

## Young People's Learning Agency Conduct of Business and Procedures

<b>Date of issue</b>	8 April 2010
<b>Audience</b>	YPLA Board
<b>Publication intent</b>	NOT PROTECTIVELY MARKED
<b>Internal report ref</b>	YPLA 01/2010
<b>Agenda item</b>	4

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### Issue

- 1 How the YPLA should conduct its business

### Reason for bring this to the YPLA Board

- 2 At the start of the YPLA's operations, it is important to draw up and agree suitable operating arrangements and codes of conduct for members and observers, both for the YPLA itself and for any committees.

### Summary of Proposals

- 3 In a set of appendices, members are invited to consider and agree how the YPLA should conduct its business. The issues covered in the paper are:

- Appendix A Standing Orders for Meetings
- Appendix B Proposed Role of DCSF Observer
- Appendix C Proposed Audit and Risk Management Committee
- Appendix D Proposed Organisational Development and Remuneration Committee
- Appendix E Code of Corporate Responsibility and Conduct
- Appendix F Delegation to YPLA Chief Executive
- Appendix G Security Classification of Information
- Appendix H Legal Framework for the YPLA

## Recommendations

- 4 The YPLA is invited:
- (i) To adopt the standing orders for the regulation of meetings of the YPLA and its committees as set out in appendix A.
  - (ii) To adopt the protocol for DCSF observers at the YPLA Board and its committees in appendix B
  - (iii) To establish the following committees with terms of reference as set out in appendix C and D and to delegate to the Chair the function of appointing members to the committees:
    - Audit and Risk Management Committee
    - Organisation Development and Remuneration Committee
  - (iv) To approve the Code of Conduct, which will apply to members and observers of the YPLA and its committees at appendix E.
  - (iv) To note that the delegations to the Chief Executive set out in appendix F were approved by members on 1 April 2010 and that a codicil has been added to the delegations to highlight the Chief Executive's responsibility to agree a course of action with the Chair on any questions that arise which are novel or contentious and to report regularly to the YPLA Board.
  - (v) to agree that the YPLA Board should not delegate some functions, including agreeing the YPLA's annual plan and the statutory guidance given to local authorities under the Act and the exercise of the YPLA's statutory intervention powers (see para 14 below).
  - (vi) To endorse the following arrangements for the handling and publication of YPLA papers and minutes and those of its committees:
    - (a) The YPLA adopts the Information Classification set out in appendix G for security purposes
    - (b) Papers for the YPLA and its committees will be sent out a minimum of ten days before the meeting by email and post.
    - (c) Papers will be marked unclassified when they are sent out unless they contain sensitive information as defined in appendix G.
    - (d) Minutes and papers will be published after the meeting except for any information which is deemed to be sensitive by the author of the paper or the YPLA or the committee itself. The classification

with then be amended to “Public” or “Protect” as appropriate.

- (e) members will be obliged, in accordance with the Code of Conduct for Members of the YPLA and its Committees, not to disclose or use any information they acquire by virtue of their membership of the YPLA unless and until it has been published by the YPLA.
- (f) to note that any information held by the YPLA including information marked “Protect” may be subject to disclosure under the provisions of the Freedom of Information Act 2000 unless it contains exempt information as defined in the Act.
- (vii) To approve that the signature of the Chair or the Chief Executive or the Head of Legal and Governance should authenticate the application of the YPLA’s seal (see para 15 below).

## BACKGROUND

- 5 The YPLA has been established by the Apprenticeships, Skills, Children and Learning Act 2009 (the Act) as a statutory corporation as a non-departmental public body and is not a Crown Body. The YPLA will comprise between 10 and 16 members appointed by the Secretary of State and the Chief Executive. The Secretary of State must appoint one of the members of the YPLA to chair it.
- 6 As a statutory corporation the YPLA it can only do those things which the Act provides it can do and must carry out its duties imposed on it by the Act. Appendix H to this report sets out in full the legal framework within which the YPLA operates.
- 7 The main duty imposed on the YPLA is to secure the provision of financial resources to:
  - persons providing or proposing to provide suitable education or training to persons who are over compulsory school age but under 19 or who are aged 19 or over but under 25 and are subject to a learning difficulty assessment;
  - to persons providing or proposing to provide suitable education to children subject to youth detention;
  - and in particular to local education authorities for the purpose of their statutory functions in relation to securing education and training for those persons.
- 8 The relationship between the YPLA and the Secretary of State is also set out in the Act. The Secretary of State may make grants to the YPLA and impose conditions on that grant. The Secretary of State can also give directions as to how the YPLA should exercise its main duty and setting out objectives which the YPLA should achieve in carrying out its functions and the time limits within which the YPLA should achieve the objectives and provisions relating to the management of the YPLA.
- 9 All the functions are vested in the YPLA and the Act provides that the YPLA can delegate its functions to the Chief Executive, the Chair and establish committees or joint committees and delegate functions to those committees or joint committees.
- 10 The YPLA is initially being asked to establish two committees, an Audit and Risk Management Committee and an Organisation Development and Remuneration Committee and delegate the functions as set out in the terms of references attached at appendices C and D. To help establish the Committees quickly, it is recommended that the YPLA should delegate to the Chairman, the authority to appoint members and Committee Chairs. The YPLA may wish to consider establishing further committees or joint

committees once it has had to opportunity to see how the organisation develops

- 11 Appendix A sets out suggested procedures for the regulation of meetings of the YPLA and its committees. The procedures take into account the relevant provisions of the Act and the need to ensure the effective conduct of YPLA business. The Secretary of State and or his representative have a right to attend meetings of the YPLA and its committees and the Protocol for DCSF observers at the YPLA Board and its committees is attached at appendix B.
- 12 At the last meeting of the YPLA Committee members of that Committee and other members of the YPLA were asked to comment on initial delegations to the Chief Executive. These were formally approved by the YPLA members on 1 April 2010 to enable the YPLA to operate prior to the first meeting of the YPLA. These delegations are attached at appendix F and now include an important codicil to highlight the Chief Executive's responsibility to agree a course of action with the Chair on any questions that arise which are novel or contentious and to report regularly to the YPLA Board. The delegations set out in appendix F will also enable the Chief Executive to exercise Academy Functions which the YPLA is required to exercise in behalf of the Secretary of State The delegation of functions to the Chief Executive does not preclude the YPLA exercising the functions itself when this is appropriate
- 13 The role of the YPLA Board is to have strategic responsibility for ensuring that the YPLA fulfils its statutory duties, meets its objectives and complies with any statutory or administrative requirements for the use of public funds. The Executive will ensure that the YPLA Board receives full and complete information about the operations of the YPLA to enable it to fulfil its responsibilities.
- 14 There are a number of key functions that the YPLA Board will not delegate including agreeing the YPLA's annual plan and the statutory guidance given to local authorities under the Act and the exercise of the YPLA's statutory intervention powers.
- 15 The Act provides that the application of the YPLA's seal must be authenticated by the signature of the Chairman, or of some other person authorised by the YPLA to act for that purpose, and of one other member. It is suggested that as well as the Chairman the Head of Legal and Governance be authorised to authenticate the seal on behalf of the YPLA.
- 16 The YPLA in common with other NDPBs is required to have a Code of Conduct for its members and members of its committees. The proposed YPLA Code is at appendix E.

