



Education  
Funding  
Agency

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

**September 2012**

Of interest to independent specialist providers and local authorities

**For Information**

## Further information

For further information please contact the appropriate EFA territory.

### Northern Territory

Piccadilly Gate  
Store Street  
Manchester  
M1 2WD

Mowden Hall  
Staindrop Road  
Darlington  
DL3 9BG

Castle View House  
East Lane  
Runcorn  
WA7 2GJ

### Eastern Territory

Units 1-3 Trust Court  
Vision Park  
Histon  
CB24 9PW

Lime House  
Mere Way  
Ruddington Fields Business Park  
Nottingham,  
NG11 6JS

### Southern Territory

Sanctuary Buildings  
20 Great Smith Street  
London  
SW1P 3BT

Bridge House  
1 Walnut Tree Close  
Guildford  
Surrey  
GU1 4GA

### Western Territory

53-55 Butts Road  
Earlsdon Park  
Coventry  
CV1 3BH

Freshford House  
Redcliffe Way  
Bristol  
BS1 6NL

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# Introduction

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

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

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

## **Local authorities' duties**

- 5 Local Authorities duties arising from ASCL Act in relation to education and training are set out in detail at Annex 2.
- 6 For the majority of young people who have learning difficulties and/or disabilities, education and training provision will be delivered in a mainstream setting. This document provides information in relation to the small number of young people with a learning difficulty assessment where the local authority follows the view that their education and training needs can only be met by an Independent Specialist Provider.
- 7 The flowcharts at Annex 1 set out the decision-making process for both new and continuing placements at Independent Specialist Providers. Local authorities should ensure they have documented procedures to facilitate and record their placement decisions and processes.
- 8 Department for Education (DfE) guidance (DfE, 2012; see Annex 7 for references) sets out the way it expects the new arrangements for young people with learning difficulties and/or disabilities to operate, including reference to learning difficulty assessments.

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

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

## **Education Funding Agency**

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

# The Changing Policy Context

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

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

### **Direct payments**

- 13 The Special Educational Needs (Direct Payments) (Pilot Scheme) Order 2012 came into force on 30 January 2012. This establishes a pilot scheme to allow local authorities in the SEN and Disability Green Paper pathfinder programme and the Individual Budgets (IB) for Families with Disabled Children pilot to test the use of direct payments for special educational provision for children and young people. A copy of the order can be found online at [www.legislation.gov.uk](http://www.legislation.gov.uk)
- 14 The DfE will be providing further advice on the use of direct payments shortly. Further support for authorities in the pilot will be available through the pathfinder support team including a number of workshops and an action learning set on personal budgets (including direct payments).
- 15 Where a direct payment has been agreed by the Independent Specialist Provider and the local authority; in accordance with the requirements of the order; Independent Specialist Providers should ensure they retain accurate records in relation to those elements they are releasing to the local authority, for review by the EFA and/or their local authority.
- 16 Information on the process to be followed after the Independent Specialist Provider has agreed to release funds for the direct payment is set out at paragraphs 31 to 34 of the Placement Technical Guidance for Independent Specialist Providers 2012/13.

### **High Needs Students Funding Reforms – 2013/14**

- 17 Various consultation exercises have been ongoing since July 2011 and earlier this year the Secretary of State announced the final details of the approach to funding provision for pupils and students with high needs. This confirms the arrangements to simplify the local funding system for 2013-14 and the new approach to high needs funding that will help to improve transparency, quality and choice for young people and their

families. These new arrangements will help to secure greater consistency and equivalence to ensure that funding arrangements support the Government's plans to introduce a single approach to assessment and planning for young people with special educational needs from birth to 25.

