

# **National Commissioning Framework**

**This document is for consultation and therefore may be  
subject to change and amendment.**

**16 November 2009**

**This document sets out guidance on the process for  
planning and commissioning learning provision for  
young people in England for the academic year 2011/12  
to ensure that the system provides better opportunities  
for learners to participate and progress in learning.**

This document is intended to be used by local authorities, learning providers and other stakeholders in 16-19 education and Training.

## Consultation on the National Commissioning Framework

This document is a draft of the National Commissioning Framework (NCF) for new planning, commissioning and funding systems for the education and training of

1. young people aged 16-19.
2. those aged 19-25 for whom a learning difficulty assessment is in place.
3. education and training for children and young people in youth custody aged 10-18.

### Scope of the consultation

The document is aimed at key stakeholders in the 16-19 education and training world and offers them the opportunity to comment on the proposed planning, commissioning and funding systems set out in the Framework.

We are **not** consulting on the principle of devolving responsibility for the provision of 16-19 training and education to the local level, or Local Authorities lead role, which was outlined in the DCSF's document *Delivering 14-19 Reform: Next Steps* and will be given effect by the Apprenticeship, Skills, Children and Learning Act 2009.

### The consultation process

The Framework has been developed and shaped so far through discussions with colleagues at Department for Children, Schools and Families (DCSF), the Learning and Skills Council (LSC), the Local Government Association, the Association of Colleges and others through a number of testing and dry run exercises.

This draft of the Framework will be open for public consultation for 12 weeks, from 16 November 2009 to 5 February 2010. Comments will be considered carefully and a formal consultation response will be published by the Young People's Learning Agency (YPLA) at the same time as the finalised NCF, to provide feedback on how we have dealt with each of the responses and how they have influenced the final Framework.

### How to Respond to the Consultation

There are a number of questions in the accompanying Consultation Question paper on which we would welcome your views. You can also provide more general views on the Framework and proposed process as a whole. (Consultation Questions on the NCF are reproduced overleaf.)

Consultation responses should be sent to [NCFConsultation@lsc.gov.uk](mailto:NCFConsultation@lsc.gov.uk) by 17:00 on 5 February 2010; we would, however, be grateful for earlier responses.

The information you provide in your response will be subject to the Freedom of Information Act 2000 and Environmental Information Regulations, which allow public access to information held by Government and its agencies. This does not necessarily mean that your response can be made available to the public as there are exemptions relating to information provided in confidence and information to which the Data Protection Act 1998 applies.

**Please indicate clearly in your response if you want us to keep your response confidential.**

If you request confidentiality in your response you should note that neither this, nor an automatically-generated e-mail confidentiality statement, will necessarily exclude the public right of access.

## National Commissioning Framework Consultation Questions

Please provide answers to the following questions:

### General/Section 1.1

1. Does the document make it clear the absolute essential processes, roles and responsibilities to ensure that education and training places for young people will be commissioned on time, to quality and within budget for 2011/12? If not, how could it be set out to make this clearer?
2. Is the strategic framework for the National Commissioning Framework (NCF) clear?
3. Will the NCF provide the right process to support the delivery of our desired outcomes of increased participation, attainment, progression and value for money? If not, why not and how could it be improved?
4. Does the process which the NCF sets out enable the delivery of the key principles behind it? If not, why not and what changes could be made so that it does?

### Section 1.2 - Key Contributors to the Commissioning Process

5. Are the roles and responsibilities of each of the partners clear? If not, why not and how could they be improved?

### Section 1.3 – Key Elements of the Commissioning Process

6. Are the elements of the commissioning process (and the responsibility for undertaking particular tasks) sufficiently clear?
7. Are all the right steps included, and are they in the right sequence? If not, what do you think should be different and why?

### Section 2 – Planning, Allocation and Funding

8. Is it clear how each of the processes below will operate within the NCF and are they workable and deliverable? If not, how could it be improved?
  - a. planning;
  - b. allocation; and
  - c. funding.
9. Will these processes enable us to deliver our objectives? If not, why not and how could they be improved to ensure we could achieve our objectives?
10. Where do you expect the main pressure points to be in the planning and allocation timetable? How might these pressures be alleviated?
11. Are the criteria for resolving complaints reasonable? If not, why not?
12. Are the processes and timelines robust? If not where and how could they be improved?
13. Are the underpinning principles for Young People's Learning Agency (YPLA) statutory intervention reasonable and balanced? If not how could they be improved?

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### Section 3 – Funding, Payments and Assurance

14. Is it clear how the payments and assurance processes will operate within the NCF and are they workable and deliverable? If not, how could it be improved?
15. Is a system of in-year adjustment to allocations desirable and practical? If changes should be made what are they?

### Chapter 4 – Performance Management Framework

16. Is it clear how the Quality Assurance System will operate, and what the respective roles are for local authorities and the YPLA? If not, how could it be improved?
17. Do you think Minimum Levels of Performance policy should be reviewed in the light of the new commissioning arrangements? If so, why and how?

Please also see the National Commissioning Framework Annexes and the associated Consultation Questions.

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Please note that all dates stated are best estimates

## Section 1: Overview and Summary

### 1.1 Introduction and Context

#### The purpose and scope of the NCF

- 1.1- 1 The National Commissioning Framework (NCF) provides guidance on the process for planning and commissioning learning provision for young people in England for the academic year 2011/12. It is intended to provide the necessary information to enable local authorities to prepare for and implement their role as lead commissioner, to explain the roles and responsibilities of stakeholders, and to describe the processes and timescales to ensure that the new system works. The NCF sets out what needs to change through 2010 and 2011 to ensure that the system provides better learning opportunities for young people, better integration of resources, and contributes significantly to improvements in progression, participation and employment, and is better able to respond to changing demographic patterns.
- 1.1- 2 The primary audience for the NCF will be those in local authorities who will assume responsibility for commissioning under the Apprenticeship, Skills, Children and Learning Act 2009 (ASCL Act 2009). However, it will also be of interest to leaders of colleges, schools, and other providers, including the Third Sector, members of the 14-19 Partnerships and Children's Trusts, and key delivery organisations.
- 1.1- 3 The Framework will be issued by Young People's Learning Agency (YPLA) in April 2010 as part of statutory guidance. Its primary role is to set out the mandatory elements of planning, commissioning and the quality assurance of provision. It also provides guidance, advice and links to further information on how the process should be managed in 2010-11 for the 2011/12 academic year following the transfer of responsibilities to local authorities.
- 1.1- 4 Whilst the guidance in the NCF applies to the process for planning and commissioning provision that will be delivered in the 2011/12 academic year, it includes some elements, specifically the arrangements for funding providers, which will apply from 1 April 2010. Any amendments until 2011/12 would be by exception. It is expected that the NCF will be revised on an annual basis, so a revised version should be published in March 2011 to support the planning and commissioning of provision for the 2012/13 academic year.
- 1.1- 5 Local authorities are at the heart of the new system and the NCF makes clear their key roles and responsibilities. Local authorities will develop their own approach to the delivery and integration of the commissioning of provision for 16-19 year olds (and 19-25 year olds with Learning Difficulties and/or Disabilities (LLDD) and 10-18 Young Offenders) with other services in their area, and in the context of wider economic and social development plans, whilst driving commissioning to meet the needs of learners and employers. This Framework allows for local flexibility within a coherent national model, which takes account of dependencies in relation to data and information flows, the coordination of the allocation timetable, and provider quality assurance and management.
- 1.1- 6 Unless otherwise specified, all references to 16-19 provision include 19-25 year olds for whom a learning difficulty assessment (as described in Section 139A of the Learning and Skills Act 2000) is in place. Local authorities will also be responsible for young people in youth custody.

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- 1.1- 7 This document also sets out roles and responsibilities in relation to 16–19 provision in Academies. The YPLA will have delegated authority to take on other responsibilities in relation to pre-16 provision in Academies on behalf of the Secretary of State for Children, Schools and Families, but this is not covered here.

### Policy context

- 1.1- 8 The transfer of responsibility to local authorities is an essential element of the Government's long term strategy to make the UK the best place in the world for children and young people to grow up. It gives local authorities the tools they need to deliver the best outcomes for young people and to ensure they are able to fully support the wider Every Child Matters agenda. It should be read with other policy documents and initiatives, such as those set out in the recently published "*Quality, Choice and Aspiration: A strategy for Young people's information, advice and guidance*", which reinforces the strategic leadership role of local authorities.
- 1.1- 9 The new system, in combination with a new approach from local authorities, will help to achieve a number of key outcomes:
- To lay the foundations for the successful raising of the participation age to 18 from 2015.
  - To make sure that the right provision is in place to allow every young person to access their entitlements to learning, including Diplomas and Apprenticeships, and deliver the September Guarantee.
  - To make sure that provision supports the achievement of all of the five Every Child Matters outcomes (<http://publications.dcsf.gov.uk/default.aspx?PageFunction=productdetails&PageMode=publications&ProductId=DCSF-00331-2008&> ).
  - To provide opportunities so that every young person can participate in learning and prevent any young person from suffering the long term effects of not being in education, employment, or training.
- 1.1- 10 The new approach from local authorities to support the delivery of these outcomes needs to include:
- Strong leadership to ensure the provision of a coherent learning and support offer for young people, through strategic integrated commissioning.
  - Provision which is flexible enough to meet the needs of some young people who need to reengage in learning at different times of the year, including young people who are leaving youth custody and enabling those in employment without training to access learning and training alongside their job.
  - Assuring that information, advice and guidance (IAG) is sufficient, effective and relevant to school, college and labour market needs.
  - An approach which takes a critical look at the mix and balance of provision and the support needed to meet the needs of all young people.

### Key principles underpinning the NCF

- 1.1- 11 The development and operation of the NCF is guided by a set of key principles:
- The system will operate in the interests of the learner, addressing learner choice and diversity, and will ensure access to learner entitlements and curriculum pathways.
  - The system will take into account the needs of employers and employability.
  - The system will seek the involvement of providers as key strategic partners.
  - Commissioning should be sustainable, impartial and provider neutral, securing high quality provision from the most appropriate quality assured providers.
  - Funding - based upon the national funding formula and applied at the level of the provider - will follow the learner.
  - The process will provide and encourage flexibility for local authorities and other

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- partners to respond to needs.
- The system will ensure consistency in key features such as the timing of stakeholder involvement, timing of allocations, outcomes (including the offer to learners), data submissions and flows, and the funding formula/rates.
- The system must be transparent and equitable\*, and compliant with the principles in the Third Sector Compact.
- The system must deliver value for money\*. Accountability will be secured with the minimum bureaucracy between partners.

*\* Concepts such as value for money, equity, transparency, etc., will be underpinned where required by firm criteria.*

### Commissioning within the context of the NCF

- 1.1- 12 Local authorities are experienced commissioners of services for their citizens. Commissioning in the context of the NCF is taken to include:
- Collaborative planning between local authorities to determine the education and training needs of young people across travel to learn areas and to make sure provision is made available for all young people to progress in learning, where ever it is most appropriate to do so, including delivery of the learner entitlements and the September Guarantee.
  - That the quality of provision and institutional performance at least meets minimum standards (e.g. of accreditation), and continues to improve.
  - Where relevant, procuring provision within the framework of the national funding system and ensuring it is affordable within national budgets.
  - Enabling the respective parties to the commissioning process to deliver their responsibilities for handling and accounting for the revenue and capital funds invested in young people's learning.
  - Delivering provision and a support offer for young people, including provision for the most vulnerable, that enables access to the 14-19 entitlement.
- 1.1- 13 The term "commissioning" is used within the NCF to refer to all stages of the commissioning process, including needs analysis, planning, funding, procuring, contracting, making payments, and monitoring provision of education and training services for young people so that:
- Local authorities and their partners build a sophisticated understanding of the existing and potential needs of young people based on qualitative and quantitative evidence and informed by engagement with learners.
  - Data are provided (i.e. census returns on learner volumes and achievement) at agreed points throughout the year and used to inform future commissioning decisions.
  - Provision is strategically planned and designed, with the involvement of learners, employers and current and potential providers, and with a strong understanding of what is effective and delivers value for money.
  - Local authorities develop a diverse, sustainable provider base offering sufficient, appropriate (in relation to need and demand) and high quality provision.
  - Provision is procured from the most appropriate providers.
  - Provision is monitored to assess performance against expected outcomes.
  - Local authorities give providers the freedom to be innovative and creative within an agreed framework to ensure delivery of the full learner entitlement.

## 1.2 Key Contributors to the Commissioning Process

### Introduction

- 1.2- 1 This section describes the specific roles and responsibilities of key contributors in the commissioning of education and training provision for young people as local authorities take up their role as the strategic leaders of 14-19 reform.
- 1.2- 2 Strong and effective collaboration is needed to deliver benefits for young people. Specifically key partners within the 14-19 Partnerships and Children’s Trusts will be actively engaged and participate in needs assessments and strategic planning. This will include employers, schools, colleges and other providers, including the Third Sector.
- 1.2- 3 This guidance reflects the basic structure of the new commissioning arrangements centred on local authorities, Sub-Regional Groups (SRGs) of linked local authorities in logical ‘travel to learning’ areas, and Regional Planning Groups (RPGs). In various parts of the country the new structures may vary including SRGs consisting of a single local authority and RPGs that combine the functions of the SRG and RPG. If there is doubt about how the guidance will work within a particular configuration, the shadow YPLA or the Department for Children, Schools and Families (DCSF) can provide clarification.

### Individual responsibilities

- 1.2- 4 The diagram below illustrates the key responsibilities for partners who are central to the commissioning process.