- 17 The YPLA is asked to agree that the papers and minutes of the YPLA and its committees should be routinely published unless either the author or the YPLA or the committee considers that they contain any sensitive information. . This approach would also be consistent with the expectation of the Information Commissioner that board minutes and the minutes of similar meetings where decisions are made about the provision of services, excluding material that is properly considered to be private, should be readily available to the public The YPLA Committee papers should initially be marked “Unclassified”, unless they contain sensitive information as defined in appendix G. In accordance with the Code of Conduct for Members of the YPLA and its Committees, members should not disclose or use any information obtained by virtue of their membership of the YPLA or one of its committee unless or until the information has been made public.
- 18 There are some other documents that the YPLA will be required to produce in the next couple of months. These include:
- The Single Equality Scheme to comply with the YPLA public sector duty in equalities legislation.
  - A Publication Scheme under the Freedom of Information Act
  - Instruments and Articles for Sixth Form Colleges

## **LEGAL IMPLICATIONS**

- 19 The legal implications are set out above.

## **FINANCIAL IMPLICATIONS**

- 20 There are no direct financial implications arising out of this paper.

## **APPENDIX A**

### **STANDING ORDERS FOR MEETINGS OF THE YOUNG PEOPLE'S LEARNING AGENCY (YPLA) AND ITS COMMITTEES.**

#### **INTRODUCTION**

- 1 These standing orders supplement the provisions of the Apprenticeships, Skills, Children and Learning Act 2009 (the Act).
- 2 These standing orders will be reviewed by the YPLA when necessary.
- 3 These standing orders will regulate the conduct of meetings of the YPLA and its committees.

#### **MEMBERSHIP**

- 4 The ordinary members of the YPLA are appointed by the Secretary of State who must appoint one of them as chair. The Chief Executive is also a member of the YPLA. Members of the YPLA shall hold office in accordance with the terms of his or her appointment. A member of the YPLA may be removed from office by the Secretary of State by notice in writing if he or she has been absent from meetings of the YPLA for a period longer than 6 consecutive months without the YPLA's permission or is unable or unfit to carry out the functions of a member. Members of the YPLA are eligible for re-appointment. The chair and ordinary members of the YPLA may resign their position at any time by giving notice in writing to the Secretary of State.
- 5 Members (including chairmen) of committees of the YPLA are appointed by the YPLA. Members of committees shall hold office for such period as the YPLA may determine. A member of a committee may be removed from office by the YPLA by notice in writing if he or she has been absent from meetings of the committee for a period longer than 6 consecutive months without the committee's permission or is unable or unfit to carry out the functions of a member. Members of committees are eligible for re-appointment. Members of committees may resign that position at any time by giving notice in writing to the chair of the YPLA.
- 6 If the chair of the YPLA, or of any of its committees, is absent from a meeting, the members present shall choose one of their number to act as chairman for that meeting, providing that the member chosen shall not be the Chief Executive of the YPLA.

## **CONVENING MEETINGS**

7 Where the date of a meeting has not previously been agreed by the YPLA or committee the chair will agree the date. Other than in the case of the a notice of the meeting including a copy of the proposed agenda and of supporting papers, together the with details of the time, date and location for the meeting will be sent to members at least seven days before the meeting by the Legal and Governance Team.

## **QUORUM**

8 No business shall be transacted at a meeting of the YPLA unless at least one half of the whole number of members is present. For other committees, the quorum will be established as part of the terms of reference agreed by the YPLA in establishing such a committee.

## **THE ROLE OF THE CHAIR**

9 The Chair will decide the order in which members will be called to speak ensuring that all members present, who wish to, are given an opportunity to speak and also seeking to ensure that all views are fairly represented.

10 The Chair will decide which matters are or are not in or out of order in terms of the meeting.

11 The Chair will suspend the meeting if in his or her view this is necessary; for whatever period of time he or she thinks appropriate.

## **DECISIONS AND VOTING**

12 It is expected that decisions of the YPLA and its committees will normally be reached by consensus after due debate but if a vote is required decisions shall be made on the basis of a majority of those attending and voting at a quorate meeting. In the event of an equality of votes being cast, the Chair of the meeting shall have a second vote.

13 In cases where an urgent decision is required between meetings of the YPLA or its committees members may be asked to signify their agreement to the decision in writing, which includes electronic mail. A decision reached in the manner will be valid if a quorum of the YPLA or its committee signifies their agreement in writing.

## **TERMS OF REFERENCE**

14 The terms of reference of committees of the YPLA shall be established by the YPLA, and reviewed as necessary. Committees may recommend to the YPLA amendments to their terms of reference.

## **PUBLICATION OF AGENDAS AND MINUTES**

15 Papers and minutes of meetings of the YPLA and its committees will be published except where those papers and minutes are deemed to include sensitive or confidential information.

## **MINUTES OF MEETINGS**

16 Minutes must be kept by the Legal and Governance Team of all meetings of the YPLA and committees and shall be presented at the next meeting for approval.

17 Those minutes should include a record of all members attending the meeting and a record of the attendance of other persons and a record of any declaration of interests.

18 Minutes of meetings of the YPLA and its committees will be published following approval of those minutes.

## **OBSERVERS ATTENDANCE AT MEETINGS**

19 The Secretary of State and or a representative of the Secretary of State have the right to attend any meeting of the YPLA and its committees

20 The YPLA and its committees may also invite other persons to attend as observers at all or some meetings.

21 The Secretary of State and or his or her representative and any other observer may take part in the deliberations of the YPLA or committee but not its decisions.

## **DECLARATIONS OF INTEREST**

22 Members of the YPLA are required to declare any direct or indirect interest in any matter to be considered at a meeting of the YPLA or of any of its committees.

23 Where a matter is under consideration in which a member has declared an interest, that member shall not participate in discussion, or voting, and shall not be counted in the quorum for that item. It shall be for the other members present to determine whether the interest is such that the member should withdraw from the meeting. Others attending meetings of the YPLA or any of its committees, whether as an observer or officer of the YPLA, shall declare any direct or indirect interest in any matter to be considered at a meeting. It shall be for the members of the YPLA or committee to determine whether the interest is such that the person should withdraw. The minutes of meetings of the YPLA or of its committees will record any declarations of interest made, and whether the person withdrew from the meeting for that item.

## APPENDIX B

### Protocol for DCSF observers at the YPLA Board and its committees

1. The Department has the right to send observers to all meetings of the YPLA Board and of its committees. DCSF observers are entitled to attend and take part in deliberations, but not in decisions; and the YPLA must provide observers with copies of any documents as they do for members of the Board or committee. The presence of observers does not dilute YPLA's accountability to Ministers for delivery of its remit or responsibility for managing risks to its business. DCSF observers and the YPLA Board will be open and transparent in their engagement with each other.

2. The role of DCSF observer is:

- To help promote the collaborative, constructive partnership between DCSF and YPLA;
- To advise the Board/committee on the department's (i.e. Ministers') priorities and perspectives and areas of concern;
- As far as possible, to contribute more generally to discussions, including providing challenge, to help Board/committee reach the best possible judgements;
- To feed back to departmental colleagues (and, where they judge appropriate, to Ministers) so that any significant issues or risks can be followed up by the department; and
- To draw to the attention of the Board/committee, as soon as possible, any decision it is making that the observer believes will cause concern to the Department and Ministers.

3. Observers should prepare fully for meetings, so that they are aware of and are able to convey the department's views on all the key issues which may arise. As far as possible, they should ensure that the Board is aware of any relevant concerns that the department has in discussing an issue. However, if a significant issue arises on which they are unsure of Ministers' views, they should identify that for the Board, and commit as appropriate to following up quickly after the meeting to clarify the position.

4. Identities of proposed observers will be shared by the department with YPLA and, as far as possible; there should be consistent observer personnel. Where regular observers are unable to attend a Board or committee an appropriate substitute should be provided.