- 18 The new arrangements for providers in the further education sector, including Independent Specialist Providers will be effective in relation to education provided from the start of the 2013/14 academic year. This means that 2012/13 will be the last year that the present contracting and funding arrangements will operate and the last year that the Placement Information: Learners with Learning Difficulties and/or Disabilities at Independent Specialist Providers will be published. The EFA will publish Funding Guidance for 2013/14 that will incorporate information relevant to all institutions that make provision for high needs students using the new approach. Further information on the funding reforms can be found at:

<http://www.education.gov.uk/schools/adminandfinance/financialmanagement/schoolsrevenuefunding/a00205567/school-funding-reform-and-arrangements-for-2013-14>



# Decision-making Process

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

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

## Student reviews

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

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

### **Data protection**

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

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

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

### **Multi-agency working**

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

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

### **Independent Specialist Providers**

- 30 As in 2011/12, the EFA will continue to contract with the Independent Specialist Providers listed in Annex 3 on behalf of local authorities. Some of these providers are subject to contractual restrictions; see paragraph 34 for more information.
- 31 It is pursuant to the terms of the EFA Conditions of Funding that funding shall be passed from the EFA to Independent Specialist Providers. The contract will also aim to ensure the appropriate transfer of data and other information to allow local authorities, Independent Specialist Providers and the EFA to comply with the duties and processes they are subject to.
- 32 As set out in section 63 of the ASCL Act, the EFA has the power to assess the performance of those providers delivering education and training and to take into account the outcome of these assessments when making contracting decisions.

### **New provider process**

- 33 In light of the information on the high needs students funding reforms set out at paragraphs 17 to 18, the EFA will no longer operate the Independent Specialist Provision: Provider Application Process. Since, under the new arrangements, a provider may be in receipt of funds from both the EFA and the relevant local authority, a new process is being developed that reflects the market entry requirements of both the EFA and local authorities for institutions where provision will be made for high needs students in 2013/14. Further information will be made available in Autumn 2012.

### **Contractual restrictions**

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

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

- 35 In accordance with the budget determined by the DfE, the EFA will provide local authorities with a financial year (1 April 2012 to 31 March 2013) notional budget based on those students whose programme end-date is beyond September 2012 and for whom, therefore, a continued placement may be required, and local authorities' forecasts of likely new student placements with a September 2012 start-date.
- 36 Local authorities should be mindful of their notional budget as part of their decision-making process. This may include consideration of exceptional funding requests exceeding £35,000 that have been reviewed by an independent expert (see paragraphs 69-79).
- 37 The EFA will monitor spend against the budget on behalf of local authorities. In the best interests of the student, it is recommended that local authorities make timely decisions on placement applications and communicate these in a timely manner to students and their family or carer, Independent Specialist Providers, other agencies and the EFA.
- 38 The EFA will continue to work with and support local authorities to enable reporting on budget monitoring and controls to the DfE.

### **Securing placements**

- 39 Whilst it is acknowledged that the total length of an individual student programme may be in excess of one year, the funding of a student placement will only be confirmed on an annual basis for the duration of

one academic year. Funding is subject to ongoing satisfactory educational progress, evidenced by annual student review reports produced by the Independent Specialist Provider in the first half summer term, EFA Conditions of Funding, and any restrictions/conditions thereafter.

- 40 The EFA funding methodology for Independent Specialist Providers is outlined in Annex 4 ('Support Bands: Rates for 2012/13') and Annex 5 ('Contact Hour Ranges'). Further information can also be found in *Technical Guidance 2012/13*. Independent specialist providers are contractually (schedule 2, clause 1.1) bound to operate within the funding methodology.
- 41 The funding methodology reflects the comparable costs of a programme of study for a maximum of 38 weeks a year. The funding level agreed by the local authority covers all elements of the programme and the support required by the student to access a programme of learning, including residential provision where appropriate. The local authority may also wish to consider the appropriateness of pooling resources between difference agencies to meet the range of student support needs. The funding also covers the costs of the pre-entry assessment of the student by the Independent Specialist Provider. No separate fees should be charged to the student or agencies in respect of this pre-entry assessment.

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

- 42 Once the placement and funding level have been agreed by the local authority and the student has accepted the offer of a placement, ('Confirmation of Agreed Provision 2012/13' in *Technical Guidance 2012/13*) the local authority must complete an Annex 6 - TG and forward it to the appropriate EFA territory. The completed Annex 6 - TG must already contain programme and support information completed by the Independent Specialist Provider.
- 43 Upon receipt of Annex 6 - TG, the EFA will generate an individual student schedule based on the agreed provision and taking account of payments made by other agencies (see paragraphs 26-27). Delays in the receipt of the completed Annex 6 - TG by the EFA may result in provider payments being delayed.
- 44 Where placement costs include exceptional funding in excess of £35,000 over the published support band rates (see Annex 4), these will be subject to an independent review commissioned by the EFA (see paragraphs 69-79).