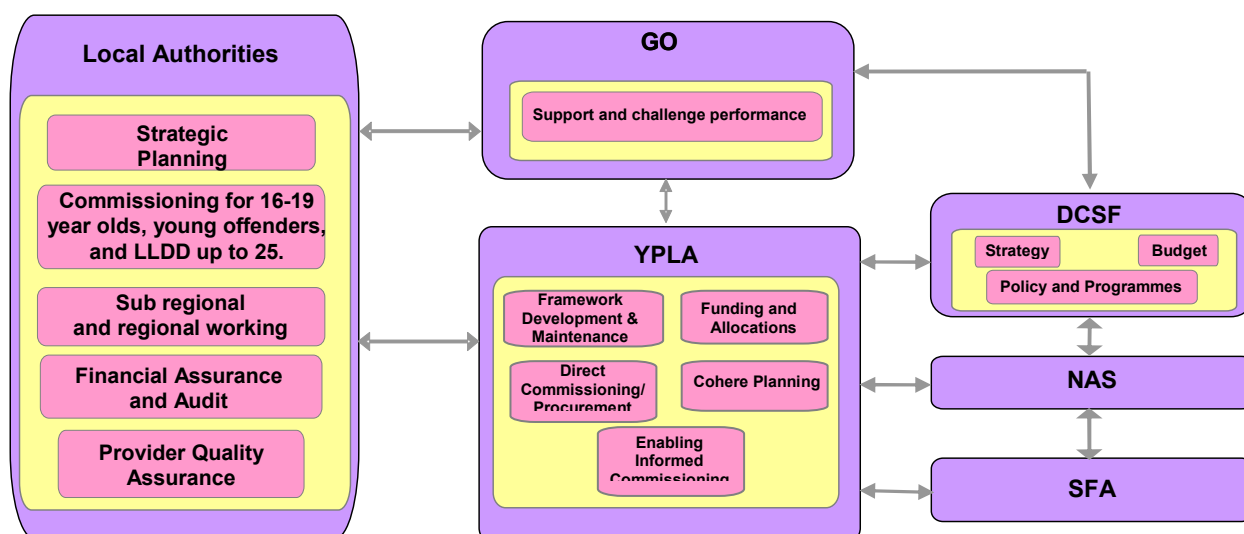


Figure 1 – Key partners’ central roles

### Local authorities

- 1.2- 5 Within the context of the local area agreement framework, local authorities are champions of young people in their area, focusing on achieving better outcomes for them, even when those outcomes are achieved in a different local authority area.
- 1.2- 6 As commissioners of 16-19 learning, they will have new duties and powers including securing sufficient provision of education and training for young people residing in their area (regardless of where they want to learn) or who are held in youth custody in their area. Local authorities will also normally procure learning provision with providers located in the area on behalf of other local authorities whose residents travel into their area to learn. This should sit alongside the commissioning of IAG services (through

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Connexions services or others).

- 1.2- 7 Every Child Matters (ECM) sets out the 5 outcomes expected for children and young people. Local authorities are expected to use their lead 16-19 role to maximise ECM outcomes and take the opportunity to ensure synergy and alignment between their education and social services as well as other related functions (for example, transport departments). As local authorities develop their approach to strategic commissioning, they will take account of national, regional and sub regional priorities, including adult and economic development priorities.
- 1.2- 8 The new system means local authorities will assume a greater strategic role, working with neighbouring authorities in SRGs. Local authorities will engage education and training partners in strategic partnerships to ensure that there is enough provision to meet the requirements of young people in their area for education and training.
- 1.2- 9 When making commissioning decisions local authorities will be required to take into account the requirements of young people and young adults being provided for (i.e. their ages, abilities and aptitudes, and any learning difficulties that people may have; the quality of provision; and the locations and times at which the learning is being provided (for example ensuring both full and part-time provision is available. Local authorities will also be required to act with a view to:
- Encouraging diversity in the education and training available to individuals.
  - Increasing opportunities for individuals to exercise choice and ensure young people are able to participate in education and training in accordance with the raised participation age in the Education and Skills Act 2008, when it comes into force. They must also take account of education and training provided by others.
- 1.2- 10 Some young people will need to reengage in learning at different times of year, for instance where they have made the wrong choice in September, where they have dropped out of learning or work during the year or due to other factors such as pregnancy or youth custody. Local authorities will need to make sure that provision is flexible enough to meet the needs of these young people, that the support offer is aligned to support access to provision and that flexible start dates are available so that they can reengage quickly in learning.
- 1.2- 11 These reforms are intended to ensure that local authorities not only commission well, but put in place systematic processes to join up all their support and positive activities. There should be a clear focus on supporting vulnerable young people and their families, focussed particularly on children in care, teenage parents, young people with learning difficulties and disabilities and young carers.

### Children's Trusts

- 1.2- 12 Children's Trusts develop the local strategy for improving children's lives by delivering better services and helping them achieve the five Every Child Matters outcomes. 14-19 Partnerships report to Children's Trusts on arrangements for education and training for young people. Local authorities must put in place arrangements to promote cooperation between the local authority, its relevant partners, and 14-19 providers as part of the Children's Trust.

### 14-19 Partnerships

- 1.2- 13 14-19 Partnerships, as a sub-set of the Children's Trusts, provide area-wide strategic assessments, owned and driven by key stakeholders and delivery partners. The Partnerships provide local authorities, through Children's Trusts, with essential information on priorities for improving outcomes for young people, including increasing

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participation and attainment in learning, delivery of the 14-19 entitlement and strategic thinking and collaboration across the Partnership. The Partnerships have the responsibility for developing the local 14-19 plan. Their longer term strategic planning will be crucial for local authorities planning of their annual strategy for 16-19 learning provision. (More information on 14-19 Partnerships and planning is available from <http://publications.dcsf.gov.uk/DownloadHandler.aspx?ProductId=DCSF-00170-2009&VariantID=14-19+Partnerships+and+planning+PDF&> )

### Sub Regional Groups (SRGs) <sup>1</sup>

- 1.2- 14 SRGs 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, how well the curriculum is being delivered and what future entitlements will mean for learner demand in the area. They will enable local authorities to arrange the planning and commissioning of learning provision in collaboration with neighbouring authorities and share responsibility for securing the most appropriate learning provision to meet the needs of young people across the travel to learn area and ensure the most effective deployment of commissioning resources. They will maintain conversations between local authorities that are not part of the SRG but whose learners may be learning in the SRG area or vice-versa. (More information and guidance on the role of SRGs is available from <http://www.dcsf.gov.uk/14-19/index.cfm?go=site.home&sid=57&pid=505&lid=662&ctype=None&ptype=Contents> )
- 1.2- 15 SRGs will also agree which local authority is most appropriate to be the lead commissioning authority with any particular provider, or for learning provision, where there are cross local authority border issues.

### Regional Planning Groups (RPGs)

- 1.2- 16 RPGs bring together regional education and strategic skills agendas. They will review and aggregate local authority commissioning intentions, endorsed by the SRGs, against regional priorities and manage affordability.
- 1.2- 17 It is expected that the RPG will include key partners from across the region and may include representatives from local authorities, employers, Regional Development Agency (RDA), Government Office (GO), the YPLA and the Skills Funding Agency (SFA). The RPG will scrutinise 16-19 Commissioning Plans for the region to ensure they are coherent, can be funded within the region's total funding allocation and will deliver the 14-19 entitlement. The RPG will have close links with the Regional Skills Partnerships to make sure commissioning plans reflect regional skill needs. The RPG will progress specialist issues (for example establish working groups in relation to the development of the Common Application Process (CAP), effective IAG, LLDD, capital, transport and/or youth offending) and will endorse, or otherwise, Commissioning Plans before they are submitted to the YPLA. (Additional information on the role of RPGs is available from <http://www.dcsf.gov.uk/14-19/index.cfm?go=site.home&sid=57&pid=505&lid=661&ctype=None&ptype=Contents> .)

### National Apprenticeships Service (NAS)

- 1.2- 18 The NAS will work with local authorities in their SRGs to identify the likely demand from young people for Apprenticeships. Information will be provided about employer support and the nature and quality of existing local provision to help inform these discussions. The NAS will be represented on RPGs where the regional Apprenticeship requirements

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<sup>1</sup> In some parts of the country the Regional Planning Group may undertake the role of the SRG.

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will be agreed. The NAS will procure all Apprenticeship provision through the SFA.

### Providers

- 1.2- 19 Learning providers encompass the full range of organisations that deliver education and training to young people. They deliver training and education, in return for receiving public funds, that meets student learning and skills requirements in line with the entitlement curriculum and employers' skill needs. In addition, they are responsible for delivering Careers Education and Guidance to learners and ensuring provision is accessible through the Area Prospectus and CAP, and for Apprenticeships through the National Apprenticeships Vacancy Matching Service (NAVMS).
- 1.2- 20 Providers also play a key role as strategic partners, participating in 14 -19 partnerships and informing commissioning through feeding in their learners' voice and young people's ambitions and views of services, and engaging in dialogue with local authorities about the nature and scope of provision they are able to offer.

### Government Offices (GOs)

- 1.2- 21 GOs will play a key role in supporting and challenging local authority performance through agreeing local authority priorities, setting and monitoring Local Area Agreement (LAA) targets and through the Comprehensive Area Agreement (CAA) inspection regime, and in offering a strategic perspective through the RPGs. GOs will ensure that overall performance on 16–19 education and training is considered alongside other elements of the Children and Young People's agenda.

### Regional Development Agency (RDA)

- 1.2- 22 In their strategic planning, local authorities will have to plan for and address the long-term skills needs required within a region. The Regional Development Agency (RDA) holds the remit for improving the economic well-being of the region and, under the NCF, this remit will extend into informing lead commissioners and learning providers about what skills will be required in the region for the longer-term.
- 1.2- 23 The RDA will be involved in the RPG and will use its long-term strategic planning analysis and outputs to help inform and challenge 16-19 Commissioning strategies and decisions, collectively endorsed by the SRGs, in relation to alignment with regional skills and economic regeneration and development policies.

### Young People's Learning Agency (YPLA)

- 1.2- 24 The YPLA will support local authorities in their new duties.
- 1.2- 25 The YPLA will ensure consistency and propriety across the commissioning process by issuing statutory guidance to local authorities about the performance of their new duties to which all local authorities must have regard. The NCF forms the core part of this guidance.
- 1.2- 26 The YPLA also has powers to intervene where it is satisfied that a local authority is failing or is likely to fail in its new duties. It will not have a direct commissioning relationship with schools, colleges or other providers except in exceptional circumstances, or where it is appropriate for a national commissioning approach to be in place. The YPLA will procure from some groups of providers, particularly Academies.
- 1.2- 27 The YPLA must make an annual report to the Secretary of State which will be laid before Parliament.

### Department for Children, Schools and Families (DCSF)

- 1.2- 28 The DCSF will set the overall national policy and priorities for 16-19 learning, agree national funding allocations through the Comprehensive Spending Reviews (CSRs), set national targets, and review YPLA performance.

### Ofsted

- 1.2- 29 Inspection by Ofsted of both schools and FE provision will continue and will trigger support and intervention as now. The YPLA, local authorities and the SFA will share information in coming to decisions about actions to be taken (as a result of inspection) with providers. Ofsted will use a range of available data including the Framework for Excellence (FfE) to determine the urgency/priority of a provider/service for inspection and so inform inspection planning.

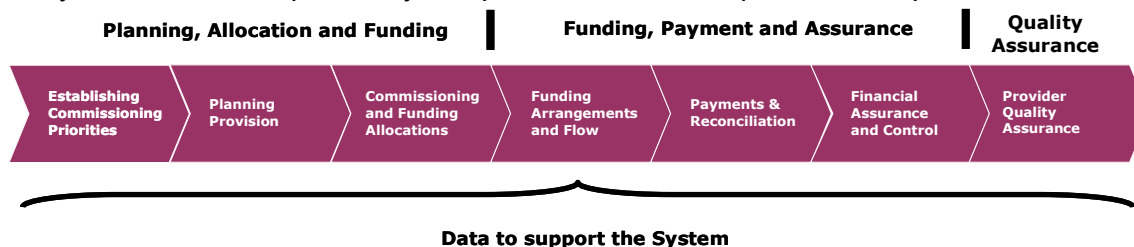
### Data requirements

- 1.2- 30 The commissioning processes for 16–19 provision will be underpinned by relevant and timely data. The data required by local authorities, SRGs and RPGs to support the planning, allocation and provider quality assurance processes will be provided by YPLA regional teams. The data collected and subsequently shared with local authorities, will be based primarily upon the Individualised Learner Record and Termly Schools' Census Data, although a number of supplementary data sources, collated by The FE Data Service, will be used to generate the Core Data Set. This Core Data Set will enable local authorities, Government Offices and the YPLA to analyse activity across programmes, between providers and by both curriculum and geographical areas to ensure appropriate plans and subsequent commissions are made. It will also mean that colleges and providers will only need to supply data to one data service and information will be shared appropriately. The ASCL Act enables this information sharing, subject to usual data protection rules.
- 1.2- 31 Schools, colleges and other providers will be required to submit data within agreed timeframes to meet the requirements of the commissioning cycle. The arrangements and systems for data collections will be managed by The Data Service and the Schools Data Services Group. Timings of returns will be kept under review in order to prevent delays in the commissioning cycle. Further information can be found in Annex 7.

### 1.3 Key Elements of the Commissioning Process

#### Key elements of the process

- 1.3- 1 The planning, allocation and funding elements of the commissioning process occur on a cyclical basis. This NCF applies to the processes which will support participation in the 2011/12 academic year. Each element needed to establish learning provision for 16-19 year olds is underpinned by comprehensive learner, provider and performance data:



- 1.3- 2 Specific arrangements for commissioning education and training in relation to Apprenticeships, LLDD, and young people in youth custody are covered in more detail in Annexes 1, 3 and 4.

#### Establishing Commissioning Priorities

- 1.3- 3 National commissioning priorities will be determined by Ministers and will be set out in the DSCF's and YPLA's Statement of Priorities and the national YPLA Commissioning Statement. Regional priorities will be set out by RPGs.
- 1.3- 4 Local priorities are determined by local authorities reflecting national policy and regional priorities and taking into account their analysis of learners' needs, including employability, and of local economic and employer needs. These priorities will be set out in a local **Commissioning Statement**, which will be a product of broad discussions in the 14-19 Partnerships, thereby engaging key strategic partners in their development.
- 1.3- 5 Through the planning process, the Commissioning Statements are turned into detailed **Commissioning Plans** for the 2011/12 academic year (see Section 2.2).

#### Planning provision

- 1.3- 6 SRGs<sup>2</sup> will receive the individual Commissioning Plans and aggregate demand for places, and ensure alignment and coherence of initial plans, and their fit with learner entitlements across the sub-region. Data from options planning and from the Apprenticeships vacancy on-line system will inform the dialogue on Apprenticeships commissioning between local authorities and NAS. The impact of any major planned capital developments will be taken into account.
- 1.3- 7 In developing their **Commissioning Plans**, local authorities will work with learning providers to identify how current learning provision will change and develop and where new provision may be required to realise the priorities in the agreed local Commissioning Statement and reflect learner choice. The identified lead commissioners will ensure providers are involved and that the process for making commissioning decisions is transparent and equitable.

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<sup>2</sup> In some parts of the country the Regional Planning Group may undertake the role of the SRG.

