposals for commissioning decisions to the regional planning group (RPG).

36 The RPG will consider and endorse the plans, and determine the aggregated position for the region and the affordability of proposals. In the best interests of the learner, it is recommended that timely decisions are communicated to learners and their family and/or carer, and providers.

37 The local authority may then offer the placement to the learner and, where the learner has accepted the offer, the local authority is required to complete the approval of provider payments form (Annex 6). This, together with annex 6 – TG (rationale of support, *Technical Guidance 2010*), which will have been completed by the independent specialist provider as set out in *Technical Guidance 2010/11*, should be sent to the inclusion manager in the relevant YPLA. These documents should be sent securely and ideally electronically in encrypted form.

38 This will enable YPLA to generate an individual learner schedule for signature by the independent specialist provider and learner's home local authority and allow for the approval of provider payments, along with a record of the precise provision that has been agreed by the local authority. Completed individual learner schedules will be retained by the local authority along with the documentation relating to the individual learner placement. This will allow local authorities to monitor learner progress.

## Individual learner schedule

39 An individual learner schedule is a summary of the agreement between the local authority and independent specialist provider. The individual learner schedule sets out the requirements of the agreed programme and placement including, but not limited to:

- 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.

40 Once agreed and signed by both the independent specialist provider and local authority, the individual learner schedule will form part of the contract and payment terms between YPLA, on behalf of the local authority, and the independent specialist provider in relation to each learner. It is an auditable document that demonstrates the terms of the education and training funding agreement.

<sup>2</sup> Sub-regional groups provide a forum for local authorities to work together to build a picture of learner demand and flows between local authorities and across travel-to-learn areas. They will enable local authorities to arrange the planning and commissioning of learning provision in collaboration and share responsibility for securing the most appropriate learning provision to meet the needs of young people (with learning difficulties and/or disabilities who are over compulsory school age but under 25) and the most effective deployment of commissioning resources.

41 Delays in the receipt of completed information in the correct format to YPLA could result in provider payments being delayed.

### **Funding agreement**

42 YPLA will confirm allocations to the RPG and lead commissioning authorities annually. Whilst it is acknowledged that the length of an individual learner programme may be agreed as appropriate and the length may be in excess of one year, funding agreements (individual learner schedules) should only be confirmed for the duration of one academic year and should be subject to ongoing satisfactory progress reviews evidenced by annual reports.

### **Funding methodology**

43 The YPLA funding methodology for independent specialist providers is outlined in Annexes 4 (Support Bands: Rates for 2010/11) and 5 (Contact Hour Ranges). Further information can also be found in *Technical Guidance 2010/11*. Independent specialist providers are contractually bound to operate within the funding methodology.

44 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 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 assessment.

### **YPLA review process**

45 The YPLA review panel process is aimed at supporting local authorities in their decision making process in relation to learners with learning difficulties and/or disabilities. The process will not, however, be available until local authorities have first been given the opportunity to resolve issues with learners/parents through their own processes. Following on from this, the YPLA process then provides learners and their family and/or carer a method of seeking an independent review of the local authority's decision.

46 The review panel will look at whether the local authority has followed its own process and reached a decision that is reasonable. The panel will not make a finding itself on what the provision should be, but restrict itself to considering the local authority's decision and forming a view on that decision.

47 Full details of the remit of the review panel and how the process will operate will shortly be available on the YPLA website ([www.ypla.gov.uk](http://www.ypla.gov.uk)).

# Existing learners

## Learner reviews

**48** Independent specialist providers are contractually required to undertake learner reviews at the end of the first term, 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. Further information is set out in *Technical Guidance 2010/11*.

**49** 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's review has been completed. Local authorities will use the reports to inform future funding decisions for those learners who are due to continue their agreed programme(s) of study for a further academic year. *Technical Guidance 2010/11* requires independent specialist providers to forward completed end-of-year review reports to the learner's home local authority no later than **30 May**.

**50** As part of the local authority's decision-making process, each review should be considered and a decision made as to whether to continue funding, for those learners with an agreed programme in excess of one year.

**51** To support local authorities with their responsibilities, at the beginning of May, the national YPLA learning difficulties and/or disabilities team will forward to the RPGs summaries of those learners whose home local authority is within their region. This will include:

- learners where a further year of funding may be requested, ie, in the second year of a two-year placement
- learners where their programme of study is due to finish at the end of the academic year.