## Individual student schedule/Annex 6 -TG

- 45 The Annex 6-TG ('Confirmation of Agreed Provision 2012/13') of *Technical Guidance 2012/13*) confirms the terms of the placement agreed, between the local authority and Independent Specialist Provider including a full breakdown of the programme and support that a student will receive as follows:
- a breakdown of the level of support that is required to be in place for the student
  - the agreed and proposed length of the programme(s) to be studied
  - the duration of the funding
  - confirmation of whether the placement is day or residential
  - funding from other agencies
  - the number of weeks to be funded.
- 46 The EFA will create the individual student schedule, based on the information contained within the Annex 6-TG and forward securely to the local authority as a record of the placement and confirmation of the payment terms between the EFA, on behalf of the local authority and the Independent Specialist Provider, in relation to each student. If the details shown on the individual student schedule are deemed to be accurate and reflect the information provided on the Annex 6 - TG, the student's home local authority should retain it with the student file. If inaccuracies are identified and changes required, the student's home local authority should contact the territory EFA within 5 working days of receipt of the individual student schedule.
- 47 The EFA will also forward a copy of the individual student schedule to the Independent Specialist Provider. Any discrepancies identified by the Independent Specialist Provider should be raised with the student's home local authority within 8 working days of receipt. The local authority should then contact the territory EFA with details of the inaccuracies, which will enable the details to be amended by the EFA and a revised individual student schedule to be raised. The individual student schedule should reflect the information provided on the Annex 6 – TG.
- 48 If the EFA does not receive notification of changes, an assumption will be made that both the student's home local authority and the Independent Specialist Provider consider the information contained within the individual student schedule to be an accurate record of the agreed placement.
- 49 The individual student schedule is an auditable document that, along with the Annex 6-TG, completes the terms of the contract for each student between the Independent Specialist Provider and the EFA.

## In-year changes

- 50 It may be helpful for the local authority's documented procedures to include a process for reviewing in-year changes aligned to those set out at paragraphs 36-43 in *Technical Guidance 2012/13*.
- 51 Where a local authority agrees to the changes and the new funding level, the Independent Specialist Provider is contractually (the contract, schedule 2, clause 2.3) required by the EFA to complete an amended Annex 6-TG and forward it to the student'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.
- 52 On completion of this agreement, the student's home local authority must confirm any in-year changes to the EFA territory to enable a revised individual student schedule to be raised, and ensure any adjustments to Independent Specialist Provider payments are made in a timely manner.

## Incidents

- 53 Independent Specialist Providers are contractually required to report to the EFA by email [HSincident.EFA@education.gsi.gov.uk](mailto:HSincident.EFA@education.gsi.gov.uk) and student home local authority:
- all incidents within 72 hours of their occurrence.
  - all fatal accidents and major injuries (as defined in Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR)) as soon as practically possible that the Independent Specialist Provider becomes aware of the event.
  - all RIDDOR events within 10 days of the provider becoming aware of the event by sending to the EFA a completed Incident Record Form and HSE 2508 (located at [www.education.gov.uk](http://www.education.gov.uk)) within 10 days of the Independent Specialist Provider becoming aware of the event.

## Placement extension

- 54 In the majority of cases students complete their programme within the initially agreed timeframe. It is expected that requests to extend an individual student placement beyond the duration of the programme's original end-date would only be made under **exceptional** circumstances.
- 55 It is expected that effective transition planning is embedded within the student 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.
- 56 An example of where a placement extension may be considered to be a genuine requirement may include cases where a student has been

unable to complete his or her learning aims due to unexpected medical reasons. It is expected that any concerns or delays relating to achievement will be raised in termly reviews, documented within review and progress reports and discussed by the Independent Specialist Provider with the student's home local authority at regular intervals.