### Commissioning and funding allocations process

- 1.3- 8 Local authorities will establish funding agreements with providers to deliver the learning provision in their agreed Commissioning Plans. The key stages in the process are:
- a. the overall national levels of funding for 16–19 provision (including rates, volumes and overall budgets) will be confirmed by the DCSF to YPLA;
  - b. the system will use the national funding formula approach in use by the LSC for 2010/11, although the rates and other variables within the formula will be subject to review;
  - c. the YPLA will provide an initial funding position, based upon historical allocation data, for each local authority and in summary for each SRGs and RPGs. This will aggregate the funds, learner numbers, and Standard Learner Numbers (SLNs) allocated to institutions to establish an overall funding position for each local authority. (October 2010 for academic year 2011/12);
  - d. lead commissioners will establish their commissioning intentions, involving providers, taking into account a range of issues, including:
    - the overall 16-19 provision budget;
    - baseline positions and the consolidation of sustainable in-year growth
    - learner and employer needs;
    - provider plans and aspirations;
    - any statements of national, regional and local priorities;
    - progress towards meeting the learner entitlement and participation targets;
    - progress in meeting quality improvement targets. (November 2010 for the 2011/12 academic year); and
  - e. lead commissioners will confirm allocations to providers in March 2011 for the 2011/12 academic year and then put in place funding agreements during April to July, with payments from local authorities to providers beginning in August 2011.
- 1.3- 9 In stage (d) above where a lead commissioning local authority considers significant changes are required to existing funded provision they will consult on these within the SRG and other affected local authorities.
- 1.3- 10 Between stages (d) and (e) above, RPGs, SRGs and lead commissioners will assess the extent to which proposed activity is likely to meet targets, and will work with 14–19 Partnerships and providers to develop plans. SRGs and then RPGs will moderate local Commissioning Plans in February and March 2011, and present aggregated Commissioning Plans to the YPLA for final sign-off (assuring affordability).
- 1.3- 11 Most procurement will be by negotiated provision. Any provision to be procured by open and competitive tender will be identified in October/November 2010 with decisions on providers to be contracted by May 2011. In exceptional circumstances, the YPLA and RPGs may also commission provision direct from providers through either negotiation and open competitive tendering (OCT) on behalf of local authorities. The YPLA will fund Academies and for a transitional period LLDD provision in Independent Specialist Providers (ISPs).

### Specific commissioning roles

#### Lead commissioner

- 1.3- 12 The lead commissioner is the local authority which commissions and procures provision from a school, college or other provider, usually located in its area, on behalf of young people in the area and young people choosing to travel in to learn from other local authority areas, including those in the SRG and beyond.

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- 1.3- 13 Sections 15ZA(1) and 18A(1) of the Education Act 1996, inserted by the ASCL Act 2009, place duties on the home local authority of a young person to secure learning to meet their needs. The home local authority will initiate the cooperation with the commissioning local authority for provision accessed by their learners. This will normally be through the SRG arrangements but may also be cross SRG and possibility cross-region.
- 1.3- 14 A local authority will normally be the lead commissioner for providers located within its area, acting on behalf of the SRG and for any authorities beyond the SRG for:
- School sixth forms, sixth form colleges, FE Colleges.
  - Juvenile custodial establishments.
  - Specialist providers including land based colleges, colleges of Art and Design, Technology, Music or Sports.
  - Private, public or Third Sector work based learning providers including for learner re-engagement provision.
- 1.3- 15 The lead commissioning local authority will advise the SRG if it may need the YPLA to procure and contract any specialist, regional or Third Sector provision. It will define the 16-18 Apprenticeship requirements for the NAS to procure and contract for that provision. (See Annex 3).
- 1.3- 16 The lead commissioner will be responsible for working with providers individually and collectively to discuss the implementation of the local Commissioning Statement's priorities and the development of their detailed Commissioning Plan. The lead commissioner will be responsible for:
- Negotiated procurement through provider dialogue.
  - Competitive procurement through restricted or open and competitive tendering(OCT) (excluding European Social Fund (ESF)).
- 1.3- 17 Actions that will be required to set up the lead commissioner:
- Local authorities within their SRG will determine who is to be the lead commissioner for each of the providers in the SRG area.
  - Each local authority will notify all relevant providers where it will be acting as the lead commissioner.
  - The SRG will provide the YPLA with a list detailing the lead commissioner for each provider within the SRG area (for data/management information (MI) purposes).
  - The YPLA will maintain a list of lead commissioners with contact details and publish this on its website to facilitate inter-authority communication

### Other commissioning

- 1.3- 18 Local authorities will invariably be the strategic commissioners of provision for young people and responsible for identifying the learning provision requirements. However, other organisations may have responsibility for procuring on behalf of local authorities some types of provision, such as Apprenticeships, or for providers such as Academies and ISPs providing learning for LLDD.
- 1.3- 19 The YPLA may also agree, exceptionally, that it may be more appropriate for it to procure learning provision identified as required by local authorities but where it is clear that no local authority has the capability to act as the lead commissioner for a specific provider. For example, this could be because of a particularly large and diverse spread of provision or of learners accessing the learning, or because the range and type of provision. The YPLA may also commission and procure delivery of provision that has a common requirement across the country, for example the delivering of army cadet

training in partnership with the Ministry of Defence (MoD).

- 1.3- 20 The YPLA will also have reserve powers under the ASCL Act 2009 to provide for the event that a local authority is not able to carry out its commissioning functions and ensure that young people and providers are not disadvantaged because of this. For example where:
- SRGs of local authorities are not yet ready to take on this role.
  - A local authority is failing or is likely to fail to fulfil its duty under section 15ZA of the Education Act 1996 as inserted by the ASCL Act 2009, and/or section 18A of the Education Act 1996 as inserted by the ASCL Act 2009 to commission suitable education or training.

### **Apprenticeships**

- 1.3- 21 Local authorities will identify the volume of Apprenticeships they need as part of their 16-19 Commissioning Plan. They will work with the NAS and their 14–19 Partnerships to identify the level of demand from learners and employers and the requirements of national target trajectories, and to ensure that suitable opportunities exist within each area.
- 1.3- 22 The SFA, on behalf of NAS, will agree funding agreements with providers and will monitor overall performance. Where there are significant issues that affect the quality and performance of Apprenticeship provision these will be discussed with the affected local authorities.

### **Academies**

- 1.3- 23 Local authorities will identify with open Academies, as part of their overall 16-19 commissioning planning process, the provision that is to be commissioned, to meet the local needs and the SRG will consider the aggregated needs across the travel to learning area.
- 1.3- 24 The YPLA will procure the agreed provision with open Academies and undertake the award of grant and funding for collated and agreed commissioning requirements directly with the Academies including the grant agreement, payment flows and financial assurance and control. YPLA will work to facilitate local agreement, but where agreement is not reached locally the YPLA will decide what provision to fund based on evidence from the both the academy and the local authority about demand from learners, evidence of quality, any expected growth trajectory agreed with the Secretary of State before opening, and the guidance in this NCF.

### **Learners with Learning Difficulties or Disabilities**

- 1.3- 25 Local authorities have the responsibility for 16-25 year olds, in their area, where a learning difficulty assessment is in place or should be. They will arrange appropriate provision with support from the YPLA who will provide an indication of the region's anticipated commissioning needs. DCSF has issued revised guidance on these assessments<sup>3</sup> which will be further modified in Spring 2010 in advance of the transfer of responsibilities to local authorities.
- 1.3- 26 Local authorities will decide if the required learning provision is best provided through mainstream providers, usually supported through Additional Learner Support (ALS) or if there is a higher level of support required through specialist arrangements with either

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<sup>3</sup> Due to be published in November 2009

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mainstream providers or ISPs. Where necessary access and transport arrangements to provision will need to be considered at the outset.

### Young people in youth custody

- 1.3- 27 Under the ASCL Act 2009, local authorities will be responsible for securing the provision of education and training for children and young people in youth custody. As a result local authorities with youth custodial establishments in their area ('Host' local authorities) will need to incorporate their plans for learning in youth custody in their Commissioning Plans.
- 1.3- 28 Specific funding allocations will be provided by the YPLA for securing learning provision for young people in youth custody. Local authorities will work with the Youth Justice Board (YJB), Youth Offender Teams (YOTs), custodial establishments and the YPLA to assess the needs of those young people and to arrange suitable learning provision to meet those needs.

### Private, public, or Third Sector work based learning providers delivering Foundation Learning, including learner re-engagement provision

- 1.3- 29 Local authorities will identify the mix and balance of provision that is required as part of their overall Commissioning Plan. They may commission provision from a range of providers including private, public, charitable and Third Sector bodies.

### Funding arrangements and flow

- 1.3- 30 The payment instrument (e.g., contract, grant, or grant in aid) will be dependent upon the nature of the provider and the legal status of the body issuing the instrument.

### Payments processes and reconciliation

- 1.3- 31 YPLA and local authorities will use three basic payment and reconciliation processes depending upon the type of provision and the circumstances of the provider:
- Payments on estimated need across the year (profile).
  - A mix of payments on profile and in arrears based on actual performance.
  - Payment in arrears on submission of data or invoice.
- 1.3- 32 DCSF and YPLA will consider (with local authorities and providers) how in-year adjustment of allocation/payments based upon performance could be extended in the context of national commissioning and funding arrangements for 2011/12 and beyond.

### Financial assurance and control

- 1.3- 33 Financial assurance arrangements will be established with the following objectives (and assurance methods):
- Put in place the minimum burden commensurate with good stewardship.
  - All publicly funded learning outcomes have been validly delivered and are eligible to be funded (funding audit).
  - For grant-in-aid and grant funded provision, providers have spent earned public funds with regularity and propriety (regularity audit).
  - Providers maintain satisfactory internal control over the public funds they receive (internal audit).
  - Providers maintain satisfactory financial health to be able to deliver publicly funded learning provision (financial assessment).
- 1.3- 34 Local authorities, YPLA and SFA will establish a financial monitoring and audit framework that will minimise the burden on providers whilst providing full assurance on

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the use and safeguarding of public funds. The framework will make the maximum use of existing assurance, exchange of the results of assurance and one funding audit of each provider covering the needs of all stakeholders (other than in relation to ESF funding).

### Provider quality assurance

- 1.3- 35 Monitoring provision is required to ensure good outcomes for young people, with appropriate levels of support and challenge, taking action where quality is unacceptable. There is a clear framework for provider quality assurance, focussed on assessing provider quality, performance and supporting improvements in standards.
- 1.3- 36 Individual providers are responsible for their own performance and quality, but will be held accountable for delivery of commissioned provision. All post-16 providers will be assessed annually against a clear set of national measures. Quality and performance assessments will not focus solely on achievements, but will seek to provide a more rounded picture of a provider's performance, taking account of other important factors which influence learner outcomes.
- 1.3- 37 Interventions relating to each provider's performance will be overseen by a single sponsoring agency:
- Schools will be the responsibility of the commissioning local authority.
  - For sixth form colleges the host local authority will operate in the context of guidance from YPLA.
  - Academies will be the responsibility of YPLA acting on behalf of the Secretary of State for Children, Schools and Families.
  - FE colleges will be the responsibility of the SFA.
  - Providers of Apprenticeships will be the responsibility of SFA working on behalf of NAS.
- 1.3- 38 YPLA will provide data on performance to the local authority, Government Office and to SRGs and RPGs at identified times in the year to support the commissioning process. Local Authorities will be responsible for using this data to commission high quality provision and to work with providers to ensure that the provision they secure is appropriate and meets quality standards.
- 1.3- 39 Local authorities will use available performance evidence to analyse and evaluate where there are areas of weakness and of particular strength. The local authority will approach commissioning decisions with a clear focus not only on filling gaps and responding to growth and shifting demand, but also on tackling and eliminating weakness and expanding on the best provision.
- 1.3- 40 The harmonisation of success rates for use in schools is underway and are expected to be available 2012. In the year before this, local authority commissioning decisions should be based on available comparable evidence. For example, considering success rates where they are comparing colleges, whilst using achievement/pass rates where they are comparing colleges with schools.

## Section 2: Planning and Allocations

### Key Deliverables

Within the Planning and Allocation process local authorities will provide:

Deliverable	Timing	Requirements	Additional info
Local 16-19 Commissioning Statements	October 2010	<ul style="list-style-type: none"> <li>▪ Detailing the planning priorities for 2011/12.</li> <li>▪ Informed by the Children's Trust and the 14-19 Partnership's Plans.</li> <li>▪ Taking account of national, regional and local level strategic priorities.</li> <li>▪ Agreed by SRG.</li> </ul>	See process steps for arriving at agreed Commissioning Statement below.
Regional commissioning Statements include	Apprenticeship places aggregated across SRG areas.	<ul style="list-style-type: none"> <li>▪ Aggregated in SRG.</li> <li>▪ Volumes, sectoral mix.</li> <li>▪ Meeting local target trajectories.</li> </ul>	For commencement of procurement process by NAS/SFA.
	LLDD provision in ISPs – aggregated across SRG area	<ul style="list-style-type: none"> <li>▪ Individual LLDD in ISP requirement.</li> <li>▪ Identified ISP.</li> </ul>	For Procurement by YPLA.
	Provision required in specialist providers – aggregated across SRG area	<ul style="list-style-type: none"> <li>▪ Identified specialist provision requirement.</li> <li>▪ Providers expected to meet demand.</li> </ul>	To be procured by Lead Commissioning local authority for the provider.
	Provision to be procured by open and competitive tender.	<ul style="list-style-type: none"> <li>▪ Provision to be tendered by type of Provider.</li> <li>▪ Aggregated/agreed by SRG.</li> </ul>	Decisions on providers to be contracted made by May 2011.
Commissioning Plans for 2011/12	February 2011	<ul style="list-style-type: none"> <li>▪ Endorsed by the SRG and RPG.</li> <li>▪ Allocations identified for each provider.</li> <li>▪ Confirmed number of Apprenticeship places.</li> <li>▪ LLDD requirements in ISPs.</li> <li>▪ High level LLDD requirements in other providers.</li> <li>▪ LLDD requirements in mainstream to be supported through local authorities.</li> <li>▪ Confirmation that the plan, collectively with other local plans, meet the priorities and needs of young people's learning and is affordable.</li> </ul>	<p>Plans to be agreed by YPLA.</p> <p>Funding allocations calculated through National Funding Formula and confirmed by YPLA.</p> <p>Commissioning local authorities will have confirmed allocations to communicate to providers by end March 2011.</p>

[Timings stated are best estimates.]

## 2.1 Local Strategic Planning and Commissioning Priorities

### Overview

This section describes the role of the local authority in planning how much provision should be commissioned, and from which providers. It emphasises the relationship with and involvement of providers, and outlines the process of establishing a Commissioning Statement and Commissioning Plan with moderation through SRGs, RPGs and the YPLA.