5. The role of the departmental observers is not:

- To be an automatic escalation route to ministers. If the Board/committee

wishes to draw something formally to the attention of Ministers, it should do so directly (in some cases it may be appropriate to ask the observer to do this, in which case this should be minutes);

- To provide departmental endorsement of the decisions of the Board/committee or second guess judgements about risk to delivery; or
- To provide a failsafe check on the consistency, coherence, deliverability or appropriateness of a decision.

6. Additionally, it is sometimes appropriate for departmental officials to be invited to attend YPLA operational or programme boards, either as observers or as full members. Where this is decided, the terms of reference or minutes of the board should record a clear agreement about the role of the departmental attendee, so there is no misunderstanding. In particular, it should be clear whether the terms on which the observer is attending the board should be the same as for the YPLA Board – as above – or different.

## APPENDIX C

### Audit and Risk Management Committee: Draft Outline

#### 1 Draft Terms of Reference

The Audit and Risk Management Committee will:

- Report to and advise the YPLA Board and Chief Executive on the adequacy and effectiveness of the operation of the system of internal control within the YPLA, including controls for securing economy, efficiency and effectiveness within providers funded by the YPLA Board and the application of money paid to these providers in accordance with the purposes for which it was allocated;
- Advise the YPLA Board and Chief Executive on the adequacy of risk management operating throughout the YPLA;
- Receive and advise the YPLA Board on the annual accounts for the YPLA;
- Advise the YPLA Board and Chief Executive on the scope and objectives of the work of internal audit and external assurance arrangements;
- Consider and advise the YPLA Board and Chief Executive on the needs assessment and strategic plans for internal audit;
- Receive and approve the annual plans for internal audit;
- Receive and approve the annual plans for external assurance;
- Advise the YPLA Board and Chief Executive on the Head of Internal Audit's annual assurance statement, the annual report on external assurance and on control issues included in the NAO's reports;
- Advise the YPLA Board and Chief Executive on the adequacy of management responses to issues identified by internal audit activities;
- Establish, in conjunction with the Director of Finance, relevant performance measures and indicators for internal audit and monitor the work of the function through these measures and indicators;
- Review standing orders and standing financial instructions annually and approve changes in accounting policies;
- Receive reports concerning financial investigations via the Chair of Audit Committee;
- Receive ad hoc items e.g. NAO value for money studies.

## 2 Membership

The audit committee should have at least six members of whom three should be members of the Young People's Learning Agency (YPLA) Board, one of whom will be the chair of the committee. Independent members may be appointed by the Chair of the YPLA Board in consultation with the Chair of the Audit Committee.

Others who should normally be invited to attend Audit Committee meetings will include:

- An observer from the National Audit Office (NAO); and
- An observer from the Department for Children, Schools and Families.

The YPLA chief executive may be requested to attend committee meetings when necessary.

## 3 Meetings

The committee should meet **four** times a year and should report formally to the YPLA Board once a year. The Chair of the Audit Committee should meet regularly with the Chair of the YPLA Board and the Chief Executive of the YPLA. Minutes of audit committee meetings shall be presented to the YPLA Board at the next appropriate Board meeting.

The Chair of the Audit Committee may have private sessions with the Head of Internal Audit, Head of Assurance and External Audit and representatives from the NAO at his/her or their request.

## 4 Regular Agenda Items:

Standing items will include:

- To receive, question and accept the internal audit quarterly report;
- To receive, question and accept the external assurance quarterly report;
- To receive and comment on minutes of the Finance and Performance Management Group in relation to risk management and the risk management quarterly report.

At other times of the year, items might include:

- To advise on systems for risk assurance and management
- To advise on the Chief Executive's Statement of Internal Control;
- To receive, question and accept the Head of Internal Audit's annual report;
- To receive, question and accept the Head of Assurance and External Audit's annual assurance report;

- To receive and question draft and accept final accounts;
- To receive, question and accept NAO reports;

## **5 Meeting Quoracy**

Audit Committee meetings will be considered quorate if three or more members are present, one of who is a member of the YPLA Board.

## **6 Minutes of the Meeting**

The minutes shall be drafted by the Committee Clerk and distributed to members once approved by the Chair. The minutes of all meetings will also be distributed to the next appropriate YPLA Board meeting.

## APPENDIX D

### Organisational Development and Remuneration Committee: Draft Outline

#### 1 Draft Terms of Reference

The Organisational Development and Remuneration Committee will:

- consider and advise on ways of embedding organisational mission, vision and values, including developing partner relationships;
- consider and advise on communication and employee engagement strategies;
- consider and advise on ways of working, organisational structure including organisational and job design, resource planning and business readiness;
- approve an Equality and Diversity HR Action Plan;
- review and advise on the framework and policy for the appointment, pay and performance of staff of the YPLA;
- subject to any determination relating to the Chief Executive's appointment made by the Secretary of State, to review and make recommendations to the Chairman on any revisions to the Chief Executive's terms and conditions of employment, including remuneration;
- to assist the Chairman in monitoring annually the performance of the Chief Executive against the annual performance plan and, in light of that performance appraisal to advise the Chairman on any performance-related pay increase or bonus to be paid;
- to approve frameworks for managing performance, career development, establishing performance and conduct standards, expectations and organisation competencies.

#### 2 Membership

The organisational development and remuneration committee should have at least five members of whom three should be members of the Young People's Learning Agency (YPLA) Board, one of who will be the chair of the committee. Independent members may be appointed by the Chair of the YPLA Board in consultation with the Chair of the Organisational Development and Remuneration Committee.

An observer from the Department for Children, Schools and Families should be invited to committee meetings.

The YPLA chief executive may be requested to attend committee meetings when necessary.

### **3 Meetings**

The committee should meet **three** times a year and should report formally to the YPLA Board once a year. The Chair of the Committee should meet regularly with the Chair of the YPLA Board and the Chief Executive of the YPLA. Minutes of audit committee meetings shall be presented to the YPLA Board at the next appropriate Board meeting.

### **4 Quoracy of Meetings**

The committee meetings will be considered quorate if three or more members are present; one of whom must be the Chair.

### **5 Minutes of the Meeting**

The minutes shall be drafted by the Committee Clerk and distributed to members once approved by the Chair. The minutes of all meetings will also be distributed to the next appropriate YPLA Board meeting.

**THE YOUNG PEOPLE'S LEARNING  
AGENCY**

**Code of Corporate Responsibility and  
Code of Conduct**

**for Board Members and Observers  
of the Young People's Learning Agency  
and its Committees**

## FOREWORD

This document sets out essential information for board members and observers of the Young People's Learning Agency (the YPLA) and any committees it sets up about the organisation's values and its expectations of them as they carry out their duties. As such, it is also of interest to a wider readership: these standards are those by which the YPLA and individuals may be judged by our partners and stakeholders.

You will find here the statement of public service values, that is:

- the codes of corporate responsibility, and
- individual codes of conduct for members and observers of the YPLA and of any YPLA committees.

This document also reminds readers of the seven principles of public life; and includes some guidance on interpreting aspects of the codes. This document draws on the Apprenticeships Skills, Children and Learning Act 2009, government guidance and model codes and framework documents governing the relationship between the YPLA and the Secretary of State for Children, Schools and Families. All parts of the document are of equal importance and the principles outlined are important guidelines for our day to day actions.

Any queries should be addressed to Cathy Robinson, the YPLA Head of Legal and Governance (024 7682 3561).