- 57 Generally, it would not be expected to see transition from one Independent Specialist Provider to another or for further education or training provision beyond that initially commissioned. It is expected that a placement will equip students with the necessary skills and knowledge to allow them to progress beyond independent specialist provision of education and training. Where the student is nearing the end of his or her placement, it is suggested that this update includes opportunities and support for the student to consider alternative provision (further education, higher education, supported employment, voluntary work and so on). It would also be helpful to include opportunities for input and guidance from other agencies (guidance counsellors, social care professionals, medical practitioners, local authority officers and so on).
- 58 In the best interests of the student, Independent Specialist Providers should make an extension request to the student's home local authority no later than the end of the penultimate term of the academic year in which the student's existing placement ends.

### **Non-delivery**

- 59 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 student schedule, it is a contractual obligation (schedule 2, clauses 2.3 and 5) for the Independent Specialist Provider to inform the student's home local authority of this and to submit a revised Annex 6 - TG ('Confirmation of Agreed Provision 2012/13') of *Technical Guidance 2012/13*.
- 60 Following discussion and agreement to any placement changes, it will be necessary for the local authority to communicate these changes to the appropriate EFA territory by revising the local authority sections of Annex 6 - TG within 10 working days of the change being agreed with Independent Specialist Provider. The EFA will, in accordance with paragraphs 46-48, issue a revised individual student schedule, which will trigger the changes to payments made to the Independent Specialist Provider.

### **Withdrawals**

- 61 It is a contractual obligation (schedule 2, clause 5) for Independent Specialist Providers to advise the student's home local authority and the EFA as soon as possible if a student is no longer attending the placement, by completing Annex 8 - TG ('Withdrawal Notification for



EFA-funded Students at Independent Specialist Providers”) of *Technical Guidance 2012/13*.

- 62 Where a withdrawal is due to a student fatality, the Independent Specialist Provider, must immediately inform the student’s home local authority and the EFA in line with health and safety guidance and as per the contractual obligations (schedule 3, clauses 6 and 7).
- 63 The local authority, on receiving information on withdrawal, should report all withdrawals at the earliest opportunity by submitting Annex 8 - TG (titled ‘Withdrawal Notification for EFA-funded Students at Independent Specialist Providers’) of *Technical Guidance 2012/13*, completed by the Independent Specialist Provider, to the appropriate EFA territory.
- 64 It should be noted that, as set out in the contract (schedule 2, clause 5), the Independent Specialist Provider may not be funded for the whole term, depending on the reason for withdrawal.

#### **Attendance reconciliation report**

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

#### **Destination Data**

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

# Exceptional Funding

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

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

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

- 69 To support a nationally consistent approach for the consideration of higher cost placements at Independent Specialist Providers, exceptional funding requests in excess of £35,000 above the published funding levels outlined in Annex 4 will be subject to an independent review facilitated by the national EFA.
- 70 The placements for independent review will include any requests that exceed £103,829 for residential placements and those that exceed £80,247 for day placements. This process is one of a suite of key EFA budgetary controls that are supported and monitored by the DfE, and is a requirement set out in the contract for Independent Specialist Providers (schedule 2, clause 3). The independent reviews will be commissioned and funded by the EFA following ministerial approval.
- 71 On receipt of a request in excess of £35,000 above the published funding levels, local authorities should consider the request in accordance with their **own decision-making processes**, prior to the point at which a placement would be offered to the student.
- 72 At this stage, the request, together with the completed Annex 7 - TG ('Exceptional Funding Request Summary Form') of *Technical Guidance 2012/13*, will be securely forwarded (in accordance with paragraphs 26

and 27) to the national EFA. Where the request is for in-year changes, Annex 7 - TG should be sent with an amended Annex 6 - TG ('Confirmation of Agreed Provision 2012/13') of *Technical Guidance 2012/13*. Requests should be accompanied by supporting evidence (the latter is detailed at Annex 6 of this document).