**52** The RPG should forward both summaries to the relevant local authority to enable it to complete the process outlined in paragraph 59.

**53** After decisions have been made regarding the continuation of funding, individual local authorities should forward a summary of all continuing placements to the RPG.

The summary must include:

- learner name
- date of birth
- agreed funding levels
- revised funding end date
- any changes to the current placement, eg programme details.

**54** The RPG will then forward the summary to the regional YPLA inclusion manager. This will enable the YPLA to create a revised individual learner schedule and authorise payment to the independent specialist provider.

**55** The RPG is included in this process to enable continued monitoring of funding commitments.

## In-year changes

**56** As set out in *Technical Guidance 2010/11*, independent specialist providers should discuss and agree in-year adjustments relating to individual learner placements with the learner's home local authority.

**57** It may be helpful for each of the local authority's documented procedures to include a process for reviewing in-year changes aligned to those set out in *Technical Guidance 2010/11*.

**58** Where a local authority agrees to the changes and the new funding level, the independent specialist provider is contractually required by YPLA to complete an amended rationale of support form (annex 6 – TG: *Technical Guidance 2010/11*) 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.

**59** On completion of this agreement, the home local authority must confirm any in-year changes to the RPG and the regional YPLA inclusion manager 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

60 It is expected that requests to extend an individual learner placement beyond the duration of the original programme's end date would only be made under **exceptional** circumstances.

61 It is expected that effective transition planning is embedded within the learner placement at an individual specialist provider to ensure that there is a clear plan of progression at the end of the agreed placement. It is not expected that extension requests should be sought to offer additional time at a provider where effective transition planning has not taken place.

62 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 their learning aims due to unexpected medical reasons. It is expected that any concerns or problems relating to achievement will be raised in termly reviews and documented within review and progress reports, or that an independent specialist provider will contact the learner's home local authority to discuss particular concerns.

63 In the best interests of the learner, independent specialist providers should make an extension request to the 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) but no more than £103,829 (residential) or £80,247 (day)

64 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 limits defined by the contact hours 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.

65 To enable local authorities to consider an exceptional funding request, the independent specialist provider is required to submit a separate claim (annex 6 – TG: Placement Request: Rationale of Support, *Technical Guidance 2010/11*), 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 34-38 of this document.

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

66 To ensure 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 national YPLA. In summary, this includes any requests that exceed £103,829 for residential placements and £80,247 for day placements. This process is one of a suite of YPLA key budgetary controls that are supported and monitored by DCSF and a requirement set out in the Education and Training Funding Agreement for Independent Specialist Providers (Schedule 2, Clause 3).

67 The review will be undertaken by independent consultants, commissioned and funded by the national YPLA.

68 As set out at paragraph 75, 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.

69 At this stage, the request, together with annex 7 – TG (Exceptional Funding Request Summary Form, *Technical Guidance 2010/11*), should be forwarded to the National YPLA learning difficulties and/or disabilities team. Where the request is for existing learners or refers to in-year changes, the annex 7 – TG should be accompanied with an amended annex 6 – TG (Placement request Rationale of Support) of the *Placement Technical Guidance 2010/11*. Requests should be forwarded along with any other supporting evidence as set out at paragraph 16, to the national YPLA learning difficulties and/or disabilities team. The RPG should also be informed, to assist with budgetary and monitoring arrangements.

70 The role of YPLA is to facilitate the review process and use the outcomes to disseminate effective practice and monitor budgetary efficiencies.

71 Please note that any file sent to YPLA should be encrypted and comply with data security as set out at paragraph 19-20 and paragraphs 87-91.

72 In the interests of the learner, YPLA national learners with learning difficulties and/or disabilities team will work within a timescale of 14 working days from receipt of the information from the local authority to the return of review outcomes and recommendations from the independent consultants to the local authority.

73 The purpose of the review is not for the independent consultants to make a decision on behalf of a local authority but to support their decision making process and make recommendations to local authorities 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.

74 The independent consultants will securely forward their recommendations, together with the learner information to the named contact at the learner's home local authority, copying recommendations to the national YPLA learning difficulties and/or disabilities team.