Peter Lauener  
Chief Executive YPLA

12 April 2010

## YPLA VALUES

The YPLA's approach to its work should be based on the following widely adopted **public service values**:

- we will at all times observe the highest standards of propriety involving **impartiality, integrity** and **objectivity** in relation to the stewardship of public funds and the management of the YPLA. There should be complete honesty in dealing with the funds entrusted to the YPLA, integrity should be the principle underlying all action taken by or on behalf of the YPLA
- we will maximise **value for money** through ensuring that services are delivered in the most economic, efficient and effective way, within available resources, and with independent validation of performance achieved wherever practicable. Value for money is not the lowest price: it is the optimum combination of costs and quality to meet the user's requirement
- we will be **accountable** to Parliament, users of services, individual citizens and staff for the activities of the YPLA, their stewardship of public funds and the extent to which key performance targets and objectives have been met
- we will act in accordance with Government policy on **openness and** responsiveness, and fully comply with the Freedom of Information Act
- we will have due regard to the need to **promote equality of opportunity** between different racial groups, men and women and between persons who are disabled and persons who are not and to treat all persons fairly irrespective of race, age, disability, ethnic origin, gender, marital status, religion and sexuality, into all areas of the YPLA's work and working practices
- we will adopt the **seven principles of public life** established by the committee on standards in public life (the Nolan committee) to guide its work. These principles are reproduced at annex A.

In addition, the YPLA has developed the following values as a more contextual guide to the way we will seek to work with partners and stakeholders.

We will be:

- **Professional**
  - offering expertise to influence the thinking of our partners through timely intelligence about young people, transparent funding systems and empowering knowledge about what is working around the country
- **Responsive**
  - listening to young people and to our partners so that we can support them effectively
- **Impartial**

– focused on what is right for all young people and celebrating the contribution of providers of all kinds to providing a good choice of high quality learning opportunities and learning environments

- **Dynamic**

- passionate and committed to making the system work in the best interests of young people by forging excellent relationships and continually challenging ourselves to improve

- **Efficient**

- a slim line organisation aiming to simplify and streamline funding and commissioning so that we get as much resource as possible to the front line

# **CODE OF CORPORATE RESPONSIBILITY**

## **INTRODUCTION**

This code describes the framework underlying the approach of the YPLA to its business and the responsibilities of the YPLA, its committees, joint committees, sub-committees and members and observers in relation to their collective conduct. The code also sets out the procedures that the YPLA will adopt to ensure that it is capable of carrying out its responsibilities in keeping with its role as a public body spending public funds. Sources of further information, which might be of interest to members and observers in carrying out their responsibilities, are listed in annex B.

## **LEGAL FRAMEWORK**

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

1 The YPLA is a creature of statute and is established by the Apprenticeships, Skills Children and Learning Act 2009 (the Act). The YPLA derives its powers and duties from the Act and can only do those things that the Act provides for.

2 Advice on any aspect of the legal framework can be obtained from Cathy Robinson, the Head of Legal and Governance.

## **RELATIONSHIP WITH THE DEPARTMENT FOR CHILDREN SCHOOLS AND FAMILIES**

1 The Department for Children, Schools and Families (DCSF) is the sponsor department for the YPLA. The Secretary of State is answerable to Parliament for the policies and performance of the YPLA, including their use of resources and the policy framework within which they operate.

2 The respective roles of DCSF and the YPLA are set out in a Framework Document, which includes a Management Statement and a Protocol which sets out the relationship between the Department and the YPLA. A Financial Memorandum specifying the terms on which the YPLA receives and spends its funds also supplements the document. The Financial Memorandum will be available from the Finance Funding and Corporate Services Directorate at the National office.

## **CORPORATE RESPONSIBILITIES OF YPLA MEMBERS**

### **General responsibilities**

1 Members and observers of the YPLA have corporate responsibility for ensuring that the YPLA complies with any statutory or administrative requirements for the use of public funds. Other important responsibilities of YPLA members and observers include:

- ensuring that high standards of corporate governance are observed at all times;
- establishing the overall strategic direction of the organisation within the policy and resources framework agreed with the Secretary of State;
- ensuring that the YPLA operates within the limits of its statutory authority and any delegated authority agreed with DCSF, and in accordance with any other conditions relating to the use of public funds;
- ensuring that, in reaching decisions, the YPLA has taken into account any guidance issued by the DCSF;
- ensuring that the YPLA has specific responsibility for sustainable development and operates within the framework of the Sustainable Development Strategy;
- ensuring that the YPLA operates sound environmental policies in its operations through a strategy, which should be based on the “Model Policy Statement for Greening Government Operations” and its sister document, the “Model Improvement Programme for Greening Operations.”

### **Strategic planning and control**

2 One of the main tasks of the board members and observers of the YPLA will be to oversee the production of the YPLA’s Annual Plan. The process of preparing such a document provides an opportunity for agreeing, with the DCSF, the policy and resources framework within which the YPLA will discharge its duties; and for determining its key strategic objectives and targets. The YPLA will have overall responsibility for ensuring that there is an effective system of internal control in line with the Combined Code of Corporate Governance and the guidance on the combined code produced by the Turnbull working party.

## **Delegation**

3 The YPLA will from time to time delegate responsibility for specific matters to a YPLA committee, the Chair or the Chief Executive.

4 As YPLA members and observers serve on a part-time basis, responsibility for day-to-day management matters should be delegated to the executive so far as is practicable, with a clearly understood framework of strategic control.

5 The YPLA will not normally delegate responsibility for setting corporate strategy, deciding key objectives and targets or making major decisions on the use of financial and other resources.

6 In order to ensure that such authority is properly used, any delegation of authority will be formally agreed by the YPLA and recorded in the minutes of the relevant meeting.

7 The YPLA will receive regular reports on the activities and conclusions of any committees it has established.

## **Openness and responsiveness**

8 The YPLA and its staff should conduct all their dealings with the public in an open and responsible way and ensure full compliance with the Freedom of Information Act. The YPLA must make publicly available annual reports. The YPLA should seek to follow best practice in making available information to the public, particularly through the world-wide-web, and co-operate with other bodies, to place relevant information in the public domain. The YPLA should consult its users on a wide range of issues by means of questionnaires, public meetings, or other forms of consultation, proportionate to its size and resources. The YPLA should adhere to the nine principles of public service delivery.

9 The YPLA should ensure it can demonstrate to the public that it is using resources to good effect, with propriety, and without grounds for criticism that public funds are being used for private, partisan or party political purposes. It will need to act consistently with the nature of the YPLA's business and the possible need for confidentiality on commercial or other grounds, always subject to the rights of Parliament and the Comptroller and Auditor General to obtain information.

10 The YPLA intends that its administrative decisions should be open to examination. It will put in place arrangements for considering complaints about its administration.

## **Accountability for public funds**

11 The YPLA has responsibility for ensuring that public funds are properly safeguarded and that at all times the YPLA conducts its operations as economically, efficiently and effectively as possible with full regard to the relevant statutory provisions and to relevant guidance in Government Accounting. The YPLA must ensure that any conditions subject to which a grant is made to the YPLA by the Secretary of State are complied with and members are collectively responsible for ensuring that the YPLA does not exceed its powers or functions in respect of the expenditure of public funds.

12 The YPLA is responsible for ensuring that it does not exceed its powers or functions, whether defined in statute or otherwise, or through any limitations on its authority to incur expenditure. The YPLA will be advised on these matters by the YPLA's Chief Executive and its Legal adviser.