Timings stated are best estimates.

### Key outcomes

- 2.1- 1 In order to be able to undertake their duties and responsibilities for securing enough suitable education and training provision to meet the reasonable needs of 16-19 year olds in their area in the 2011/12 academic year, local authorities will have to achieve and/or contribute to the following outcomes:

Outcome	Timing	Description	Additional info
Agree 16-19 Commissioning Statement	October 2010	Details the planning priorities for 2011/12, informed by the 14-19 Plan, taking into account national, regional and local level strategic priorities, and agreed at SRG.	[Note: An example 16-19 Commissioning Statement will be provided in the final version.]
Aggregate demand for Apprenticeships updated in Commissioning Plans	February 2011	Achieved by aggregating at SRG updated young people's demand for Apprenticeships detailed in local 16-19 Commissioning Plans, and reviewing this with NAS against the trajectories set by DCSF, and against the availability of Apprenticeships places.	See additional detail on policy context, and process for arriving at aggregated demand in Annex 3.

### Supporting activities:

Outcome	Timing	Description	Additional info
Refresh 14-19 Plan	June/ July 2010	Annual review of 14-19 Plan undertaken by 14-19 Partnerships used to inform local priorities.	See role of 14-19 Partnerships in Annex 12.  Departmental guidance on how local authorities should seek to engage strategic partners in developing local strategic priorities is on <a href="http://publications.dcsf.gov.uk/default.aspx?PageFunction=productdetails&amp;PageMode=publications&amp;ProductId=DCSF-00170-2009&amp;">http://publications.dcsf.gov.uk/default.aspx?PageFunction=productdetails&amp;PageMode=publications&amp;ProductId=DCSF-00170-2009&amp;</a>

### Key inputs

- 2.1- 2 In the development of the 16-19 Commissioning Statement, local authorities will be expected to take account of the following to underpin their 14-19 planning:

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Product	Timing	Description	Additional info
Strategic Analysis	May 2010	A nationally consistent evidence base provided by the YPLA to supplement the local authorities own data and intelligence.	Including Provider Performance.
Local Analyses	May 10/ July 10	Analysis of local learners' needs, including employability, and of local economic and employer requirements.	
Information Advice and Guidance (IAG)	June/ July 10	Information provided by Connexions services detailing Intended Destinations of young people leaving compulsory education at 16.	
Grant Letter	October 2010	DCSF provides YPLA with the annual Grant Letter setting out the funds available and any specific requirements in terms of overall learner numbers and any planning assumptions/requirements for the distribution of learners across the learning routes.	
National Commissioning Statement	October 2010	Provided by YPLA in response to the Grant Letter setting out the national commissioning environment in which local authority commissioning should operate based on the Grant Letter received from DCSF.	
Regional Commissioning Statement	November 2010	Prepared by the RPG, informed by RDA and NAS and providing regional economic, learning and skills context.	

### Process steps

2.1- 3 The sequence of steps and timetable is summarised below :

#### Step 1 : Strategic Analysis – May 2010

Local authorities require a robust evidence base to underpin their 14-19 planning. This will ensure that each authority, large and small, has the same high quality evidence base upon which to plan and complete the annual review of their 14-19 Plan. Increasingly, data from the 14-19 Prospectus on education and training provisions and from the Common Application Process (CAP) on demand from learners will form part of this evidence base.

Local authorities will receive from the YPLA nationally consistent data to supplement their own data and intelligence. This will:

- Be derived from a national core data set, be capable of aggregation and provide comparisons with statistical neighbours and with sub regional, regional and national benchmarks – including participation and success rate data for providers and for Apprenticeships and advanced Apprenticeships differentiated by occupational sector.
- Include the numbers and characteristics of young people who are not in learning available from the Connexions (CCIS) database.
- Include analysis from the National Apprenticeship Service (NAS) on employer demand for Apprenticeships including volumes, sectoral mix and trends in Apprenticeship opportunities. NAS will also identify expected regional and area target trajectories, demand from employers and learners, and the overall budget

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within which operations must be managed.

- Support identification gaps in the supply of and demand for Apprenticeship places.

The strategic analysis will be based on both residency based and provider based data and will need to include learner participation, attainment and investment information.

For Apprenticeships the strategic analysis will be based upon local authority residency, as provider management will be undertaken by the NAS.

### Step 2 : Local authority Review of 14-19 Plan and development of local Commissioning Statement – July 2010

Local authorities will review their 14-19 Plan and prepare an initial 16-19 Commissioning Statement. This will build on the current and longer term planning monitoring and development work undertaken by Children's Trusts, 14-19 Partnerships and delivery consortia. For Apprenticeships the SRG and local authorities will discuss demand, employer support and performance with the NAS.

### Step 3 : DCSF and YPLA agree statement of broad strategic priorities – July

DCSF and YPLA will agree a broad statement of strategic priorities for 16–19 provision that can be used to inform early planning in local authorities, SRGs and RPGs, and to inform early dialogue with providers.

### Step 4 : DCSF provide YPLA with the annual Grant Letter – October 2010

DCSF provides YPLA with the annual Grant Letter setting out the funds available and any specific requirements in terms of overall learner numbers and any planning assumptions/ requirements for the distribution of learners across the learning routes. This will include the trajectory and funding envelope for 16-19 Apprenticeship. This will also include the funding envelope for education and training for children and young people in youth custody.

### Step 5 : National Commissioning Statement produced by YPLA – October 2010

A **National** Commissioning Statement will be issued in October 2010 in response to the Grant Letter and will set out the national commissioning environment within which local authority commissioning should operate. Within the context of the funds for 16-19 provision that DCSF is making available for the 2011-12 and 2012-13 financial years (covering the 2011/12 academic year) it will set out:

- A breakdown of participation funds into planned sums for school sixth forms, sixth form colleges, Academies, FE Colleges, Apprenticeships, Foundation Learning, including learner re-engagement provision, LLDD and Offender learning.
- Planned learner numbers to be delivered through each funding streams.
- Funds (if any) being made available, in addition to the participation budget, to use to support curriculum and other development work in support of 100% participation
- Capital funds.
- Key DCSF priorities for the use of funds e.g. contribution to PSA targets, increase in learners undertaking Diplomas, regional trajectories for Apprenticeships and required improvements in success rates.

The National Commissioning Statement provides the framework within which the YPLA will drive the funding process, using the national funding formula.

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### Step 6 : Regional Commissioning Statement prepared by RPG – October 2010

The **Regional Planning Group** will produce a **Regional Commissioning Statement** to provide the regional economic, learning and skills context within which local authority commissioning should operate. It will include:

- Data, intelligence and priorities provided by RDA and NAS.
- Priority strategic issues for the region drawn from local authorities' initial Commissioning Statements.
- Priorities and planning assumptions for the Region derived from the National Commissioning Statement.

### Step 7 : Agreeing Local 16-19 Commissioning Statement – November 2010

Local authorities will need to share and discuss their initial 16-19 Commissioning Statements with authorities in the SRG and where necessary those beyond the SRG where their residents may travel to access learning.

SRGs will review the Commissioning Statements for across the SRG area, to ensure that the required progress will be made in delivering the trajectory for Raising the Participation Age, the delivery of the Entitlement and meeting PSA targets. Where SRGs have collaborated in developing their 14-19 Prospectus and CAP, data from these will support this process.

SRGs will also to aggregate demand for:

- Apprenticeship places, with supporting information about sectoral spread at levels 2 and 3 through discussions with the NAS.
- Foundation Learning where it is agreed that delivery will be across the sub-regional or regional areas.
- ISPs for LLDD.
- Specialist Providers.

SRGs will also review local Commissioning Statements and aggregate into a sub Regional Commissioning Statement or summary to advise the RPG of the scale and nature of likely demand for Apprenticeships for communication to NAS.

In finalising Commissioning Statements, local authorities and SRGs will need to review alignment between their priorities and:

- The National Commissioning Statement /Grant Letter.
- The Regional Commissioning Statement produced by the RPG.

This will enable each local authority to further refine its local Commissioning Statement for:

Its own learners including those likely to access provision in neighbouring authorities  
Learners from neighbouring authorities likely to access provision in its area

Learners from a potentially large number of authorities likely to access any specialist provision located in its own area

Once the **Lead Commissioner** has finalised its 16-19 Commissioning Statement for providers in its area, taking account of the needs of learners from neighbouring authorities, it will need to communicate these to its provider base to support provider planning both collectively and individually.

For Apprenticeship Provision, NAS and SFA will work together to ensure sufficient places are commissioned to meet expected demand.

### Step 8: Updating Apprenticeship Demand – January 2011

The Intended Destination process for young people in Year 11 should be providing data on their intended destinations: Local authorities will have a firmer view of the numbers wanting

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to pursue an Apprenticeship route from the CAP; NAS will have data on the numbers registered for Apprenticeship vacancies. In addition local authorities will have held discussions with colleges, school sixth forms and other relevant providers and gained intelligence about numbers wishing to progress from taught programmes to an Apprenticeship route at 17 and 18.

Local authorities may want to work through their Connexions Service and Schools to accelerate the Intended Destination process so that data is available to inform their allocation process.

Local authorities in their SRG may need to meet with NAS and discuss the number and nature of places they will require NAS to commission on their behalf. Any unmet demand from young people or shortfall from the sub regional trajectory will be identified and action agreed to try and address these shortfalls. This updated information will go forward to inform the overall volume of Apprenticeships being commissioned for each Region.

Where a SRG and the NAS cannot agree the demand for Apprenticeships, the RPG will seek to agree a resolution. Where this is not possible the issue will be referred to the YPLA for a decision.

### Step 9: SRG Apprenticeship Aggregation from Local Commissioning Plans – February 2011

Part of the process of aggregating local 16-19 Commissioning Plans in the SRG will be to aggregate young people's demand for Apprenticeships, the availability of Apprenticeship places and to review this with NAS against the trajectories set by DCSF.

The report/draft Commissioning Plan for the sub region will need to demonstrate how local authorities, working together and with NAS, will deliver the entitlement and meet the Apprenticeship Trajectory. This will be presented to the RPG.

## 2.2: Allocations and Commissioning Plans

### Overview

This section describes the role of the Lead Commissioning local authority in preparing and agreeing local Commissioning Plans. It emphasises the relationship with and involvement of providers, and outlines the process of establishing and agreeing the funding envelope, provider allocations, and finalising learner numbers and allocations (including complaints and issues resolution).

Timings stated are best estimates.

### Key outcomes

- 2.2- 1 To undertake their duties and responsibilities for securing enough suitable 16-19 provision for the academic year 2011/12, local authorities will have to achieve and/or contribute to the following outcomes:

Outcome	Timing	Description	Additional info
A local 16-19 <b>Commissioning Plan</b> for the Academic Year 2011/12	February 2011	Plan has to be endorsed by the SRG and RPG and include: <ul style="list-style-type: none"> <li>• Baseline volumes and consequent allocations, and changes to previous year's allocations identified for each provider.</li> <li>• Confirmed number of Apprenticeship places to be commissioned by NAS.</li> <li>• Confirmed LLDD requirements for places in ISPs to be procured by YPLA.</li> <li>• Confirmation that the plan, in conjunction with other local authorities' plans, collectively meet the priorities and needs of young people's learning and are affordable.</li> </ul>	To reflect learner choice and the priorities in the agreed local Commissioning Statements.
Provider Complaints Process	Aug 2010	Local authorities will establish a fair, impartial and transparent complaints process in relation to its commissioning decisions.	YPLA will set out detailed guidance on complaints processes prior 2011/12 commissioning process.

### Summary of planning and allocation process

- 2.2- 2 The process has been developed to ensure that local authorities deliver a Commissioning Plan that meets their obligations under the ASCL Act 2009 and so that they have as much time as possible to enter into early discussion with providers based on an indicative funding position. As more data become available (e.g. actual learner numbers), local authorities will be able to determine final allocations. These will be based on the affordable funding envelope and actual learner numbers in the previous academic year.
- 2.2- 3 The national funding formula (see Annex 5) in place for 2011/12 uses data for each institution derived from the Individualised Learner Record and School Census at specific points in the planning and allocation cycle. These points influence the timings for activities and are reflected in the summary steps as follows:

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### Step 1: Initial Funding Position for 2011/12 – October 2010

Local authorities will receive an initial funding position from the YPLA based on 2010/11 allocation data, as a starting point for the cycle leading to 2011/12 allocations. The initial position - the funds (£), learner numbers, and Standard Learner Numbers (SLNs) allocated to institutions for 2010/11 – will be used to establish each local authority's initial funding position.

Local authorities will also receive information on the numbers of young people planned to participate in Apprenticeships in 2010/11 from NAS.

The YPLA will also provide information to support the discussion with providers. It will provide for each school sixth form, college and provider :

- Outturn learner numbers and SLNs for 2009/10, compared with the allocation for 2009/10.
- The provider factor applied in 2010/11.
- The provisional provider factor for 2011/12, based on 2009/10 outturn number data (this does not include firm success rate data for 2009/10 until February 2011).

### Step 2: Promoting the Local Commissioning Statement – November 2010

To make sure the Commissioning Statement forms the basis for allocation discussions, the local authority acting as the lead commissioner will use it to brief providers in the local authority area and engage with them collectively to discuss how the aims of the Commissioning Statement can best be achieved within the initial funding settlement. This builds on the work started by the 14-19 Partnerships and begins the process of identifying the contribution of each provider to the delivery of the commissioning plan.

### Step 3: National Funding Rate and Updated Funding Positions –November/ December 2010

An updated funding position is then provided for each local authority and institution. This is based on the national base rate funding (£ per SLN) for the academic year and the provisional provider factor for 2011/12.

### Step 4: Initial Provider Dialogue – November /December 2010

The planning process is based on a dialogue between a single lead commissioning local authority and a provider. This takes place in November/December when the lead commissioner will engage with individual providers to review the previous year's performance and assess this against the assumptions in the Commissioning Statement.

The lead commissioner's review of the previous years performance should cover:

- Achievement of planned volumes.
- Achievement of planned mix and balance in terms of level of programme, and learning route<sup>4</sup>.
- Success rates, based on provider information from Self Assessment Reports (SARs) (colleges).
- Support for additional learning needs reflected in the application of ALS.
- Quality Statements (schools) overall and differentiated for different learner groups and for different elements of provision.