75 After consideration of the review recommendations, the local authority will determine whether any further action is required and confirm its decision to the learner and the RPG, in accordance with its decision-making processes and as set out paragraph 34-38.

# On-programme Delivery

## Placement Technical Guidance for Independent Specialist Providers for 2010/11

76 The contractual requirements and processes to undertake them are set out in the *Technical Guidance for Independent Specialist Providers for 2010/11* (YPLA, 2010).

### Non-delivery

77 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, for a period of more than one calendar month, it is a contractual obligation for that independent specialist provider to inform the learner's home local authority. Following discussion and agreement to any changes, it will be necessary for the local authority to communicate these changes to its regional YPLA inclusion manager and the RPG, in writing, within 14 days of the change being agreed. YPLA will then in accordance with paragraph 59, issue a revised individual learner schedule and change the payment schedule.

### Withdrawals

78 It is a contractual obligation (schedule 3, clause 5.12 – education and training funding agreement) for independent specialist providers to advise the learner's home local authority as soon as possible if a learner is no longer attending the placement, by completing annex 8 – TG (Withdrawal Notification) in *Technical Guidance 2010/11*.

79 Where a withdrawal is due to a learner fatality, the independent specialist provider must immediately inform the home local authority and complete a serious incident notification as soon as possible in line with health and safety guidance and as per the obligations set out in schedule 3, clauses 6 and 7 of the YPLA education and training funding agreement.

80 The local authority on receiving the information should report independent specialist provider learner withdrawals at the earliest opportunity by submitting annex 8 – TG of *Technical Guidance 2010/11* completed by the independent specialist provider (as set out at paragraph 77 above) to the regional YPLA inclusion manager. This is an immediate requirement where the withdrawal is due to a learner fatality.

81 For budgetary purposes, it should be noted that, as set out in the education and training funding agreement, schedule 2, clause 6.3, the independent specialist provider will be funded up to the next half-term depending on the withdrawal date.

### Quality assurance strategy

82 It is anticipated that YPLA will publish its quality assurance strategy during 2010.

83 It is expected that arrangements are in place to ensure that YPLA funded learners at an independent specialist provider experience the highest-quality provision available and those arrangements are embedded into the following:

- learner experience
- learner transition at the end of the placement
- on-programme support, including:
  - appropriate induction
  - learner progress tracking and monitoring
  - appropriate support to remedy any likelihood of failure to meet individual learning aims or to identify when a learner may not be making the progress expected of them
- risk management: in the event that a concern is drawn to the attention of YPLA outside the complaints procedure, YPLA would explore the issue fully and where appropriate intervene through its contractual levers.

84 In relation to the above, where issues arise that cannot be dealt with regionally, these will be escalated to a national YPLA level for resolution. Further guidance on this will be detailed in the forthcoming quality assurance strategy.

### Attendance reconciliation report

85 To support local authority planning and reconciliation processes, the regional YPLA will, annually in June, send to each independent specialist provider based within its region an attendance reconciliation report (ARR). Independent

specialist providers are required to check the details contained within the ARR and return a signed copy by 1 August, highlighting any changes, to the YPLA inclusion manager within the relevant region. This is an important process as payments may be recovered in the light of any changes to individual learner attendance.

**86** Following receipt of the signed ARR, the regional YPLA team will contact the RPG to confirm any changes in learner attendance during the academic year. It is suggested that the RPG may wish to aggregate this information to determine any impact on budgetary allocations before forwarding this information to the relevant local authority.

### Encryption and transfer of information

**87** Where 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 information will be encrypted using WinZip and a pass phrase sent separately via an alternative means; for example, by telephone, once the intended recipient (positively identified) has confirmed safe receipt and requested the pass phrase.

**88** When it is necessary to share information of the type described above by post (for example, where the information is stored on paper or disc) this will be posted using double envelopes and using Royal Mail Special Delivery service (**Not** Royal Mail Recorded Delivery or certificate of postage) or an equivalent secure delivery service provided by a specialist courier (where the information is trackable, is only delivered to the intended recipient who will sign to confirm safe receipt, and the delivery is insured).