13 The Chief Executive of the YPLA is designated as accounting officer for the funds spent by the YPLA. The accounting officer is responsible to the principal accounting officer of the DCSF and to Parliament for ensuring the proper application of funds and accounting for them in the YPLA's annual accounts. Parliament exercises scrutiny of those accounts through its Public Accounts Committee supported by the National Audit Office, which acts as the YPLA's external auditor. The YPLA's accounts are laid before Parliament and are published in the YPLA's annual report. The Chief Executive may be called to appear before the Public Accounts Committee to give evidence as to the use of funds, or any other parliamentary select committee, to explain the YPLA's work.

14 On financial matters, the YPLA is required to operate within the terms of a financial memorandum between the YPLA and the DCSF, which specifies the terms on which it receives and may spend funds provided by the Secretary of State.

15 To ensure that the financial implications of the YPLA's decisions are clear, the YPLA requires that any report recommending a decision by the YPLA or any of its committees with delegated authority, set out clearly the financial implications of that decision.

16 To ensure that the YPLA's responsibilities for the use of public funds are discharged without impropriety or misuse, the YPLA will put in place financial regulations governing the proper control of its payments to local authorities and providers of post-16 education and training which it funds directly and the use of its administrative budget.

17 The YPLA's approach to the allocation of financial resources to local authorities and providers will be to ensure fair and open methods of allocation. The YPLA may attach conditions to the use of its funds.

18 In respect of the YPLA's expenditure on supplies and services, the YPLA will ensure that arrangements for securing value for money and competition are in place. In particular, the YPLA will ensure that, should a firm in which a YPLA or committee member has a material interest, tender for the supply of goods or services to the YPLA, that member will not be involved in the development of the tender specification or in the consideration or award of any tender. In such cases the YPLA will ensure that the selection panel convened to decide on the award of a tender will include at least one person independent of the YPLA who will have no material interest in the development of a tender or the outcome of the decision. In all such cases, whoever chairs the selection panel will declare to the panel the nature of the member's interest in the firm.

19 Following the award of any such tender to a firm in which the member has an interest, a report will be made to the YPLA or relevant committee member detailing the process by which the tender was awarded. The member involved will be required to withdraw during any discussion of such a report.

### ***Annual report and accounts***

20 The YPLA is required by the Act to keep proper records in relation to the accounts and prepare an annual report and statement of accounts for each financial year. The annual report and accounts will be prepared in accordance with the accounts direction issued by the Secretary of State and such other guidance as may be issued from time-to-time by the DCSF and the Treasury.

21 The YPLA will send a copy of its annual report to the Secretary of State and to each provider in receipt of its funds, all members of parliament and all regional authorities and bodies with an interest in further education. In addition the report will be provided to all main public libraries in England.

22 The YPLA will need to establish an audit and risk management committee that must be chaired by a member of the YPLA (other than the Chair of the YPLA) who has experience of financial matters. The membership of the committee will be drawn primarily from the members and/or observers of the YPLA but must include at least one external member. Membership may not include the Chief Executive. The role of the audit and risk management committee is to help promote the highest standards of propriety in the use of public funds and to encourage proper accountability for the use of those funds and to ensure the YPLA has in place an effective system of internal control.

## **Responsibilities**

### ***Local Authorities and other organisations funded by the YPLA***

23 The YPLA intends that in all its dealings with the Local Authorities and other organisations to which it provides financial resources it should operate:

- openly

- fairly
- where practical and appropriate, after consultation on significant matters.

24 The YPLA accepts an obligation to organisation to inform local authorities at appropriate times of its policies and requirements in relation to the provision of financial resources and to offer further explanation on request. It also accepts an obligation after it has taken decisions to publish the reasons for the decisions and, in the case of major decisions on the provision of financial resources, the processes by which decisions were reached.

### ***Learners***

25 While learners' main relationships are with individual providers of their education and training, the YPLA accepts an obligation to:

- exercise its functions, including its powers on the provision of financial resources, so as to encourage providers to provide education and training suitable to learners' needs, which will support learners in achieving their potential and the qualifications and employment goals for which they are aiming
- publish information on the quality of teaching, learning and training
- require local authorities to monitor the financial health of providers and to require providers to have in place appropriate systems and procedures for their management

### ***Employees***

26 The YPLA will employ sufficient staff to carry out its functions. The YPLA must ensure that in relation to its staff it complies with all relevant legislation and it must ensure equality of opportunity in relation to recruitment, training and progression.

27 Staff should be suitably qualified and be able to discharge their responsibilities in accordance with the high standards expected of staff employed by the YPLA.

28 The YPLA should adopt management practices that use resources in the most economic, efficient and effective manner.

29 The YPLA's procedures for recruitment and management of staff should demonstrate that appointment and promotion is on merit ensuring equality of opportunity for all staff. In filling senior appointments the YPLA should satisfy itself that an adequate field of qualified candidates is considered.

30 The YPLA should ensure that its staff have appropriate access to expert advice and training opportunities to enable them to exercise their responsibilities effectively.

### **Others**

31 As a public body, the YPLA accepts an obligation to the public and to people and bodies with an interest in post-16 education and training to work for the advancement of post-16 education and training in England in order to respond to the needs of the community regionally and nationally, including the needs of employers. The YPLA also has an obligation to account for its stewardship of public funds. In particular, the YPLA will:

- publish in its annual report details of its activities and its use of public funds
- ensure that value for money is a key criterion in all its spending decisions
- publish information on the quality of post-16 education and training provided
- respond to requests for information about the YPLA's business
- consider complaints made about its administration.

## THE ROLE OF THE CHAIRMAN

1 The Chairman has particular responsibility for providing effective strategic leadership on matters such as:

- formulating the YPLA's strategy for discharging its statutory duties
- encouraging high standards of propriety and promoting the efficient and effective use of staff and other resources throughout the organisation
- ensuring that the YPLA, in reaching decisions, takes proper account of guidance provided by the Secretary of State
- representing the views of the YPLA to the general public
- providing an assessment of performance of individual YPLA members on an annual basis and/or on request, when they are being considered for re-appointment to the YPLA or for appointment to the board of some other public body.

2 The Chairman should ensure that the YPLA meets at regular intervals throughout the year and that the minutes of meetings accurately record the decisions taken and, where appropriate, the views of individual board members and observers.

3 Formal communications between the YPLA and the Secretary of State will normally be through the Chairman except where the YPLA has agreed that an individual member should act on its behalf. Where a member of the YPLA wishes to raise formally with the Secretary of State a particular matter relating to their membership of the YPLA they will inform the Chairman. The main point of contact between the YPLA and the DCSF on day-to-day matters will normally be the Chief Executive or another member of staff who is authorised to act on behalf of the YPLA.

4 The Chairman should ensure that all members of the YPLA, when taking up office, are fully briefed on the terms of their appointment and on their duties, rights and responsibilities. The Chairman and other members of the YPLA should each have access to a copy of the Code of Practice for YPLA members; other relevant background material such as the body's Management Statement and Financial Memorandum; its latest Annual Plan and Annual Reports and Accounts; the Treasury's memorandum, "The Responsibilities of a NDPB Accounting Officer"; the Treasury's handbook, "Regularity and Propriety"; notes describing the YPLA's organisational structure and statutory basis of operation; and the rules and procedures of the YPLA. The Chairman should arrange appropriate induction for new members or observers.

# **CODE OF INDIVIDUAL CONDUCT FOR YPLA AND YPLA COMMITTEE MEMBERS AND OBSERVERS**

## **INTRODUCTION**

1 This Code describes the responsibilities of members and observers of the YPLA and its committees, joint committees and sub-committees (YPLA committees) and YPLA Advisers in relation to their individual conduct.

2 The Code also governs arrangements for the registration and declaration of interests by members of the YPLA and YPLA committees. 'Members' or 'observers' in the context of this code refers to members and observers of the YPLA and YPLA committees. This Code also applies to anyone who assists the YPLA in an advisory capacity.