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<sup>4</sup> Apprenticeship, Diploma, IB, Foundation Learning, General Qualifications

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### Step 4: Initial Provider Dialogue – November /December 2010

The development of any strategic shifts in provision needed would have been well documented in the earlier discussions with the 14-19 Partnership/ Children's Trust and reflected in the Commissioning Statement. At step 4, the lead commissioner would be assessing the extent to which planned activity in 2010/11 is likely to be achieved by aggregating the outcomes of initial provider discussions and assessing this against the assumptions in the Commissioning Statement. The lead commissioner would be looking for evidence of:

- Planned participation increases, progression and achievement targets.
- Progress in delivery of the entitlement.
- Progress in achievement of any required quality improvements.
- Any emerging evidence of under-supply /gaps in provision in terms of volumes, mix and balance, spatial access.
- Any emerging evidence of any over-supply of some elements of provision.
- Any emerging evidence of the need to de-commission any elements of provision on quality, volumes and/or mix and balance grounds.

SRGs will take the aggregate view of those assessments to review the out-turn position against the planning assumptions made for 2010/11 which underpinned Commissioning statements for 2011/12.

### Step 5: Indicative Distribution of Additional Funds – December 2010

The YPLA will make an indicative distribution of additional Learner Numbers, SLNs and resultant funding to local authorities and to RPGs. The distribution would take account of changes in 16-18 cohort sizes and DCSF plans for the balance of participation between school/college/provider-based learning and Apprenticeships.

By end of December 2010 local authorities will have;

- Institution learner numbers/SLNs/funding for 2010/11 expressed in 2011/12 terms.
- Provisional provider factors for 2011/12 for each institution.
- 2009/10 outturn learner numbers and SLNs compared to those allocated in 2009/10 and 2010/11.
- Indicative SLNs/£ available for 2011/12.
- National guidelines on changes to the SLN per learner number ratio; this ratio has to be controlled in line with policies on changes to the 'size' of learners' programmes, so that unit costs do not increase beyond the assumptions built into the overall budget.

### Step 6: Establishing Learner Numbers – January 2011

During January, the lead commissioner completes its assessment of each providers baseline position, confirms what it wants NAS (for Apprenticeships) and the YPLA to commission (for Academies and LLDD provision in ISPs) and, importantly adjust its learner numbers. Together, this will reflect any significant cohort changes in the local authority area, including as a result of growth and displacement arising from infrastructure change (e.g. opening of a new sixth form, impact of capital programmes, roll out of new Diploma lines).

It is a principle of the current funding system that sustainable in-year growth in learner numbers is consolidated as a first priority for funding in the following years. This principle does not guarantee funding but should be taken into account in the assessment of providers' baselines. For funding purposes, all provision required is expressed in the common currency of SLNs as the over-all 'volume of activity'.

SRG will communicate the aggregated commissioning requirements of the NAS and the YPLA to those organisations so they can begin the procurement process.

## National Commissioning Framework

### Step 7: Negotiation /Tendering of growth or replacement provision – February 2011

During February the lead commissioner tenders for new provision if required and finalises its draft commissioning plan including proposed provider allocations and ALS (Additional Learner Support). Once endorsed by the local authority, it is sent to the SRG, which will moderate it as part of its role to ensure coherence, review affordability and review scope for growth.

### Step 8: Local Commissioning Plans Moderated in SRG - February 2011

SRGs take an active role in the planning cycle during February. Its role is to moderate to ensure coherence and affordability rather than duplicate the work of the individual local authorities. It is likely to consider volumes, affordability, the impact on the provider base, and to make sure young people are able to travel to learn across and beyond the SRG.

At this stage of the planning cycle, the SRG is likely to be interested in reassuring itself that the regional and sub-regional economic and skills priorities are reflected in the aggregate plans. It will prepare a report/ draft Commissioning Plan for consideration by the RPG:

- Summarising the outcomes of the SRG moderation.
- Demonstrating that participation growth can be accommodated.
- Demonstrating how the entitlement will be delivered.
- Setting out any specific issues which it wishes the RPG to consider.
- Supplying the proposed allocations at provider level (a standard format will be provided by the YPLA for this purpose).

In order to give providers an early indication of the likely allocation, lead commissioners will issue provisional allocations.

### Step 9: Local Commissioning Plans Moderated in RPG – February 2011

The RPG will review the draft commissioning plans for each SRG and agree any moderation required between SRG areas. In moderating plans, the RPG will take account of:

- Alignment with the National and Regional Commissioning Statements.
- Achievement of priority targets such as that for Apprenticeship growth.
- Delivery of the entitlement across the region.
- Continued investment in high quality provision.
- Value for money.
- Affordability.

The RPG will present its proposed Commissioning Plan to the YPLA which in turn assesses any anomalies including progress towards national targets. Once the YPLA has confirmed the provider factor and issues are resolved, lead commissioners inform providers of their final allocation.

- 2.2- 4 The YPLA will consider and agree Commissioning Plans in March 2011 leading to lead commissioning local authorities informing providers of their final allocations by the end of March 2011.

### Translating the Commissioning Statement into the Commissioning Plan

- 2.2- 5 The local authority acting as the lead commissioner translates its 16-19 **Commissioning Statement** into a **Commissioning Plan** – a funded curriculum delivery plan to be procured for its area. As shown above, this is done through a combination of negotiated procurement with providers and/or tendered procurement if necessary.
- 2.2- 6 There is no single format for a Commissioning Plan as local authorities and SRGs are

## National Commissioning Framework

likely to generate their own styles. However, it should provide:

- A clear line of sight between the proposed allocations/ funding agreements awarded and the agreed Commissioning Statement.
- Evidence that the proposed allocations and awarded funding agreements will deliver the required progress towards 100% participation; PSA Targets; the entitlement.
- Evidence that the proposed allocations and awarded funding agreements have taken account of:
  - the demand for Apprenticeships which will be procured by the SFA/NAS.
  - the demand for specialist provision for learners with learning difficulties and disabilities both in local provision and for specialist /residential provision which will be procured, initially, by YPLA .
  - exceptionally, the demand for any other provision which the YPLA procures on behalf of local authorities e.g. Army Cadet programme.
- Evidence that the requirements of other local authorities with significant learner inflows to the area have been met.
- A **Summary Statement of Activity** giving planned volumes and investment to be procured from each provider overall and for each element of the entitlement and for PSA target bearing provision.

### Local authority joint working across SRG areas and beyond

- 2.2- 7 Local authorities will have worked together to ensure that the needs of learners who are likely to learn outside their home local authority are reflected in the Commissioning Statement. Local authorities will also work closely with NAS, via the SRG, to ensure that the Apprenticeship entitlement is quantified and captured in the plan.

### Providers as strategic partners

- 2.2- 8 Local authorities should already be working closely with the providers based in their area as strategic partners throughout the year in 14-19 Partnerships. Providers will, therefore, have been fully involved in the development of the 14-19 Plan and will have contributed to the development of Commissioning Statement.

### Providers as delivery partners and contractors

- 2.2- 9 The relationship of local authorities with providers is geared towards the actual delivery the Commissioning Statement and Plan. This also includes the role regarding provider quality assurance (see Section 4 and detailed guidance in Annex 2)

### Planning and allocations requirements

- 2.2- 10 Local authorities Commissioning Plans will also include commissioning requirements for provision in Higher Education Institutions (HEIs), Academies, Apprenticeships, LLDD provision in ISPs, young offender education and training, the Third Sector, National Skills Academies and for specialist providers including for land based skills, music, sport, and art and design. Provision in HEIs will be commissioning in a manner similar to that for specialist providers. Requirements for each of these are outlined below and further details are included in the Annexes (Hyperlinks).

#### Learners with Learning Difficulties and/or Disabilities. (LLDD)

More details in  
Annex 1

Local authorities are responsible for securing the appropriate provision for 16-19 learners with learning difficulties and/or disabilities who reside in their area and for 19 to 25 year old young people that have, or awaiting, a learning difficulty assessment.

Each Region will be provided with an overall indicative funding allocation for LLDD provision by

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### Learners with Learning Difficulties and/or Disabilities. (LLDD)

More details in  
Annex 1

the YPLA. The RPG will review planned LLDD provision in relation to affordability with the allocation.

For a young person aged 16-19 or for 19-25 year olds with a learning difficulty assessment in line with the guidance in effect at the time (see footnote to paragraph 1.3 -25) in place the local authority has three possible routes:

- Where the learning programme does not require specialist arrangements and the support required is available through the Additional Learning Support (ALS) element of the National Funding Formula (See Annex 5). The local authority will commission and procure the learner's programme delivered through the mainstream learning providers or through Apprenticeships.
- Where the learner needs a level of support beyond the scope available through the ALS, but the provision they require is available in the mainstream learning providers or through an Apprenticeship, local authorities will be responsible for securing this provision. The needs identified through the Learning Difficulty Assessment will be wholly funded by local authorities including ALS and programme costs.
- Where the learner needs a programme which cannot be delivered through a mainstream learning provider or an Apprenticeship offer. In these circumstances the local authority will identify such specialist provision as appropriate for that person:
  - where the local authority proposes that the specialist provision is to be commissioned from an ISPs the requirement will be aggregated by the SRG and reviewed by the RPG for affordability before being passed to the YPLA to procure from the ISPs on behalf of the local authority.
  - Where the specialist provision can be provided by mainstream FE colleges, school sixth form, sixth form college or training provider, or through Apprenticeships, or any combination of these with, for example, support from Third Sector providers, it will be procured by the lead commissioning local authority.

### Young Offenders in Youth Custody

More details in Annex 4

Local authorities with a youth custodial establishment in their area ("host" local authorities) will be the lead commissioning authority for that establishment and have a new duty to commission appropriate education provision for children and education and training for young people held in youth custody in their area.

For Prison Service Young Offender Institutions (YOIs) the new duties on local authorities will commence in 2010. The YPLA will inherit exiting LSC contracts for learning in youth custody in April 2010 and local authorities will take on these contracts from September 2010. Provision for young people in Prison Service YOIs will need to be included in the "host" local authority's Commissioning Plans for 2011/12. At this point the relevant Host local authorities will decide whether, for the 2011/12 academic year, they will continue with the existing funding agreements or end the funding agreements and re-procure provision.

The arrangements for learning in the other types of youth custody will come on stream at differing times dependent on the nature of current contracting arrangements.

"Host" local authorities for Prison Service YOIs will receive a dedicated funding allocation from the YPLA for the procurement of learning provision for those young offenders detained in these establishments. They will need to conduct a needs assessment to establish the education and learning provision required to meet the needs of young people detained in the establishment. This will be developed in partnership with relevant stakeholders, including the custodial operator, Young Offender Teams (YOTs), and the Youth Justice Board (YJB).

In preparing the needs assessment local authorities must have regard to a range of factors,

## National Commissioning Framework

### Young Offenders in Youth Custody

More details in Annex 4

including having regard to the potential detainees' ages, abilities and aptitudes, and any special educational needs or learning difficulties the persons may have, as well as a range of other factors). Host local authorities will also need to consider:

- The facilities and infrastructure available for the provision of education and training.
- The numbers the young offenders expected to be held during the year and the average length of stay.
- The amount of provision needed throughout the year in terms of the amount of hours and classes to be provided, including the need for year-round provision (not just term-times).

From this assessment local authorities will agree a specification for required provision and to plan to secure the appropriate learning provision.

Local authorities should consider how best to secure provision while ensuring value for money. For example for the 2011/12 year, this could be to continue the current (LSC) contracts, or by inviting providers such as schools, colleges, private providers, Third Sector providers, or a consortium of providers, to bid to provide the provision. Local authorities could, subject to their procurement rules, appoint a provider or deliver the service directly by, for example, employing teachers directly, etc.

The YPLA will consider and agree host local authority commissioning plans and will ensure a level of coherence of custodial provision across the country.

### Academies

More details in Annex 12

Local authorities will have a dialogue with existing Academies to identify required provision in the context of local/sub regional identified priorities identified in Commissioning Statements. SRGs will consider aggregated need across the travel to learning area.

Agreed Academy places would be included in Commissioning Plans. The YPLA will establish funding agreements with Academies and funding will flow directly from the YPLA to the Academy.

Where agreement between a local authority and an Academy is not reached, the Academy or the local authority would be able refer the issue to the YPLA to make a decision.

### Apprenticeships

More details in Annex 3

Local authorities will identify volume and sectoral mix of Apprenticeships they need as part of their local commissioning plan. They will need to work closely with the National Apprenticeships Service (NAS) to identify the anticipated level of demand from learners and employers and the requirements of national target trajectories, and to ensure that suitable opportunities exist within each area.

NAS will support local authority Apprenticeship planning with data on expected regional and area target trajectories, demand from employers and learners, and the overall budget within which operations must be managed.

Local authorities will also consider current performance and activity to identify where changes may need to be made to the sectoral mix and level type of provision available within the area.

Local authorities and NAS will agree the overall budget within which planned activity must be delivered.

Apprenticeship provision within local Commissioning Plans will be aggregated at SRG level to provide a planning and budgetary total for NAS. These will be agreed between NAS, YPLA and local authorities for a given volume of Apprenticeships places, and the broad mix of sectors and levels. The SFA, on behalf of NAS, will procure from providers, agree funding agreements with providers and will monitor overall performance. Data will be collected and reported at local authority and SRG level (by residents) so that local authorities and SRGs can monitor delivery

## National Commissioning Framework

against agreed plans.

It will be for local authorities to agree how SRG Apprenticeship aggregation is to be managed. This might be by a single authority acting on behalf of the SRG or by the SRG having a collective support arrangement across authorities.

### Foundation Learning

Foundation Learning is one of the four 14-19 national qualification suites, focusing on learners working predominantly at entry level and level 1. Successful planning and commissioning of Foundation Learning will therefore promote the achievement of PSA targets, including the reduction of those young people not in education, employment or training (NEET) and the narrowing of attainment gaps. Local Authorities will set out their specific intentions for commissioning Foundation Learning locally in their local Commissioning Statements – to be considered and where necessary aggregated and agreed in the SRGs.

Lead commissioning local authorities (usually the “host” local authority for an individual provider) will set out the plans and the intended allocation or tendered provision in their Commissioning Plans to be endorsed by the SRG and RPG then sent to the YPLA.

### Specialist Providers (Other than ISPs providing learning for LLDD)

More details in  
Annex 12

Local authorities will need to include the planned allocation for specialist provision with specialist providers in local Commissioning Plans. Commissioning specialist provision/specialist providers will involve contributions from a wider range of local authorities. In many instances inter-SRG exchange of requirements and planned provision will be needed to meet the needs of 16-19 learners.