**89** Where YPLA shares such personal data with third parties, including independent specialist providers and local authorities, and the data will be used by those third parties for their own purposes, YPLA considers those third parties will become data controllers of the personal data and will be bound to observe their legal obligations under the Data Protection Act 1998 and related legislation. Third parties will be expected, in accordance with these legal obligations, to apply the appropriate technological and other measures to protect the data at all times.

### Data transmission

**90** Where YPLA requires the provision of information that includes personal information it is essential that the information is sent securely to minimise the risk of loss resulting in a potential breach of privacy.

**91** Current arrangements for sending YPLA information that includes personal data can found on the YPLA website ([www.ypla.gov.uk](http://www.ypla.gov.uk)).

# Other Information

## Ofsted inspections

**92** In September 2009, Ofsted revised its inspection arrangements to form the *Common Inspection Framework for Further Education and Skills 2009* (Ofsted, 2009). Ofsted adopted a risk-proportionate approach to inspection to enable inspectors to focus their efforts where they have the greatest impact. The framework applies to the inspection of provision contracted by YPLA.

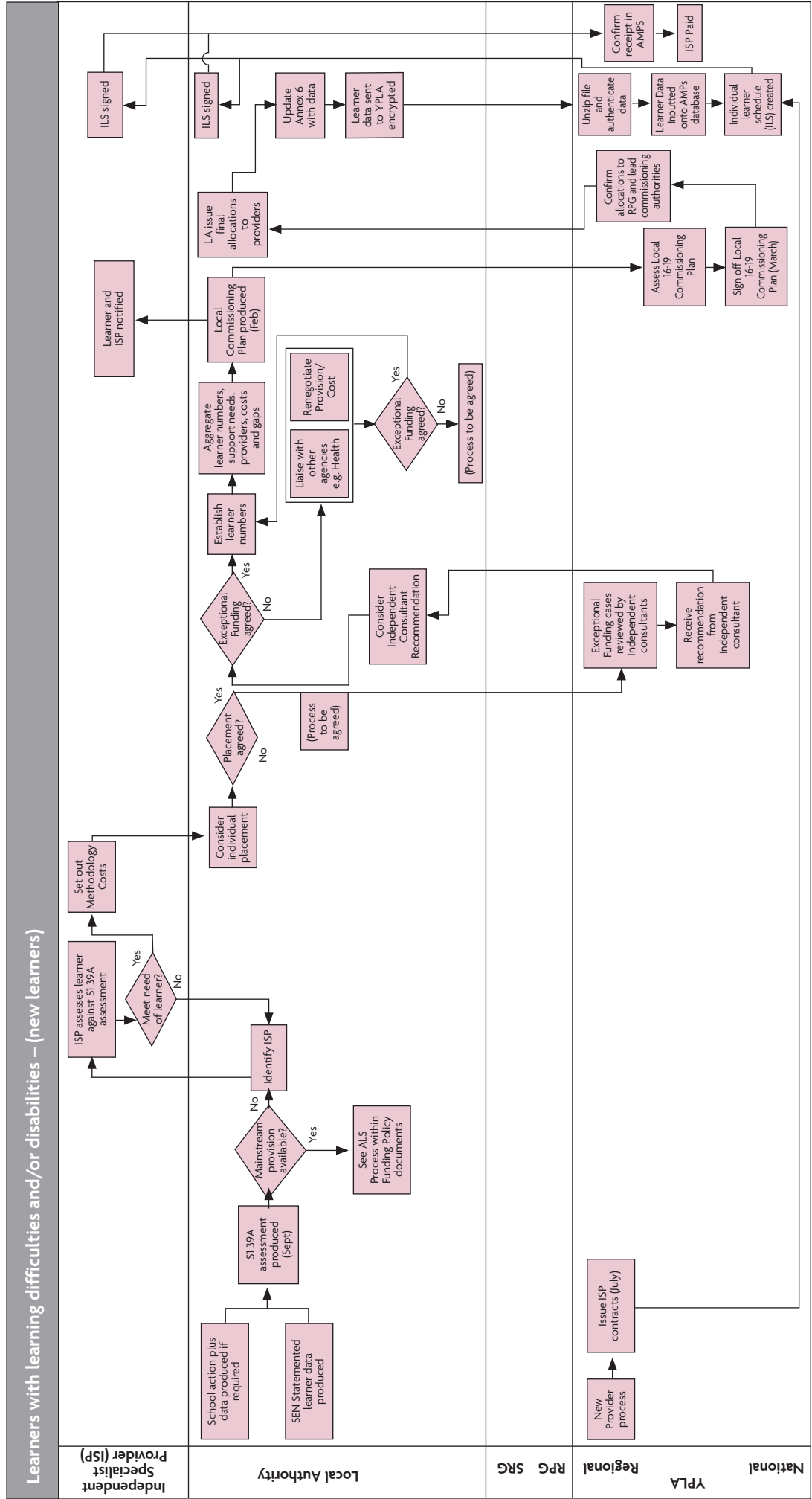
**93** Provision delivered through an independent specialist provider will be subject to regular inspection against the criteria contained within the framework. The arrangements for this are available from Ofsted ([www.ofsted.gov.uk](http://www.ofsted.gov.uk)). In addition, other regulatory bodies may carry out inspections at some independent specialist providers.