3 The seven principles of public life, set out in annex A, shall guide the conduct of YPLA members and observers, and in particular:

- YPLA members and observers should act with integrity
- in dealing with public funds, YPLA members and observers should set and abide by the highest standards of propriety.

## **RESPONSIBILITIES AND CONDUCT OF INDIVIDUAL MEMBERS AND OBSERVERS**

1 Individual members and observers should at all times act with an awareness of their wider responsibilities as representatives of the YPLA. They should at all times:

- comply with this code
- act in good faith and in the best interests of the YPLA
- act fully in accordance with the normal principles of financial accountability
- use reasonable care and skill in fulfilling their role.

2 Members and observers should not:

- act in a way which will bring the YPLA into disrepute
- use information gained in the course of their public service for personal gain
- use the opportunity of public service to promote their private interests.

3 As a general guide, members and observers should not take any action that cannot be publicly explained.

## **LIABILITY OF YPLA MEMBERS**

1 Although any legal proceedings initiated by a third party are likely to be brought against the YPLA as a corporate body, in exceptional cases proceedings may be brought against the Chairman or other individual members. For example, a member may be personally liable if he or she were to make a fraudulent or negligent statement, which resulted in loss to a third party. A member who misuses information gained by virtue of his or her position may be liable for breach of confidence under common law or under insider dealing legislation. Members who act honestly, reasonably and in good faith should not normally incur any liability in an individual capacity.

2 The government has indicated that an individual member who has acted honestly, reasonably, in good faith and without negligence will not have to meet out of his or her own personal resources any personal civil liability which is incurred in execution or purported execution of his or her YPLA function.

3 The Secretary of State may remove an individual YPLA member from office if he or she has been absent from meetings of the YPLA for a period longer than 6 consecutive months without the YPLA's permission or is unable or unfit to carry out the functions of a member.

4 The YPLA may by notice in writing remove a member or observer of a YPLA committee if he or she has been absent from meetings of the YPLA committee for a period longer than 6 consecutive months without the YPLA's permission or is unable or unfit to carry out the functions of a member.

## **REGISTRATION AND DECLARATION OF INTERESTS**

### **Register of interests**

1 Those with responsibility for decisions, particularly those concerning money, should ensure that they distance themselves from any possibility of a conflict of interest between their personal interests and public responsibilities. The Head of Legal and Governance maintains registers of the financial and other relevant interests of members. These are available for inspection at the YPLA's Coventry office. Those wishing to inspect the National YPLA's registers may do so at the YPLA's Coventry office between 09.00 and 17.00 on normal working days. The registers are updated once a year.

2 YPLA members and observers should record relevant interests as soon as is reasonably practicable after the interest arises. Interests that should be recorded are direct or indirect pecuniary interests that members of the public might

think could influence a member's judgement. Members and observers should also register non-pecuniary interests that relate closely to the YPLA's activities, and interests of close family members and persons living in the same household.

3 Examples of interests that should be registered include:

- remunerated directorships
- remunerated employment, office, profession or other activity or other connections with a body which receives funds from the YPLA
- clients connected with the further education sector or other aspects of the YPLA's business
- employment or other connection with a local education authority
- employment or other connection with any firm which offers services to or supplies institutions funded by the YPLA
- gifts and hospitality of a significant value arising from membership of the YPLA that is over the financial limits set out in the rules on the registration and declaration of financial interests applying to members of the House of Commons
- significant shareholdings in a public company which have a nominal value greater than £25,000, or less than £25,000 but greater than 1% of the issued share capital of the company; and similar shareholdings in a private company or body which may give rise to a conflict of interest
- public activity in support of a political party within the previous five years
- miscellaneous, for example unremunerated posts, honorary positions and other connections which may give rise to a conflict of interest or of trust
- any other interest which may give rise to a conflict of interest or trust. Members are invited to record relevant and known interests held by their spouse, partner or close family.

## **Declarations of Interest**

### ***Formal business***

4 Any member or observer who has a clear and substantial interest in a matter under consideration by the YPLA or YPLA committee as appropriate should

declare that interest at any meeting where that matter is to be discussed, whether or not that interest is already recorded in the register of interests. Such declarations should make clear the interest and whether it carries either direct or indirect pecuniary interest to the individual.

5 Where such an interest constitutes a direct or indirect pecuniary interest, the member or observer involved should withdraw from any meeting and not speak, participate in or otherwise seek to influence any decision taken by the YPLA or YPLA committee relating to the matter under discussion.

6 Members and observers who are also governors, principals or other employees of bodies which receive funds from the YPLA may participate in general discussions and decisions regarding such bodies but should withdraw and not participate in any discussion or decision which relates principally to the particular institution with which they are associated.

7 Where a member or observer has an interest that is not financial but which is relevant to the YPLA's business, that interest should be declared. Where the interest is substantial, the member or observer involved should withdraw from discussions and decisions relating to that interest. Where an interest arises from membership of a public body and where there is no financial interest, full participation in the discussion and decision is permitted.

8 In all circumstances members and observers should ask themselves whether members of the public, knowing the facts of the situation, would reasonably conclude that the interest involved might influence the approach taken or the YPLA's actions. If so, the interest is sufficient for the member or observer to withdraw.

9 Observers of the YPLA or its committees will not be able to vote on any issue which is taken to a formal vote by the Chair.

### ***Membership of committees***

10 Members or observers should not agree to participate in committees or working groups of the YPLA where there is a clear possibility that a conflict of interest will regularly arise.

### ***Informal and other business***

11 Members and observers should apply the same standards regarding the declaration of interests and non-involvement in relevant business in their dealings with members of the YPLA's staff in informal meetings of YPLA and informal dealings with other parties related to the YPLA's functions.

## ***Gifts and hospitality***

12 Members and observers should treat with caution any offer or gift, favour or hospitality arising from their association with the YPLA. In general, meals may be accepted provided that they are working occasions and the apparent costs of the hospitality are reasonable. Attendance at social events and occasions where the invitation is clearly made because of the connection with the YPLA is also acceptable although members should not accept lavish hospitality. Care should be taken not to accept hospitality from the same organisation too often or without reciprocal hospitality where appropriate; for example, if there is a need for a follow-up meeting or lunch this should be provided by the YPLA and not by the other party.

13 All gifts beyond the limits set from time-to-time under the arrangements for the register of interests at paragraph 10 of this code should be reported to the Chief Executive or the Head of Legal and Governance as appropriate. Where it is not possible to refuse the gift without giving offence, the gift should be accepted on behalf of the YPLA and either surrendered to the YPLA (that is, not kept for personal use) or bought from the YPLA at full value.

## **RESOLUTION OF DIFFICULTIES**

1 Advice on complying with this code can be obtained from the Head of Legal and Governance. If a member has a difficulty in complying with this code or believes that the YPLA is proposing to act improperly, he or she should raise the issue with the Chair of the YPLA who will advise on its resolution. If members remain concerned they may seek guidance from the Secretary of State.

## **MISCONDUCT BY MEMBERS AND OBSERVERS**

1 The Secretary of State may remove a member of the YPLA if he is satisfied that the member has been absent from meetings of the YPLA for a period longer than 6 consecutive months without the YPLA's permission or is unable or unfit to carry out the functions of a member. The YPLA may remove observers of the YPLA and members and observers of YPLA committees on the same grounds.