- 73 The role of the EFA is to facilitate the independent review process and use the outcomes to disseminate effective practice and monitor budgetary efficiencies.
- 74 Please note that any personal data or other sensitive information sent to the EFA should be encrypted and comply with data security as set out at paragraphs 26-27.
- 75 In the interests of the student, the EFA will endeavour to co-ordinate a response within 14 working days of receiving the information from the local authority to the return of the review recommendations from the independent expert to the local authority.
- 76 The purpose of the review is not for the independent expert to make a decision on behalf of a local authority, but to support and support the local authorities decision-making process and make recommendations on:
- the strength of evidence and appropriateness of support and/or costs made in the exceptional funding request
  - suggestions for any additional information or clarification that might assist the local authority in confirming its decision on whether to agree to fund the placement.
- 77 The independent expert will securely forward its recommendations, together with the student information to the named contact at the student's home local authority, copying recommendations to the national EFA.
- 78 After consideration of the review recommendations, the local authority will determine whether any further action is required and confirm its decision to the student in accordance with its own decision-making processes.
- 79 Desk instructions are available from the following link to support local authorities in this process:  
[http://readingroom.lsc.gov.uk/EFA/200410\\_EFA\\_efdeskinstructions\\_la.doc](http://readingroom.lsc.gov.uk/EFA/200410_EFA_efdeskinstructions_la.doc)

# Other Funding

## Students aged 24 and over

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

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

- 85 In addition to placements at Independent Specialist Providers the specialist placement budget also covers additional learning support (ALS) over £19,000 and specialist placements in general further education providers for those young people over compulsory school age but under 25 and are subject to a learning difficulty assessment.

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

86 To enable local authorities to meet their duty of securing enough suitable education and training to meet a persons reasonable needs (as set out in the ASCL Act and detailed at Annex 2), for the 2012/13 academic year GFE providers will be required to obtain approval in advance from a student's home local authority for ALS costs in excess of £19,000 and specialist placements:

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

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

87 The local authority will be responsible for determining and agreeing the programme and associated support costs, along with reviewing the progress of students who are resident in their area.

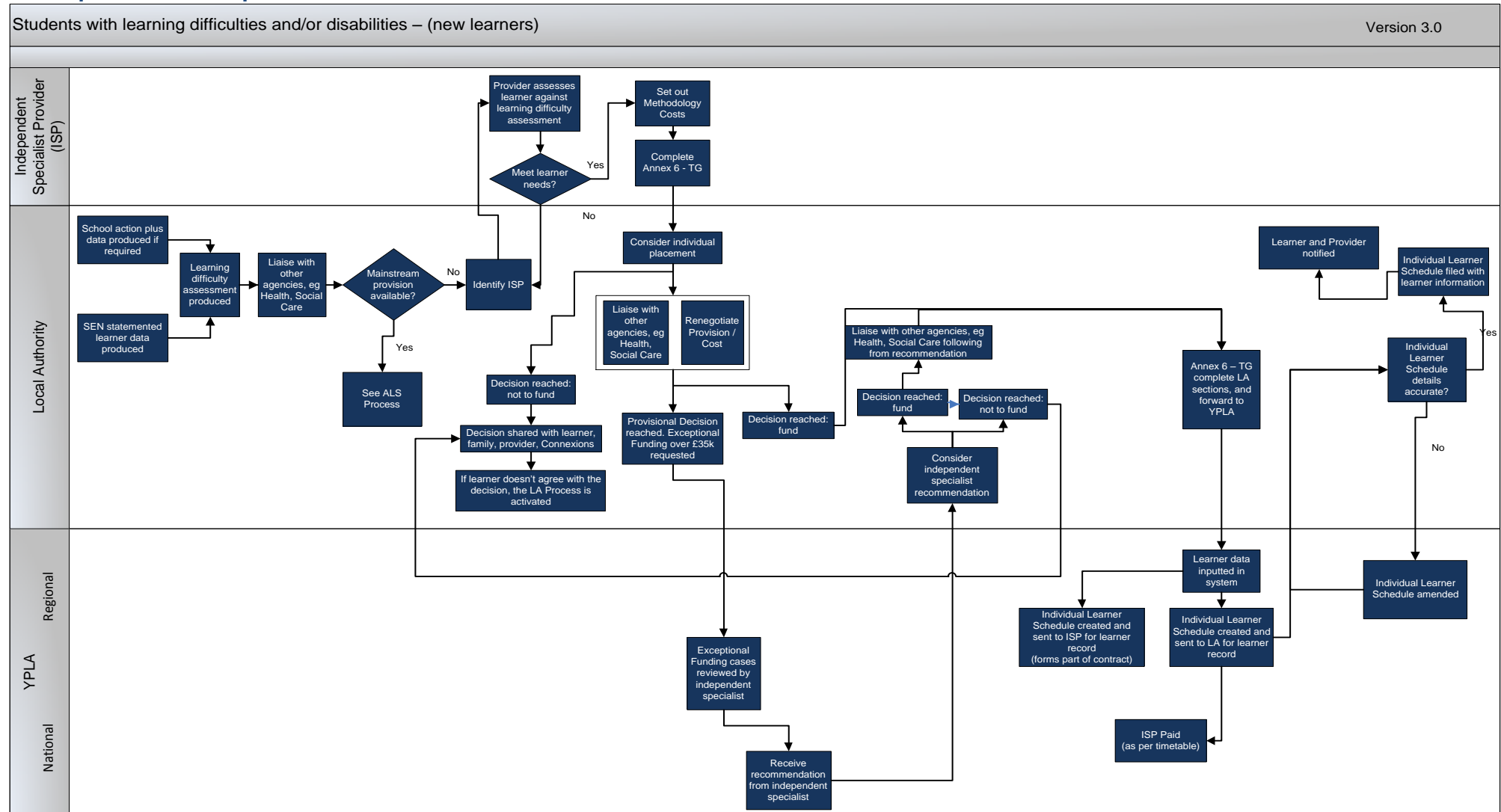
88 When transferring sensitive student information to the local authority for approval of costs, the provider must ensure that they comply at all times with the terms and obligations imposed by the Data Protection Act 1998, the Data Protection Principles, and all guidance issued by the Information Commissioners Office. The provider must agree with the local authority the data transmission method to be used which must be one of the following:

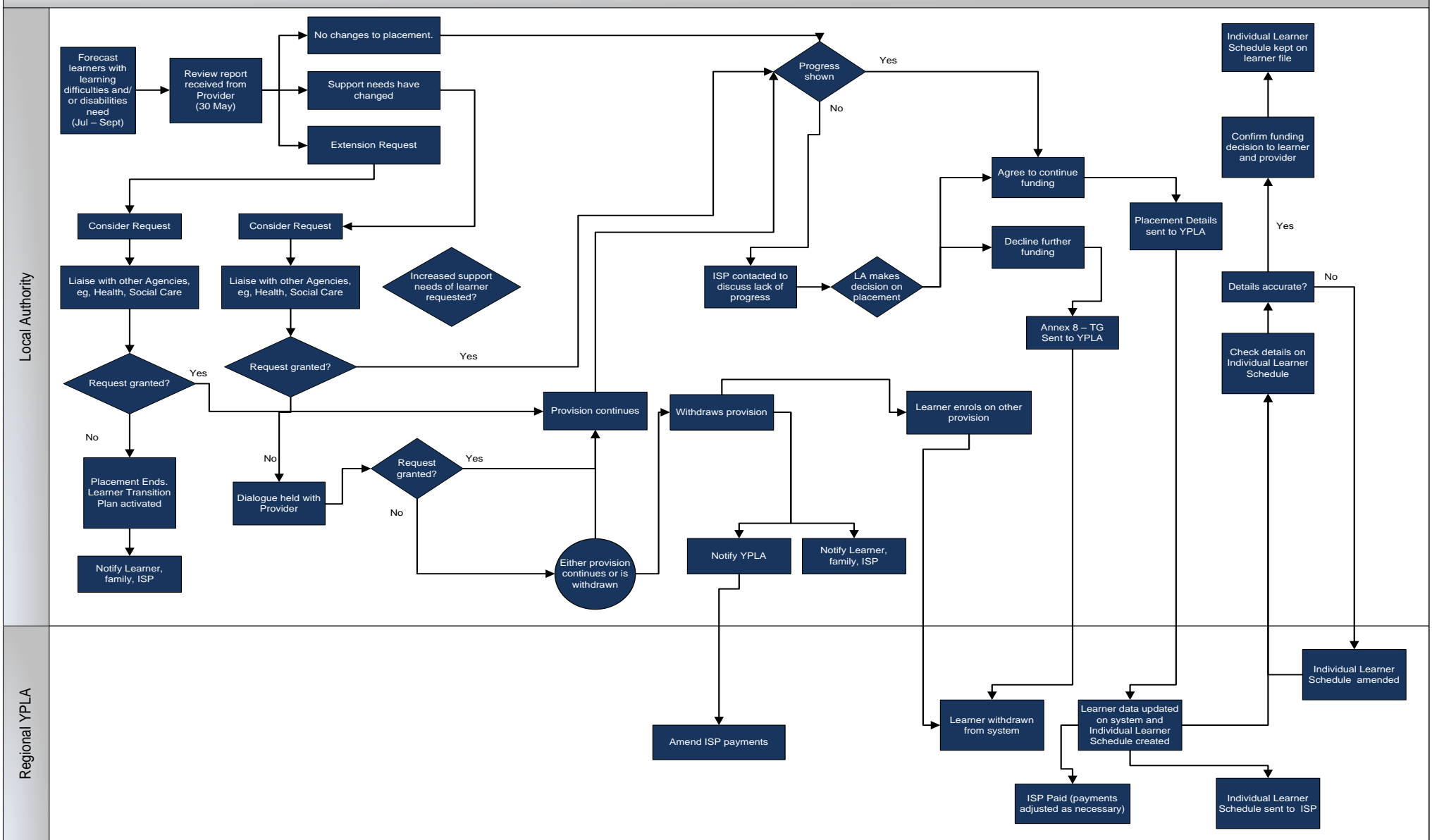
- Electronically using WinZip encryption. A password for the data is not provided until confirmation has been received from the recipient that the encrypted data has been received; or
- Data is sent via Royal Mail Special Delivery (not Recorded Delivery) with notification provided prior to sending the information so that the delivery is expected and confirmation received that there will be someone present to receive the delivery as appropriate.