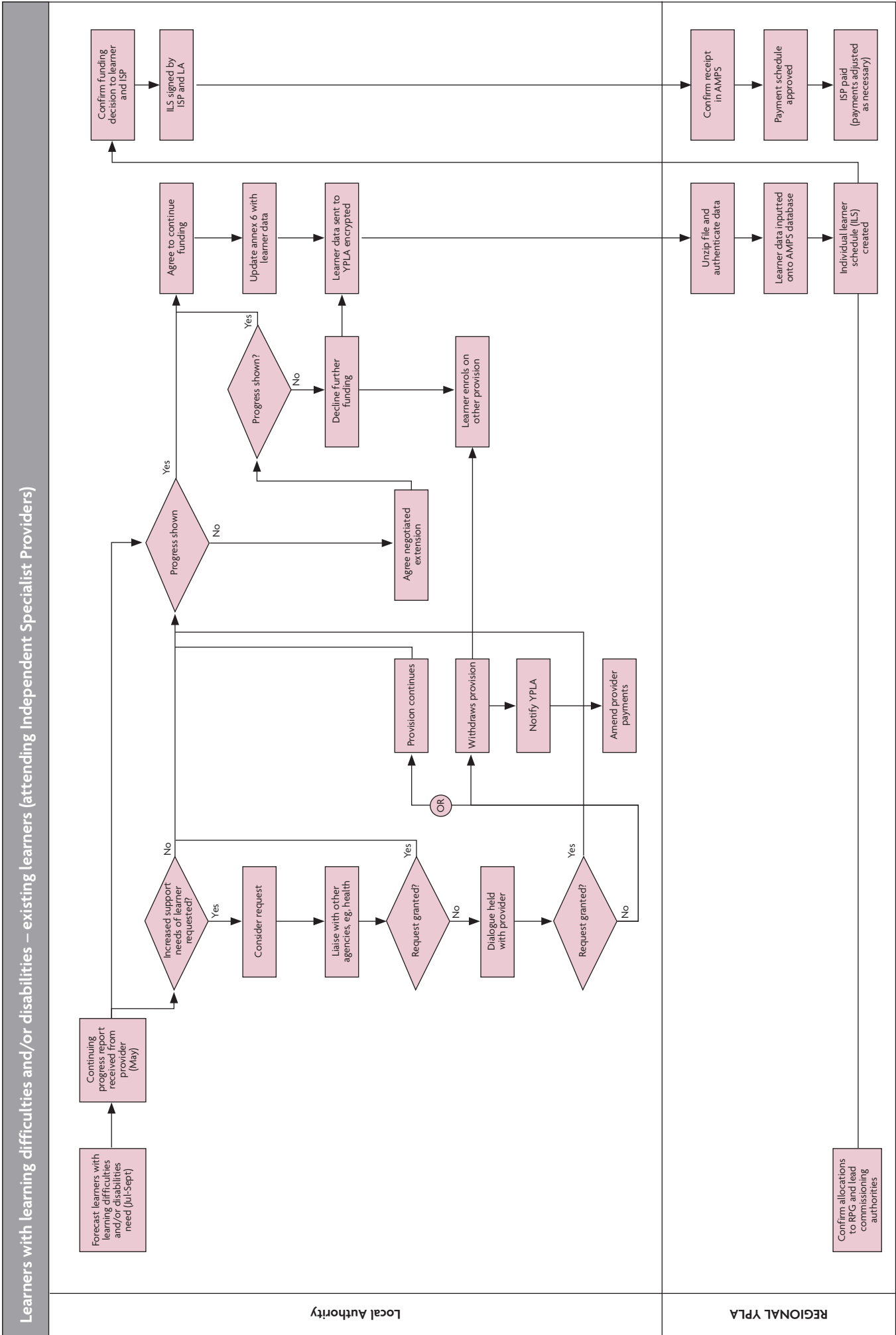
**94** As the contract holder, YPLA will be responsible for the consideration of actions to be taken with providers as a result of inspection. This could include restrictions on future contracting.