2 Where a member or observer of the YPLA or YPLA committee faces a serious allegation that they have failed to comply with the Code of Corporate Responsibility of the Code of Conduct or any other allegation of misconduct which if established would render them unfit to carry out the functions of a member, the YPLA or YPLA Committee. The YPLA may resolve that the member or observer should stand down for a period necessary to enable the Secretary of State or the YPLA to be satisfied as to whether removal from the YPLA or YPLA committee is justified.

3 Where the Chairman of the YPLA faces allegations of misconduct the YPLA may resolve to refer the matter to the Secretary of State to investigate such allegations.

# **ROLE OF OBSERVERS AT MEETINGS OF THE YPLA**

## **BACKGROUND**

1 The YPLA may invite representatives of partners or stakeholders to its meeting or meeting of YPLA committees as observers.

2 The Secretary of State and or a representative of the Secretary of State has the right to attend meetings of the YPLA and YPLA committees. The YPLA should provide these people with all the information relating to the meeting that have been distributed to members and is likely to be needed by the person in order to take part in the meeting.

## **OBSERVERS' ROLE AND POWERS**

3 As indicated in previous sections of this guidance, observers should aim to operate to the same high standards of propriety and public service values as members of the YPLA.

4 Observers will be expected to make a full contribution to discussions at Board meetings of the YPLA and might be asked to lead from time to time in advising the Board on particular issues and to take part in committees

5 Observers will be asked in particular to:

- help promote collaborative, constructive partnership between the stakeholders they represent and the YPLA
- advise the Board/committee on their stakeholders' priorities and perspectives and areas of concern and
- contribute more generally to discussions, including providing challenge, to help Board/committee reach the best possible judgements.

6 Observers attend and address meetings with the agreement of the Chair but do not have any voting rights.

## **THE SEVEN PRINCIPLES OF PUBLIC LIFE**

### **Selflessness**

Holders of public office and staff employed by the YPLA should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

### **Integrity**

Holders of public office and staff employed by the YPLA should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their duties.

### **Objectivity**

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office and staff employed by the YPLA should make choices on merit.

### **Accountability**

Holders of public office and staff employed by the YPLA are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate.

### **Openness**

Holders of public office and staff employed by the YPLA should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands it.

### **Honesty**

Holders of public office and staff employed by the YPLA have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising, in a way that protects the public interest.

### **Leadership**

Holders of public office and staff employed by the YPLA should promote and support these principles by leadership and example.

## ANNEX B

### Sources of Further information

Note: If members or observers need help to access any of these sources or have any queries on them, please contact Cathy Robinson, the YPLA Head of Legal and Governance (024 7682 3561).

- 1 The Apprenticeships Skills, Children and Learning Act 2009.
- 2 Freedom of Information Act.
- 3 YPLA Framework Document including Management Statement and Protocol.
- 4 YPLA Financial Memorandum.
- 5 The Combined Code on Corporate Governance (Cadbury, Ruttman and Hampel Committees) and The Combined Code: A Practice Guide-The Turnbull Working Party.

## APPENDIX F

### INITIAL DELEGATION OF FUNCTIONS FROM THE YPLA TO THE CHIEF EXECUTIVE

Functions delegated by the YPLA to the Chief Executive	Terms of delegation
Authority to agree the provision of funding	In accordance with any directions or conditions given by the Secretary of State
Authority to determine funding rates	
Authority to determine conditions funding	
Authority to carry out means tests or arrange for means tests to be carried to be used for determining whether to provide financial resources to persons participating or proposing to participate in education and training	
Authority to secure the provision of education and training	
Authority to issue guidance about any matter in respect of which the YPLA has a function	
Authority to develop and implement process for the assessment of the performance of persons providing post-16 education and training	
Authority to make arrangements for the provision of services by the YPLA	
Authority to determine research to be carried out	
Authority to establish the systems for collecting information to support the exercise of the YPLA's functions	
Authority to secure the provision of information advice and guidance about education training and connected matters.	
Acquisition and disposal of land and other property	
Entering into contracts and agreements for the provision of goods and services to the YPLA	
Investment of sums not immediately required for the purpose of exercising the YPLA's other functions	
Make arrangement for the provision of financial resources by another person or by persons jointly.	
Seeking the consent of the Secretary of State to lend money	
Seeking consent of the Secretary of State to	

participate in companies	
Authority to determine the organisation structure including number and grades of staff	Subject to endorsement by the YPLA
Authority to determine conditions of employment	Subject to approval by the Secretary of State
Authority to appoint and dismiss staff	
Authority to authenticate the YPLA's seal	
Authority to commence and defend legal proceedings on behalf of the YPLA	
Writing off sums owed to the YPLA	Subject to the terms of the Financial Memorandum with the Department

Notes:

It will be the responsibility of the Chief Executive to agree a course of action with the Chair on any questions which raise novel or contentious issues. The Chief Executive will also report to each Board meeting on the exercise of his delegated functions, drawing attention to any such novel or contentious issues.

## APPENDIX G

### Information Security Classification

a) Public – Information that has been declared public knowledge by someone with the authority to do so, or is already within the public domain and can freely be given to anyone without any possible damage to the YPLA or its partners.

b) Unclassified – Information that relates to the majority of information produced or used by the YPLA for the purpose of carrying out its internal business processes. This information is normally accessible by all YPLA employees. The ability to change this classification may be restricted and it should only be disclosed outside the YPLA with permission of the responsible data owner or in line with relevant legislation.

c) Protected – Information that is sensitive and should only be accessible to those with explicit permission to access it. Information should only be classified as protected where it would be likely to:

- Cause substantial distress to individuals
- Breach statutory restrictions on the disclosure of information (e.g. Data Protection Act)
- Breach proper undertakings to maintain the confidence of information provided by third parties
- Cause financial loss to or facilitate improper gain for the YPLA or third parties
- Prejudice the investigation of facilitate the commission of a crime
- Disadvantage the YPLA in commercial or policy negotiations with others.

# LEGAL FRAMEWORK FOR YPLA

## INTRODUCTION

1 This paper describes the broad legal framework under which the Young People's Learning Agency (the YPLA) operates and its main duties and powers set out in the Apprenticeships, Skills, Children and Learning Act 2009 (the Act).

## STATUS

2 The YPLA is a statutory non-departmental body (NDPB) established by the Act. NDPBs have generally been set up either to advise government or to undertake executive functions at arms length from ministers. The YPLA falls into the latter category. The creation or abolition of an executive NDPB like the YPLA requires primary legislation. The fact that the YPLA is a creature of statute means that it can only do those things which the Act provides it can do

## STATUTORY RELATIONSHIP WITH THE SECRETARY OF STATE

3 Statutory NDPBs are neither civil service departments nor extensions of a government department. The YPLA is accountable to Parliament. Under the Act the Secretary of State appoints and may remove the members of the YPLA and has powers to direct that the YPLA takes certain actions.

4 The Council must have between 10 and 16 members and one of the members is appointed to chair the YPLA by the Secretary of State. The Chief Executive is also a member of the YPLA. In appointing members the Secretary of State must have regard to appointing a person who has experience relevant to the YPLA's functions including any functions conferred on the YPLA under Academy arrangements.

5 The Act provides that the Secretary of State may give directions to the YPLA. Such directions may contain objectives, which the YPLA should achieve in seeking to carry out its functions and the time limits within which the YPLA should achieve the objectives. Directions can also include provisions relating to the management of the YPLA.

6 Where the Secretary of State is satisfied that the YPLA has failed to discharge a duty imposed by or under any Act or has acted or is proposing to act unreasonably with respect to the exercise of any of its functions under any Act, the Secretary of State may give other directions as to the performance of the YPLA's functions.