Specialist providers can have particular characteristics in relation to meeting the needs of specialist employment and economic sectors within a local authority area and more widely. Although not universal, specialist providers may:

- Have high level of knowledge and data in relation to current and developing employment, economic and skill needs within their specialist sector and in relation to regional or national needs or priorities.
- Offer learning provision for which there is low demand locally but that is key to the ongoing maintenance or growth of skills within their specific economic sector and thus only be available in a few locations across the country.
- Attract learners from a wide base particularly for the lower demand or more highly sector specific provision.
- Provide a more limited range of learning provision than general FE providers and as such the impact of changes to allocation may have disproportionate impact on viability.
- Have high dependency, in relation to viability, on the higher volume, less sector specific, provision they offer and changes can adversely affect the availability of the more sector specific, highly specialised provision.

SRGs, the RPG and the YPLA will need to ensure that wider need and provision in relation to the sectors served by specialist providers in their area are reflected in commissioning planning.

The specialist providers category will include providers in the private, public and Third Sector and specialist IAG services who deliver provision such as Foundation Learning or information, advice and guidance to young people.

For Third Sector providers local authorities will need to ensure that funding processes are compliant with the Third Sector Compact. <http://www.thecomcompact.org.uk/homepage/100016/home/>

## National Commissioning Framework

### National Skills Academies

For 14-19 provision in National Skills Academies' (NSA) the relationship with local authorities will depend on whether they are delivering provision directly, through networks of local providers (e.g. FE colleges) or through national centres:

- Where a National Skills Academy delivers 14-19 programmes directly at regional/ local level, the "lead" local authority will commission that provision in the relevant region.
- Where an NSA operates on a regional or sub-regional basis through networks of providers, the lead local authority will negotiate with the them in the same way as with other providers within the regional and sub-regional planning framework.
- Where an NSA operates though one or more national centres, YPLA may apply the same guidelines and judgements that would apply for other national specialist provision.
- Apprenticeship delivery through a NSA will be agreed directly with the National Apprenticeship Service(NAS).

The SFA will manage National Skills Academy (NSA) funding agreements and manage NSA involvement in all Post-19 provision (including all Apprenticeships through the NAS).

- 2.2- 11 In all circumstances local authorities must ensure that providers comply with and fully meet all legal requirements including for health and Safety and for equal opportunity and diversity.

#### Complaints and issues resolution

- 2.2- 12 Commissioning decisions will be reached by local authorities, SRGs RPGs and lead commissioning bodies (almost invariably a local authority) through dialogues with providers and other key stakeholders. The expectation is that there will be a mature and collaborative relationship developed through the preparation of the local authorities' Commissioning Statements and dialogue planning of how these strategic plans can be implemented and delivered and which will ensure stakeholders understand the wide range of considerations that influence fair, diverse and transparent commissioning decisions.

- 2.2- 13 The principles underpinning resolution of complaints or concerns about commissioning decision include:
- Recognise local authorities statutory obligations.
  - Local authorities should seek to resolve all issues on their proposed commissioning plans before there is a need for a formal complaint.
  - Processes for resolving issues and complaints reflect good practice and must be transparent, simple, speedy and reasonable.
  - Providers must have their concerns listened to in a fair and equitable manner and should be able to present their views/evidence to support their position.
  - Complaints resolution should be as close as possible to the point of the original decision making to reinforce democratic accountability.
  - Those hearing complaints must be different from those who made the initial decision and, preferably, at a higher level.
  - Information which assesses provider quality will need to be available to support any issue resolution or complaints processes, the interdependencies with performance management and commissioning processes should be made explicit.
  - There should be clear routes for escalation of complaints. In all instances, with the exception of Academies, this should be to the Regional Planning Group, which should convene a sub-committee to hear those complaints and make recommendations to the commissioner. For academies the YPLA will make the final funding decisions, and there will be a route for complaints to be made to the Secretary of State for Children and Families;

## National Commissioning Framework

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- YPLA will be pro-active in supporting and, where required, facilitating discussions on commissioning to avoid the need for complaints.
- 2.2- 14 Lead commissioning local authority procurement decisions will be reviewed and aggregated by the SRG and the RPG in relation to wider local and regional considerations, and agreed by YPLA. Local authorities also have a number statutory obligations and duties to meet or comply with, and must have the right to exercise their judgement, in conjunction with the SRG and RPG, to ensure these are discharged. Therefore, where challenges to commissioning decisions arise these will be that the lead commissioning authority has failed to perform its statutory duties or has acted unreasonably in the performance of its functions, for example where:
- Decisions are based on incorrect/incomplete data.
  - Local authorities do not comply with their statutory duties.
  - Local authorities arrive at decisions having gone outside the National Commissioning Framework.
  - Local authorities ignore Minimum Levels of Performance.
- 2.2- 15 Where challenges to commissioning decisions arise, initial resolution will firstly be directly with the decision making body through an impartial and transparent process. For most providers this would be in their lead commissioning local authority, such complaints will be considered by a different person, preferably at a higher level, than who made the original decision. The resolution process will require evidence from both the provider and the decision maker, and will be rigorous, rapid and transparent to the provider, SRG, RPG and YPLA so they are aware of the complaint and how it is being resolved.
- 2.2- 16 Where this initial resolution process did not reach agreement, the complaint will be escalated to the RPG. The RPG will consider such complaints through a "complaints panel" drawn from its membership. The panel membership should include, at least, the YPLA Regional Director, a local authority and a provider representative (the membership might need to change to avoid any potential conflict of interest). The panel will consider the evidence presented taking into account the context and impact on the overall commissioning plan. Once this has been reviewed the panel will, if appropriate, make a recommendation to the local authority that it should amend the original commissioning decision. The RPG will inform the YPLA of the recommendation made by the complaints panel.
- 2.2- 17 For Academies the escalation route will be directly to the YPLA as they will be funded directly by the YPLA (who in this instance is acting as the agent of the Secretary of State).
- 2.2- 18 It is not expected that there will be any further escalation. Instead for 2011/12 the YPLA will review all complaints and their resolution to build a picture of how well commissioning is being conducted in and across local authorities. This will form part of its annual report and also inform future commissioning processes. Where it finds issues in any of these, the YPLA will work with and support the local authority in improving its processes as well as providing advice to regional planning groups or sub-regional groupings.
- 2.2- 19 The YPLA will provide detailed guidance on processes for providers to raise complaints about allocations for 2011/12. This guidance will be drawn up prior to the launch of the 2011/12 commissioning process from April 2010.

Note: Learner appeals in relation to LLDD provision are detailed in Annex 1.

## National Commissioning Framework

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### YPLA intervention

- 2.2- 20 The YPLA's key focus will be to support and enable local authorities to carry out their new functions. It will ensure local commissioning decisions are made within a consistent national framework, secure national budgetary control, provide a strategic analysis service to local authorities, and support the local, sub-regional and regional infrastructure.
- 2.2- 21 Clause 67 of the ASCL Act 2009 gives the YPLA reserve powers to give directions to a local authority where it is satisfied that the authority is failing or likely to fail in its new duty to secure enough suitable education and training for young people aged 16-19, aged 19-25 who are subject to a learning difficulty assessment, or young people in youth custody.<sup>5</sup> An outline of the Intervention policy is described in Annex 8 to enable this to be considered within the overall National Commissioning Framework consultation.
- 2.2- 22 The YPLA will adopt a staged, transparent and risk based approach to managing intervention if a local authority is at risk of failing to meet its statutory duties. It will work with other partners and Agencies, including the Government Office, Ofsted and other local authorities (this may be from other local authorities working in the same sub-regional group) to develop, agree, provide and monitor effective, appropriate support and challenge before any intervention takes place. It is anticipated that the YPLA's use of its powers of intervention will be extremely rare and as such represents just one element of wider arrangements aimed at addressing unsatisfactory commissioning of provision.
- 2.2- 23 The YPLA's intervention policy is expected to be underpinned by the following key principles:
- Intervention will derive solely from the duties set out in clause 67 of the ASCL Act 2009 and would not seek to go more widely. The scope of the policy would be made clear, for example the use of intervention powers would not be used if a local authority assessed itself at risk of failing to meet its commissioning duty. The YPLA wants to establish a relationship with local authorities where a risk is identified and managed as early as possible.
  - The intervention process will be transparent and provide an opportunity for a local authority to make representations.
  - Intervention will only occur as a last resort and be evidence based.
  - The circumstances that trigger formal intervention will be set out to make clear at what point support and opportunities to improve are considered to be exhausted and when the powers to intervene will need to be exercised.
  - The process of intervention will be clear and time-bound and set out how long each stage of the process would be expected to take.
  - Individuals taking and communicating decisions will be identified by post-holder e.g. Secretary of State, local authority chief executive, Director of Children's services (DCS).
  - The level of intervention will be proportionate to the risk to learners, providers (e.g. withdrawing funds from providers) and public funding.
  - Any actions as a result of intervention will be agreed, as far as possible, between the local authority, the YPLA and any other appropriate bodies (appropriate bodies would include Government Office, other government departments).

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<sup>5</sup> A draft statement of the YPLA policy with respect to exercising its intervention powers is being developed and will be subject to separate consultation during autumn/winter 2009/10.

## National Commissioning Framework

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- The policy will be clear about the checks and balances in place to ensure the YPLA does not exercise the powers arbitrarily or go beyond its remit, for example the final decision to exercise its powers would not be delegated below the YPLA's Board which includes LA representatives.

## Section 3: Funding, Payment and Assurance

### 3.1: Funding arrangements and flow

#### Overview<sup>6</sup>

For almost all 16-19 providers there will be lead commissioning relationship between a local authority and a provider. In most cases the lead commissioning local authority will be the host local authority. For Apprenticeship providers the SFA will manage the procurement of provision on behalf of NAS.

The needs of learners travelling across local authority borders will be met through cooperation and collaboration between authorities and providers. The SRGs will facilitate the planning and commissioning of provision to meet the needs of learners across the area. If the host local authority agrees it is not appropriate for it to lead the commissioning process for a provider the SRG will lead in identify which authority, possibly in consultation with other SRGs and/or RPGs, would be the most appropriate to lead the commissioning process.

The YPLA will be a funding and enabling body and therefore will not be involved in the commissioning of provision other than in very exceptional cases. It will work with local authorities and SRGs, and at a regional level through the RPG, to ensure that Commissioning Plans are coherent and are within the funding allocation. It will therefore be closely involved in the development of commissioning plans and will be able to monitor progress in their agreement within the SRG and throughout the commissioning process. Through this process the YPLA will be aware of any problems that may arise and will try to resolve difficulties by providing guidance and offering support.

To ensure that every young person is able to access high quality learning, the YPLA must provide for the event that a local authority does not have the capability to carry out effectively its commissioning functions, and ensure that young people and providers in the local authority area are not disadvantaged because of this. Exceptionally this may lead to the YPLA being directly involved in the commissioning process in one of two ways - YPLA facilitated procurement and YPLA direct Commissioning.

Funding will usually flow to local authorities to enable them to fulfil their lead commissioning role. However, where SRGs or local authorities may agree for one authority or for a specified body to undertake the role of lead commissioner on their behalf, funding could flow directly to a specially established company formed to commission a provider or providers on behalf of specific local authorities.

This section covers:

- How learning will be procured by local authorities.
- How learning will be procured by YPLA.
- Which funding agreements (payment instruments) will be used.
- How Direct Commissioning will be dealt with.

The section also covers the funding flows from YPLA and SFA to local authorities and providers in accordance with funding agreements and makes extensive reference to proposed shared and mutual arrangements with the SFA.

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<sup>6</sup> More detailed guidance on contracting, funding and assurance will be provided before 1 April 2010.

## National Commissioning Framework

### Funding Mechanisms

As public bodies both the YPLA and local authorities may either make use of negotiated allocations of funding to providers or invite providers to make open and competitive tenders for funding. For the academic year 2010/11 both the YPLA and local authorities will allocate most funding to providers by negotiation rather than open and competitive tendering. Negotiated allocations offer providers funding stability that is particularly important to colleges and schools. These providers are by their nature not well able to financially adapt to major changes in their funding that might result from competitive tendering. As community bodies, colleges and schools have obligations and costs that they cannot address with full commercial freedoms.

### Key outcomes

- 3.1- 1 The key outcomes required from ensuring funding agreements and flow:
- Allocations confirmed.
  - Legal agreements in place to confirm delivery requirements.
  - Providers deliver learning.

### Local authority procurement and contracting

- 3.1- 2 Local authorities are statutory corporations with their own legislative frameworks and body of contracting and financial precedent. Local authorities continue to be subject to:
- Relevant legislation, requirement and guidance as statutory corporations.
  - Audit by the Audit Commission.
- 3.1- 3 A central requirement for local authorities is that they demonstrate value for money and the absence of corruption in procurement. A principal means of doing so is open and competitive tendering. A major exception to this is local authority procurement of learning from schools and other local authority training operations such as adult education colleges (so-called external institutions). This procurement is by negotiated allocation rather than open and competitive tendering. Under the NCF local authorities will normally use negotiated allocation in their procurement of YPLA funded learning in 2010/11 from all provider types. The need to use open and competitive tendering should not normally apply.
- 3.1- 4 The steps local authorities will follow when procuring negotiated and competitively tendered provision are detailed below.

### Local Authority Procurement of Negotiated Provision

**Step 1:** March 2011: local authorities confirm SLNs to each institution. YPLA confirms each local authority's funding position as the sum of individual allocations.

**Step 2:** April-July 2011: Local authorities issue to providers funding agreements that:

- For sixth form colleges, set out the relative powers and responsibilities of the local authorities and the YPLA in financial regulation and of local authority as funder. YPLA is a party to the high level financial intervention under this agreement.
- For all providers, include the specific terms and conditions of funding that will ensure consistent evidencing of activity and data returns by providers in accordance with the National Funding Formula.
- For all providers, include other terms and conditions each local authority's standing orders and regulations may require.
- The total allocation.

Providers sign and return funding agreements to local authorities. In the case of sixth form colleges the YPLA also signs the funding agreement. .

**Step 3:** August 2011: local authorities' payments in respect of academic year 2010/11 begin.

## National Commissioning Framework

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### YPLA direct commissioning.