**95** Some independent specialist providers may have funding (or other) restrictions that are informed by the response to inspection outcomes. Annex 3 indicates those independent specialist providers that have restrictions 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.

### 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 who hold YPLA contracts, which legally allow for the transfer of YPLA funds to be made.

2 Certain independent specialist providers may have funding (or other) restrictions attached; for example, where the independent specialist provider is newly approved, a school, a day placement, or in response to inspection outcomes. School, day and 19-plus status are indicated using the key at the end of this list and those providers that are newly approved or have other restrictions by the use of italics.

Provider	Provider's host local authority
Arden College	Sefton
Beaumont College	Lancashire
Bridge College**	Stockport
<i>Coleg Elidyr</i>	Llandoverly – <i>To be confirmed</i>
<i>Condover College Limited</i>	Shropshire
David Lewis College*	East/West Cheshire – <i>To be confirmed</i>
Derwen College	Shropshire
Mencap National College Dilston	Northumberland
Doncaster College for the Deaf	Doncaster
Dorton College of Further Education	Kent
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
<i>Farleigh Further Education College, Swindon</i>	Swindon
The Fortune Centre of Riding Therapy	Hampshire

Provider	Provider's host local authority
Foxes Academy	Somerset
Freeman College	Sheffield
Glasshouse College	Dudley
Hereward College of Further Education	Coventry
Hinwick Hall College of Further Education	Bedford Borough – <i>To be confirmed</i>
Homefield College	Leicestershire
Hope Lodge School (Aspin House)*	Southampton
Hsbp Henshaws College	North Yorkshire
Landmarks**	Derbyshire
Langdon College	Salford
Lindeth College of Further Education	Cumbria
Linkage Community Trust	Lincolnshire
<i>Loppington House</i>	Shropshire
<i>Mencap National College – Lufton College</i>	Somerset
<i>The Mount Camphill Community Ltd</i>	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
Mencap National College – Pengwern College	Rhyl – <i>To be confirmed</i>
Pennine Camphill Community	Wakefield
Portland College	Nottinghamshire
Queen Alexandra College	Birmingham
Queen Elizabeth's Foundation Brain Injury Centre**	Surrey

Provider	Provider's host local authority
<i>Regent College</i> **	Stoke-on-Trent
Royal College Manchester*	Stockport
Royal National College for the Blind	Herefordshire
RNIB College, Loughborough	Leicestershire
Ruskin Mill College	Gloucestershire
<i>SENSE</i> **	Peterborough
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

+ = 19-plus placements only

*italic* = capped or restricted



## Annex 4:

# Support Bands: Rates for 2010/11

1 This is the funding approach that will be used for all learners within independent specialist providers implemented from September 2010 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

### Day learners

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

### Residential learners

Band	Education and independent living skills: expected hrs/wk	Care and therapy: expected hrs/wk	Total volume (minimum hrs/wk)
<b>D</b>	7–10	4–6	13
<b>E</b>	8–12	5–7	15
<b>F</b>	10–20	5–10	22
<b>G</b>	14–20	10–14	31
<b>H</b>	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.*

1 The 'expected hours' give a benchmark figure for the split between the two main categories. The 'total volume' is an absolute minimum standard that must be adhered to. Flexibility will exist between the two main categories.