7 Under the Act the YPLA derives its financial resources from grants made to it by the Secretary of State who may attach such conditions to the grant as he thinks appropriate.

8 The Secretary of State may also give guidance to which the YPLA must have regard in performing its functions. In particular the guidance can include guidance about consultation the YPLA should carry out with learner or employers.

9. The Secretary of State can confer supplementary functions on the YPLA.

## **JUDICIAL CONTROL**

10 The actions of the YPLA can be subject to review by the courts if it acts unlawfully. The YPLA's actions could be challenged on a number of grounds. Firstly, if the YPLA acts outside the powers and duties provided for in the Act, it would be said to be acting ultra vires and therefore unlawfully. Secondly, if the YPLA fails to carry out a statutory duty, the courts can enforce the performance of that duty by order of mandamus. Although the courts are reluctant to interfere with the exercise of discretionary power, the courts will set aside a decision where the YPLA has acted unreasonably and has failed to take account of relevant factors and taken account of irrelevant considerations in reaching a decision.

## **LEGAL DUTIES**

11 The duties of the YPLA are those things, which the Act provides it, must do.

### ***Duty to provide financial resources***

12 The YPLA is required by the Act to secure the provision of financial resources to -

- persons providing or proposing to provide suitable education and training to persons who are over compulsory school age but under 19 or who are aged 19 or over but under 25 and are subject to learning difficulty assessment;
- persons providing or proposing to provide suitable education to children subject to youth detention;
- local education authorities for the purposes of their functions in relation to education and training in relation to the persons above.

13 The YPLA must also secure the provision of financial resources in accordance with any directions given to it by the Secretary of State

14 In performing this duty the YPLA must make the best use of its resources.

### **Prohibition on charging**

15 The YPLA must exercise its funding functions so as to secure (so far as practicable) that no charge is made in relation to the provision of education or training suitable to the requirements of persons over compulsory school age but under 19 which it funds.

### **Guidance to local education authorities**

16 The YPLA must issue guidance to local education authorities about the performance of the duties imposed on them under the Act. Local education authorities must have regard to any such guidance in performing those duties. Before issuing the guidance the YPLA must consult local education authorities in England and other such persons as it thinks appropriate.

### ***Provision of information to the Secretary of State***

17 The YPLA must provide the Secretary of State with such information or advice as he requests about such matters relating to its functions.

### **Collection of information**

18 The YPLA must establish systems for collecting information which are designed to secure that its decisions with regard to education and training are made on a sound basis.

### ***Statutory plan***

19 The Act requires the YPLA to make and publish a plan for each academic year. The plan must be published before the start of the academic year. The plan for the academic year must include the YPLA's proposals as to how it intends to achieve in that year any objectives for the year set out in directions or grant conditions given by the Secretary of State. The plan must also include the YPLA's proposals to use its grant funding for the year.

### **Annual Report and Accounts**

20 As soon as reasonably practicable after the end of each reporting period, the YPLA must prepare an annual report for the period. The reporting period means the period specified by the Secretary of State in a direction given to the YPLA and each successive period of 12 months. The annual report must state how the YPLA has performed its functions in the reporting period. The YPLA must send a copy of each annual report to the Secretary of State. In addition the YPLA must keep proper accounts and prepare annual accounts in respect of each financial year.

## LEGAL POWERS

21 The powers of the YPLA are those things which it may do. The YPLA's powers must be exercised reasonably and in accordance with the provisions of the Act.

### ***Provision of financial resources***

22 The YPLA also has powers to provide financial resources to -

- persons providing or proposing to provide education or training to persons who are of or under compulsory school age;
- persons providing or proposing to provide education or training to persons aged 19 or over in respect of education or training begun by them before reaching the age of 19;
- local education authorities for the purposes of their functions in relation to the persons set out above;
- persons of any age for purpose related to enabling or facilitating or encouraging their participation in education or training
- persons providing or proposing to provide goods or services in connection with the provision by others of post-16 education or training;
- persons undertaking or proposing to undertake research relating to education or training;
- persons providing or proposing to provide work experience for persons receiving education;
- persons carrying out means tests;
- persons providing information, advice or guidance about education or training or connected matters;

23 The YPLA may secure the provision of financial resources by providing resources itself; making arrangements for the provision of resources by another person or by making arrangements for the provision of resources by persons jointly which may include the YPLA. The YPLA may secure provision of financial resources by reference to any fees or charges payable by the person receiving education or training or any other matter (such as transport or childcare).

### **Conditions of Funding**

24 Where the YPLA provides financial resources itself to a person it may impose conditions. These conditions can include allowing the YPLA access to accounts and documents and computers and other information which the YPLA requires. The YPLA can also impose conditions requiring a person to whom it provides funds to make arrangements for such things as charging fees and recovering amounts from recipients of education and training. .

25 The YPLA can also impose conditions requiring repayment of sums paid by it if any of the conditions which it has imposed have not been complied with.

### **Other functions**

26 The YPLA has powers to carry out the following functions-

- the development of schemes for the assessment of the performance of persons providing post-16 education and training and may take into account such assessment deciding on the provision of financial resources;
- the carrying out of means tests or arranging for other persons to carry out means tests the results of which the YPLA can take into account when securing the provision of financial resources to persons receiving post-16 education or training;
- provide services and assistance to certain permitted recipients which include the Chief Executive of Skills Funding and the Secretary of State;
- the carrying out of research relating to any matter relevant to its functions;
- issue guidance about any matter in respect of which it has a function;
- appoint staff on conditions determined by the YPLA but subject to the approval of the Secretary of State.

### ***Supplementary Powers***

27 The Act provides that the YPLA may do anything that it considers necessary or appropriate for the purposes of, or in connection with the exercise of its functions.

28 It should be noted that the YPLA has no power to borrow money, nor can it lend money or participate in a company or a charitable incorporated organisation unless the Secretary of State consents.

### **Powers of intervention**

29 The YPLA give directions to a local authority if it is satisfied that a local authority is failing or likely to fail to perform its duties under the Act.

30. The YPLA has powers to intervene in sixth form college corporations if it proposes to secure the provision of education or training at the college and it is satisfied that the affairs of the corporation are being mismanaged or the corporation has failed to discharge a statutory duty or the corporation has acted or is proposing to act unreasonably, or it is performing significantly less well than it might reasonably be expected to perform.

31. The YPLA is required to prepare and publish a statement of its policy in respect of the exercise of these powers.

### **Delegation of functions**

32. All the functions are vested in the YPLA, the Act sets out the framework for the YPLA to delegate its functions. The YPLA may delegate its functions to committees or joint committees which it establishes. These committees and joint committees can establish sub-committees and delegate their functions to the sub-committee subject to any directions given by the YPLA. The YPLA can also delegate its functions to the Chair and the Chief Executive. The Chief Executive can delegate his functions to individual employees of the YPLA and the Chair to other members of the YPLA.

### **ACADEMY FUNCTIONS**

33. The Secretary of State may require the YPLA to exercise certain specified functions in relation to Academies on the Secretary of State's behalf. The Secretary of State may make grants to the YPLA for the purpose of any functions he requires the YPLA to carry out. In carrying out Academy functions the YPLA is acting on behalf of the Secretary of State rather than exercising functions vested in it.

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<b>Date created</b>	8 April 2010
<b>Publication no.</b>	
<b>Document ref.</b>	G:\YPLA\6-Corporate Services\Governance & Records Management\Governance\YPLA Board\2010\1. 20-21 April\Papers\YPLA-youngpeopleslearningagencyconductofbusinessandprocedures-publicpaper-08apr2010.doc
<b>Version</b>	