- 3.1- 5 Where the YPLA may need to undertake commissioning directly with a provider and will directly fund providers or commissions 16-19 Provision this will be from within the total budget provided by DCSF. Occasionally the YPLA may procure provision on behalf of a local authority from funding allocations that have been disaggregated to regional level, or at SRG/local authority level. Here, funding allocations at the relevant level will be reduced by the sum required by the YPLA to procure the provision.
- 3.1- 6 YPLA will:
- Be subject to 'Managing Public Money' issued by HM Treasury.
  - Be capable of issuing funding agreements for grant-in-aid and grant under public law and also contracts under contract law.
  - Have an Accounting Officer.
  - Be a user of Bank of England Paymaster General payments systems.
  - Be able to operate bank accounts in the name of the YPLA.
  - Be audited by the National Audit Office.
- 3.1- 7 The YPLA will normally procure learning direct by negotiated allocations. These allocations may be made to:
- ISPs, based upon the sum of the unit prices for all learners that the YPLA places at the ISP.
  - Academies, and other national funding formula funded (NFF) providers that the YPLA funds direct.
  - By exception, providers funded on another basis. It is assumed that the process for these would be similar to that for ISPs and is not written down separately.
- 3.1- 8 When procuring directly the YPLA will seek to use SFA procurement systems to select suitably accredited providers. The YPLA will consult local authorities as to whether they also wish to access SFA accredited provider systems in sufficient numbers to justify that the SFA allows local authorities access to its systems.

### The YPLA's role in relation to offender learning.

- 3.1- 9 Education and training provision in youth custody will be commissioned by the host local authority. The YPLA will not undertake direct commissioning for offender learning in custody. However, the YPLA will initially take on management of the LSC appointed contractors for the delivery of education and training in Prison Service YOIs from April 2010, prior to this being transferred to host local authorities from September 2010.

### NAS procurement of Apprenticeships

- 3.1- 10 Procurement for all Apprenticeship provision will be undertaken by the SFA on behalf of the NAS. Where a provider delivers programmes to adults there will be a clear distinction between this and the provision procured on behalf of local authorities for young people, preventing providers switching funds between young people and adults.
- 3.1- 11 Given the expected growth of Apprenticeships it is expected that where providers currently deliver a high quality programme, the commissioning process will seek to grow this provision. In the case of the National Employer Service (NES), initial analysis will include the Apprenticeship volumes delivered locally by large employers, and the procurement process will build upon this, by growing provision with new or existing large employers to offer more Apprenticeships to young people.

### Payment instruments

- 3.1- 12 YPLA as a non-departmental public body (NDPB) and subject to Managing Public

## National Commissioning Framework

Money may use grant-in-aid, grant and contract funding. Each of these instruments has a precise set of definitions and requirements.

3.1- 13 Local authorities do not use this central government model.

3.1- 14 The table below shows the funding instruments YPLA and local authorities may use which are mapped in Diagram 1.

Funding Instruments				
Funder	Funded	What For	Funding Instrument	
YPLA	Local authorities	Local authority procured learning	Grant listing the allocation to each provider the local authority funds under the grant	
	Academies	Priced learning outcomes, capital	Grant under a funding agreement issued by the Secretary of State for Children, Schools and Families	
	ISPs	Priced LLDD outcomes	Contract and schedule	
	Other public bodies including HEIs	Priced learning outcomes, capital	Grant	
	Charities	Capacity building, provision of services, capital		Grant
		Priced learning outcomes		Contract
	Independent training providers – commercial or charitable	Priced learning outcomes		
Capital			Grant	
Local authorities	Sixth form colleges	Priced learning outcomes, capital	Local authority agreement with YPLA as third party incorporating financial memorandum and specific terms and conditions of YPLA funding	
	Local authority maintained schools and other operating divisions	Priced learning outcomes	Local authority internal agreement incorporating specific terms and conditions of YPLA funding	
	Charities, Independent training providers – commercial or charitable'	Priced outcomes	Local authority agreement incorporating specific terms and conditions of YPLA funding	

3.1- 15 As noted above, it is the government's clear intention that sixth form and general further education colleges continue to be financially regulated under essentially the same framework as at present. For sixth form colleges this financial framework will be expressed in standard clauses to their funding agreements with local authorities. These will cover issues such as borrowing and acquisition and disposal of assets.



### 3.2 Payments processes and reconciliation

#### Overview

This section sets out payment and reconciliation processes and definitions.

YPLA and local authorities will use three basic payment and reconciliation processes. These approaches balance:

- Government funding not being paid in advance of need.
- Incentivisation of provider performance by matching payments to earnings.
- Predictability and stability of payment flows to providers (to allow them to plan to meet costs that are fixed at least in the short to medium term).
- Simplicity in administration for funding bodies and recipients.

Under this approach, full time learning is paid for mostly on equal instalments set a year in advance. Short course, demand led learning is paid for in step with delivery.

Where the YPLA pays local authorities or other partners funding to be passed on to providers, the YPLA will require that local authorities or other partners pass on these funds promptly. Funds will be paid over by local authorities or other partners to providers no later than seven working days of receipt from the YPLA.

#### Payments Processes

##### Processes and Definitions

#### Payments on profile

These are a set of monthly payments determined at the start of the academic year in relation to the funding body's estimate of the learning provider's need. Profiles may be for the same sum every month or weighted sums e.g. to reflect higher costs for providers in the autumn term. The funding body may vary profiled payments during the year in the light of actual performance through in-year adjustment.

Profiled payments are simple and predictable and low cost to administer. They represent the greatest risk that a provider will have been paid more than the provider has earned. It is then difficult for the funding body to reclaim unused funds and reallocate them to providers that are able to deliver promptly within a financial year. Also, should the provider fail financially, money held by the provider that has not been earned can be lost to the public purse.

#### Mixed payments on profile and in arrears reconciled to data

These payments start on profile as above but at a certain point within the academic year move to reconciliation of actual earnings to profiled payments made to date. All future profiled payments are adjusted for any sums the provider has already been paid over and above what has been earned based on data submitted by the provider, or for earnings over and above what has been paid where this is affordable.

This process is not much more labour intensive for the funding body but relies on more frequent and timely submission to the funding body of accurate data, which is extra work for providers. This approach reduces the risk to the funding body of providers holding funds that have not been earned. The approach reduces predictability of cash flow for providers.

#### Payment in arrears or data or invoice

This process is the simplest one of paying for what has been earned. Payment on invoice is very labour intensive for both the funding body and providers. This arrangement represents the minimal risk to the funding body of inappropriate allocation of funds or loss of funds. It is the most uncertain arrangement for providers' cash flow.

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### Reconciliation and in-year adjustment

- 3.2- 1 Some 16-19 budgets are already subject to reconciliation of funding already paid to actual delivery. The assumption is that an in-year adjustment will be introduced from 2010/2011 for 16-19 participation funding including Foundation Learning. If agreed the YPLA will define the adjustment policy in the NCF to maintain consistency, value for money and minimise burdens on local authorities and providers.
- 3.2- 2 Reconciliation and adjustment are integral parts of the payment processes. The frequency of adjustment or reconciliation and whether any action is taken as a result is a separate set of decisions. There are four adjustment reconciliation routines.

Processes
<p><b>Formula funding</b></p> <p>Under this arrangement the YPLA will fund local authorities for a fixed sum that is calculated on need. The YPLA will not compare funding to performance. Local authorities then distribute funds as they see fit using reconciliation to performance if they choose.</p>
<p><b>Adjustment with no financial effect in that year</b></p> <p>Under this arrangement, the YPLA or local authorities would periodically reconcile providers' earnings through delivery of priced outcomes to profiled payments already made to the provider. However, the reconciliation does not lead to any adjustment to allocation for that funding year (financial, calendar or academic). Instead the adjustment is part of the performance monitoring dialogue and may affect future years' allocations.</p>
<p><b>Periodic reconciliation</b></p> <p>Under this arrangement the funding body does compare the value of providers' earnings to profiled payments already made. The funding body may then:</p> <ul style="list-style-type: none"> <li>▪ Adjust the following year's allocation for the actual value of over or under performance.</li> <li>▪ Adjust its future profiled payments to the provider for the remainder of the financial or academic year to recover over or underpayment on profile against earnings.</li> <li>▪ Request an immediate repayment from the provider, or make an additional payment to the provider, for the entire amount.</li> <li>▪ Make no adjustment to the provider's funding for variations below a tolerance.</li> <li>▪ Use several of the above approaches.</li> </ul>
<p><b>Payment in arrears</b></p> <p>This arrangement requires the provider to render an account to the funding body as the basis for any payment. Reconciliation is effectively as frequent as invoice or data submission.</p>

- 3.2- 3 Funding bodies need to choose which approach to use in the light of the following:
- Frequent adjustment, reconciliation or payment in arrears may be labour intensive for both the funding body and provider and can be destabilising for providers. Frequent adjustment or reconciliation maximises the funds available to the funding body to take from under performing programmes and providers and give to areas of need subject to overall budgetary control.
  - Adjustment or reconciliation may be subject to a tolerance of over or under performance. The funding body neither rewards excess delivery nor penalises shortfalls in delivery as long as they remain in tolerance.
  - Adjustment or reconciliation affects both the provider's income but also the funding body's expenditure. The funding body is likely to need to validate how much the provider has earned through an audit of the provider's delivery. This

## National Commissioning Framework

audit validation is needed even where there is a tolerance.

3.2- 4 The table below sets out the typical pattern of payment, adjustment and reconciliation under those systems.

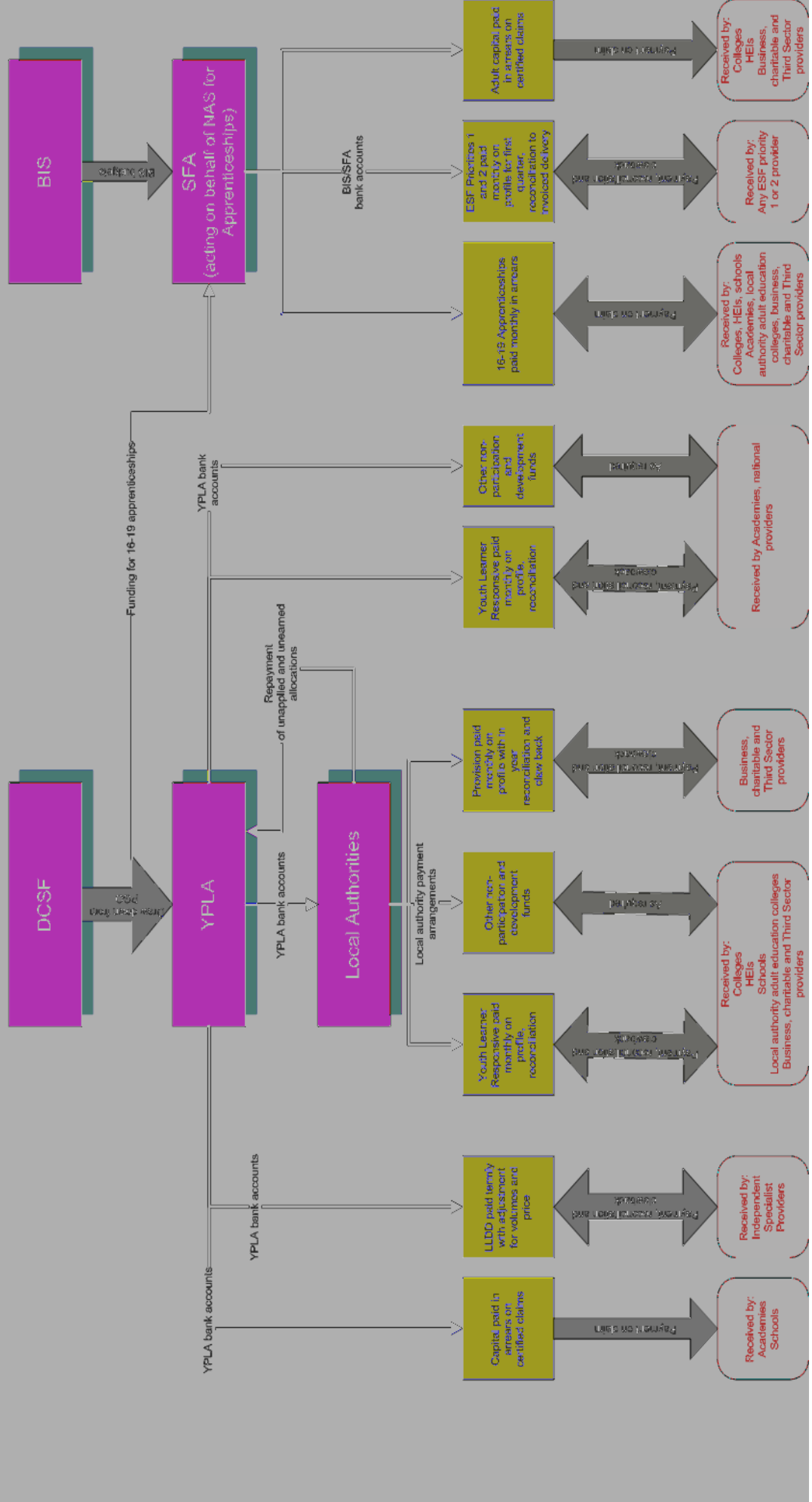
<b>Payment and Reconciliation Process</b>					
	<b>Payment on profile with no adjustment</b>	<b>Payment on profile, in-year reconciliation</b>	<b>Initial payment on profile then reconciliation to delivery</b>	<b>Payment on delivery evidenced by data or invoice</b>	
Funding types	SEN Formula based minor funds	Youth learner responsive provision to colleges, Academies and schools (assumed)  Additional learner support	LLDD	Capital  16-18 Apprenticeships	
August	Profiled payments based formula to reflect need		Payments on profile with reconciliation for learners in learning	Payment for actual certified invoiced costs or return of data confirming delivery of Apprenticeships.	
September					
October					
November					
December					
January					
February					
March					in-year reconciliation to tolerance and adjustment to allocation
April					
May					
June					
July					

The payment and reconciliation flows are set out in **Diagram 2** overleaf:

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**Diagram 2: Payment, Reconciliation and Claw Back**

Note: only SFA payments to "16-19" providers are shown



### 3.3 Funding assurance and control

#### Overview

This section sets out:

- The financial returns that providers will make to the body they are accountable to.
- The audit arrangements for each group of providers for YPLA and local authorities fund.

The objectives of funding assurance and control are to ensure:

- The minimum demands commensurate with good stewardship are put in place.
- All publicly funded learning outcomes have been validly delivered (funding audit).
- For grant-in-aid and grant funded provision, providers have spent earned public funds with regularity and propriety (regularity audit).
- Providers maintain satisfactory internal control over the public funds they receive (internal audit).
- Providers maintain satisfactory financial management and financial health to be able to deliver publicly funded learning provision (financial assessment).