# Annex 6:

## Individual Learner Schedule Information: Approval of Provider Payments

1 The information detailed below is necessary to enable YPLA to generate an individual learner schedule and allow for the approval of provider payments, along with identifying the precise provision being contracted. The template below has historically been used by independent specialist providers and local authorities may wish to adopt this format. The omission of information detailed below may result in delays to provider payments.

2 Information should be submitted to the regional YPLA inclusion manager, together with a copy of annex 6 – TG (Placement Request: Rationale of Support) completed by the independent specialist provider as set out in *Technical Guidance 2010/11*.

### Confidential

#### 1. Home local authority

Home local authority name (*please print*):

---

Address and postcode:

---

Contact name:

---

Telephone number:

---

Email address:

---

#### 2. Learner details

Learner's name (*please print*):

---

Date of birth:    /    /

---

Address and postcode:

---

Nature of disability and/or learning difficulty:

- Acquired brain injury
- Autistic spectrum disorder
- Communication difficulty
- Emotional/behavioural disorder
- Epilepsy
- Hearing impairment
- Medical condition
- Mobility difficulty (non-wheelchair user)
- Mobility difficulty (wheelchair user)
- Moderate learning difficulty
- Profound and multiple learning difficulty
- Severe learning difficulty
- Visual impairment

Other *(please give details)*:

Further comments on Disability *(please give details)*:

Ethnicity code *(insert appropriate code from the list at the end of this annex)*:

Gender:

Parent or guardian's name:

Address and postcode *(if different from above)*:

---

Current or most recent provider (prior status):	Long term care	<input type="checkbox"/>	
	Mainstream education	<input type="checkbox"/>	
	Specialist college	<input type="checkbox"/>	
	Specialist school	<input type="checkbox"/>	
	Unemployed	<input type="checkbox"/>	
	Employed	<input type="checkbox"/>	
	Other	<input type="checkbox"/>	
	Not known/not provided	<input type="checkbox"/>	
Learner's highest educational achievement to date (prior attainment level):	Entry Level	<input type="checkbox"/>	
	Other qualification below level 1	<input type="checkbox"/>	
	Level 1	<input type="checkbox"/>	
	Level 2	<input type="checkbox"/>	
	Level 3	<input type="checkbox"/>	
	Level 4	<input type="checkbox"/>	
	Level 5	<input type="checkbox"/>	
	Other qualification level not known	<input type="checkbox"/>	
	Not known	<input type="checkbox"/>	
No qualifications	<input type="checkbox"/>		
Statement of special educational needs:	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Unknown <input type="checkbox"/>

### 3. Independent specialist provider details

Name of provider (*please print*):

---

Address and postcode:

---

Contact name:

---

Telephone number:

---

Email address:

---

Type of placement (*please tick*):

Day

Residential

New Learner

Continuing learner

Mainstream subcontracting\*

\* Name of subcontracted provider(s):

---

Programme start date: / /

---

Programme end date: / /

---

Funding end date: / /

---

### 4. Third-party funding

Amount agreed:

---

Academic year:

---

Agency providing contribution:

---

Contact name:

---

Telephone number:

---

**5. Proposed programme details (including proposals for delivery by another provider)**

Accredited (Yes/No)	Programme	Awarding body	Level	Start Date	Expected End Date	Learning aim reference (LAR)

## 6. To be completed by the home local authority

Signed: \_\_\_\_\_

Name (*please print*): \_\_\_\_\_

Date: \_\_\_\_\_

Position: \_\_\_\_\_

### Ethnicity codes for section 2

<b>11</b>	Asian or Asian British – Bangladeshi
<b>12</b>	Asian or Asian British – Indian
<b>13</b>	Asian or Asian British – Pakistani
<b>14</b>	Asian or Asian British – any other Asian background
<b>15</b>	Black or Black British – African
<b>16</b>	Black or Black British – Caribbean
<b>17</b>	Black or Black British – any other Black background
<b>18</b>	Chinese
<b>19</b>	Mixed – White and Asian
<b>20</b>	Mixed – White and Black African
<b>21</b>	Mixed – White and Black Caribbean
<b>22</b>	Mixed – any other mixed background
<b>23</b>	White – British
<b>24</b>	White – Irish
<b>25</b>	White – any other White background
<b>98</b>	Any Other
<b>99</b>	Not known/not provided

Source: Individualised Learner Record



## Annex 7: References

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