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

# Annex 1:

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







## **Annex 2:**

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

### **Legal duties**

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

### **Education Funding Agency Duties**

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

- (1) The EFA 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 EFA must also secure the provision of financial resources in accordance with any directions given to it by the Secretary of State.
- (3) The EFA 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 EFA has power to secure the provision of financial resources under paragraph (a) or (b).
- (4) The EFA 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 EFA must make the best use of its resources.
- (6) The EFA 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 EFA).
- (7) EFA 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 EFA may adopt or develop schemes for the assessment of the performance of persons in providing education or training funded (directly or indirectly) by the EFA in the exercise of its functions under section 61.
- (2) The EFA may take the assessments into account in deciding how to exercise its functions under section 61.

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

- (1) The EFA 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 EFA must consult –
- (a) local education authorities in England, and

- (b) such other persons as it thinks appropriate.
- (4) The EFA 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.”





Provider	Provider's host local authority	Day Placements Only	School Status	19 Plus Placements Only	Day to Residential Ratio Applicable	Capped, Restricted	Newly Approved with Maximum EFA Funding Level of £400,000
New College Worcester	Worcestershire	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
North East Autism Society (Thornbeck College)	Sunderland	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Northern Counties College	Newcastle-upon-Tyne	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Oakwood Court	Devon	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Orchard Hill College of Further Education	Sutton	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Orpheus Centre	Surrey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Pennine Camphill Community	Wakefield	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Portland College	Nottinghamshire	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Queen Alexandra College	Birmingham	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Queen Elizabeth's Foundation Brain Injury Centre	Surrey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Regent College	Stoke-on-Trent	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
RNIB College, Loughborough	Leicestershire	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Robert Owen Communities (ROC)	Devon	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Royal College, Manchester	Stockport	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Royal National College for the Blind	Herefordshire	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ruskin Mill College	Gloucestershire	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SENSE	Peterborough	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sheiling School	Dorset	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
St Elizabeth's Centre	Hertfordshire	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
St John's School and College	Brighton and Hove	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>





## Annex 4:

### Support Bands: Rates for 2012/13

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

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

## Annex 5: Contact Hour Ranges

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

### Day students

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

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

### Residential students

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

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

## Annex 6:

### Suggested Education and Training Evidence

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

## Annex 7:

### References

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