Monitoring financial health is as much an aspect of contract management as funding assurance. It is included here for completeness. The YPLA will monitor the financial health of the providers it funds; local authorities will do so for all providers they host. The financial health of every provider will be monitored once between the YPLA and local authorities and it is proposed for the SFA as well.

The YPLA has responsibilities for intervening as a last resort in financial failure in sixth form colleges. Both the YPLA and local authorities will need to validate providers' self assessment of their financial management under the Framework for Excellence. In joint teams with local authority internal auditors, the YPLA will continue reviews of sixth form colleges' financial management and governance ideally in parallel with Ofsted

Colleges, Academies and local authorities as learning providers have their own auditors outside the scope of the NCF. Financial statements auditors (external auditors) are required for almost all providers. Internal auditors are required in the case of colleges and public bodies. Independent training providers – commercial or charitable, may also choose to have internal audit. Regularity auditors are required in the case of colleges.

#### Assurance on delivery of learning outcomes (Funding Audit)

- 3.3- 1 The YPLA, local authorities or the SFA will perform funding audit work at the providers they procure from on behalf of all other funding bodies. The main means of achieving the concept is a joint Audit Code of Practice between all funding bodies and with providers. The concept will minimise burdens on funding bodies and providers whilst satisfying funding bodies' statutory and other responsibilities for financial accountability.
- 3.3- 2 A key to successful arrangements for mutual assurance is that each funding body sets out its expectations as to how assurance will be gathered on its behalf. For example the SFA will provide assurance on the use of both 16-19 and adult funds in adult learning providers. The assurance on 16-19 funds will be given to the YPLA and thence to local authorities. Both the YPLA and local authorities will set out expectations of the assurance coverage the SFA will have put in place. The SFA will similarly set out its expectations of assurance work by the YPLA and local authorities on adult funding in 16-19 providers.

### Joint Audit Code of Practice

The Joint Audit Code of Practice should include:

- The roles of the National Audit Office and Audit Commission.
- Responsibilities of the Department for Business, Innovation and Skills (BIS), DCSF and YPLA Accounting Officers, SFA Accountable Officer, Local Authority Chief Financial Officers, Academy and college principals, school head teachers and governing bodies.
- Requirements on the YPLA and SFA to prepare and contribute to statements of internal control and financial statements.
- The YPLA's requirements on host local authorities to make grant returns to the YPLA in respect of all 16-19 and adult funding received by the providers the local authorities host.
- The YPLA's provision of funding assurance to the SFA about the use of adult funding in local authority hosted 16-19 providers.
- The SFA's provision of funding assurance to the YPLA about the use of 16-19 funding in SFA funded adult learning providers.
- The YPLA's funding assurance to local authority chief financial officers about the use of 16-19 funding in adult learning providers, based on SFA assurances to the YPLA.
- The role of the Audit Commission in examining grant claims and also in auditing regularity in local authorities, their schools and training organisations.
- The SFA's expectations of host local authorities in examining 16-19 providers' compliance with the National Funding Formula for adult funding.
- YPLA and local authority expectations of the SFA in examining adult learning providers compliance with the National Funding Formula for 16-19 funding.
- YPLA and SFA approaches to direct funding audit e.g. for Apprenticeships, Academies and ESF.
- The YPLA's, local authorities' and SFA's requirements on sixth form colleges and general FE colleges to have financial statements, regularity and internal auditors.
- Requirements on all providers to produce completed returns on financial health and financial management and control for the Framework for Excellence.
- Working in parallel with Ofsted.
- Key outputs from the work of college and Academy auditors, to whom this work is reported and who intends to place reliance upon them .
- Requirements and good practice to colleges and Academies on audit committees, appointment and effective use of external and internal auditors.
- Approaches to review of the work of college and Academy auditors so that reliance may be placed on their work.

### Standardised key documents under the Code

- The financial health and financial management and control evaluation issued under the FfE.
- Regularity audit guidance issued by SFA and YPLA to colleges.
- Funding audit guidance for the use of funding auditors.
- Terms of reference for college audit committees.
- Model letters of engagement for college and Academy financial statements auditors and college internal auditors.
- Outline approaches to the funding audits of providers.
- Sundry matters such as reporting of fraud and irregularity.

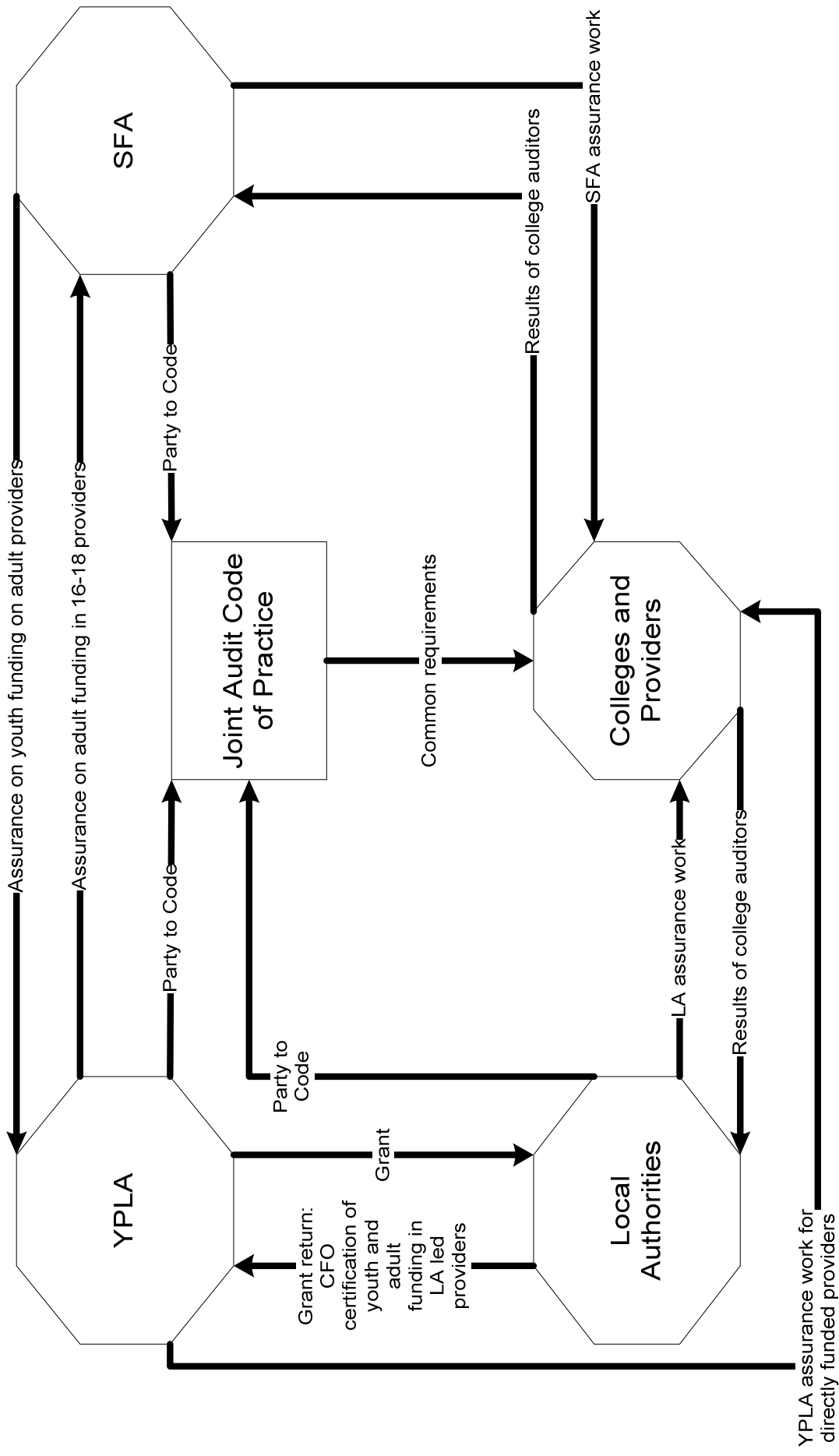
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### Assurance matrix

3.3- 3 The grid below shows the provider types and who would audit what at each of these.

Assurance Matrix									
	Provider Type								
	ISPs	Sixth form colleges	Academies	Schools with sixth forms	Local authority learning providers	General FE colleges	Independent training providers – commercial or charitable and voluntary and providers		
							Funding		
						Youth majority	Adult majority	Mixed	
<b>Financial Regulator</b>	BIS or Charity Commission	YPLA and local authorities	YPLA	Local authority		SFA	BIS or Charity Commission		
<b>Dominant funding</b>	LLDD	YLR, ALS			ALR, ALS ERL ASL ESF	YLR ALR ERL	ESF ERL	ERL ESF	ESF ERL AERL
<b>Other learning significant funding</b>	Capital	Capital			NLDC capital	Capital HE	Skills capital		
<b>Financial statements auditors</b>	Statutory, registered auditors			Audit Commission		Statutory, registered auditors	Statutory, registered auditors		
<b>Regularity Auditors</b>	Not required	Financial statements auditors	Not required	Audit Commission		Financial statements auditors	Not required		
<b>Internal auditors</b>	At their discretion	Statutory, usually contracted out	At their discretion	Local authority internal audit		Statutory, usually contracted out	At their discretion, normally only present in larger charities or independent training providers – commercial or charitable		
<b>Funding auditors</b>	YPLA	Expectations on local authorities	YPLA	Expectations on local authorities		SFA	Expectations on SFA		
<b>Inspections with Ofsted</b>	YPLA	YPLA and local authority joint teams	No precedent	No precedent		SFA	SFA		

# National Commissioning Framework



## Section 4: Provider Quality Assurance System

### Overview

The post-16 quality assurance system will be focussed on ensuring that the system delivers high quality education and training, leading to improved outcomes for learners and employers, and a culture of continuous self improvement. This section sets out the new arrangements and a range of tools and processes which will underpin them.

### Provider quality assurance

- 4.1- 1 As now, providers will have primary responsibility for managing their own performance and taking action to improve services, based on rigorous annual self assessment and external validation through periodic inspection.
- 4.1- 2 Local authorities and the SFA will not be responsible for managing the day to day performance of providers, but will hold providers that they fund to account for their performance and make judgements about their comparative performance with other providers to inform commissioning decisions.

### Self assessment

- 4.1- 3 Rigorous self assessment is central to the new performance management arrangements and lies at the heart of well managed and effective provider improvement. It is also a key element of the Ofsted inspection framework.
- 4.1- 4 Schools will be required to complete and maintain an on-line self assessment, identifying their own strengths and weaknesses and the action being taken as a result. All providers will be expected to use Framework for Excellence (FfE) data as it becomes available to compare and benchmark their performance with other providers, using peer review as appropriate to inform their self assessment and development plans.

### Consistent performance indicators across the sector

- 4.1- 5 All post-16 providers will be held publicly accountable for their achievements and will be assessed annually against a clear set of national measures. In order to make valid comparisons between all post-16 providers and types of provision, provider performance data will be based on the FfE.
- 4.1- 6 From 2010/11 the Framework will apply to all post-16 provision, creating a framework which provides a comparable assessment of all post-16 provision and providers, and the results will be published annually in an FfE report card. The detail of how this will operate in future is being developed by piloting FfE in over 100 schools with sixth forms and 23 local authorities, with the intention of extending the framework to include school sixth forms from 2010. Until FfE becomes fully established for use across all post-16 providers, local authorities should draw upon a range of performance evidence to inform their commissioning decisions. DCSF is working with React and ADCS to develop a set of quality standards for school sixth forms until FfE evidence is available for all providers.

### Standards of provider performance expected

- 4.1- 7 Local authorities and the SFA will require all providers to maintain at least minimum standards and quality criteria in order to secure continued funding and as part of good practice, to agree challenging targets for self improvement in their self assessment and development plans.

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### Minimum Levels of Performance (MLP)

- 4.1- 8 Local authorities will be expected to develop appropriate mechanisms to secure high quality provision for 16-19 year olds and eliminate weak provision to ensure that learners are not disadvantaged.
- 4.1- 9 The use of minimum levels or standards by commissioners is expected to continue. The YPLA, working closely with the SFA and NAS will review and evaluate the current methodology for establishing and operating Minimum Levels of Performance (MLP) for qualification success rates and consider how minimum standards/levels might be continued and extended as appropriate to all types of post-16 provision by different commissioners.
- 4.1- 10 DCSF will consult widely with key stakeholders and sector provider representative bodies during 2010/11 to develop proposals on setting and monitoring future minimum standards or levels. DCSF and BIS will retain joint overall responsibility for agreeing the minimum standards or levels that might apply.

### Inspection

- 4.1- 11 Inspection by Ofsted of both schools and FE provision will continue and will trigger support and intervention as now. The YPLA, local authorities and the SFA will share information in coming to decisions about actions to be taken (as a result of inspection) with providers. Ofsted will use a range of available data including FfE to determine the urgency/priority of a provider/service for inspection and so inform inspection planning.

### Intervention

- 4.1- 12 Local authorities and the SFA need to support and challenge all providers as part of our drive to improve standards. Local authorities will be expected to monitor and review key aspects of provider performance on a regular basis and prevention not intervention will be the aim. Where provider interventions are needed, they will be proportionate, targeted and differentiated to address the provider's needs.
- 4.1- 13 Details of when local authorities and the SFA will intervene, along with the statutory intervention powers for different types of providers, are set out in Annex 2.

### Arrangements for support and development

- 4.1- 14 Local authorities will work closely with support bodies to offer a comprehensive programme of support to providers to enable them to improve quality and outcomes for learners. Priorities for support will be agreed between the SFA, local authority and the provider in discussion with the appropriate support body.
- 4.1- 15 Local authorities will also encourage providers to find their own improvement solutions through facilitating peer review and other approaches to sharing good practice.

### Approved Supplier Register (ASR)

- 4.1- 16 A new Approved Supplier Register (ASR) is currently being developed by BIS and DCSF, to ensure a streamlined and integrated process for accrediting post-16 providers. The ASR will set the minimum standards, including quality, capability and capacity that will facilitate entry to the market and become an important tool to support ongoing commissioning and funding processes.

### What will success look like?

- 4.1- 17 A successful Quality Assurance System will:
  - Provide clear accountabilities for the achievement of national and local targets,

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including outcomes for 14-19 area partnerships.

- Drive up standards of post-16 provision; Improve efficiency and effectiveness in planning and commissioning activities.
- Create more transparency to inform choices made by individuals in their learning.
- Secure public and Government confidence in the Post-16 education and training system.

4.1- 18 Information on ISP performance and roles and accountabilities in performance management can be found in Annex 2.