

Cabinet  
Council

23<sup>rd</sup> February 2010  
23<sup>rd</sup> February 2010

**Name of Cabinet Member:**

Cabinet Member (Children's Services) - Councillor Blundell

**Director approving submission of the report:**

Director of Children, Learning and Young People

**Ward(s) affected:**

All

**Title:**

Transfer of responsibilities from the Learning Skills Council (LSC) to the Local Authority on April 1st 2010

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**Is this a key decision?**

Yes

The Cabinet needs to ensure that appropriate arrangements will be made to assume financial responsibility for the £39 million 16-19 budget when it is transferred from the LSC to the LA on April 1<sup>st</sup> 2010. The Cabinet also needs to endorse the arrangements for carrying out the Local Authority's new legal responsibilities from that date, including approving the proposed joint Partnership Board arrangements with Warwickshire.

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**Executive summary:**

The purpose of this report is to seek approval from the Cabinet in relation to the proposals to manage the transfer of responsibility from the Learning Skills Council (LSC) to the Local Authority on April 1<sup>st</sup> 2010.

**Recommendations:**

The Cabinet are asked to recommend that Council:

- 1) Agree to the creation of a Joint Partnership Board with Warwickshire, as outlined in section 2.2 of this report.

- 2) Agree to take responsibility for financial and audit requirements outlined in section 5.1. This includes taking responsibility from April 1<sup>st</sup> 2010 for LSC contracts totalling just over £39 million.
- 3) Endorse the proposal outlined in section 5.2 to carry out the new legal responsibilities stated in the 2009 Apprenticeship, Skills, Children and Learning (ASCL) Act.
- 4) Approve the arrangements outlined in section 6.3 to complete the transfer of LSC staff to the LA from April 2010 within the Department for Children, Schools and Families (DCSF) funded transfer budget of £349,797.
- 5) Endorse the six key priorities outlined in section 6.

**List of Appendices included:**

- Appendix 1 - Coventry and Warwickshire 14-19 Sub-regional Partnership Board – Proposed terms of reference
- Appendix 2 - Young People's Learning Division briefing note on the handover of financial arrangements for 16-19 funding on 1 April 2010
- Appendix 3 - DCSF note summarising the terms of the LSC /LA transfer grant

**Other useful background papers:**

- The draft National Commissioning Framework  
<http://publications.dcsf.gov.uk/default.aspx?PageFunction=productdetails&PageMode=publications&ProductId=DCSF-00933-2009&>
- Unified post-16 performance assessment – school sixth form and LA pilot guide  
[http://readingroom.lsc.gov.uk/lsc/National/SchoolsLA\\_Pilot\\_GuideV2-final1.pdf](http://readingroom.lsc.gov.uk/lsc/National/SchoolsLA_Pilot_GuideV2-final1.pdf)
- LSC – West Midlands regional strategic analysis 2009 – Young people  
<http://readingroom.lsc.gov.uk/lsc/WestMidlands/wmr-strategicanalysisyoungpeople-aug09.pdf>
- LSC – 16-19 Statement of Priorities and Investment Strategy 2010-2011  
<http://readingroom.lsc.gov.uk/lsc/National/nat-statementofpriorities-jan10.pdf>

**Has it or will it be considered by scrutiny?**

No

**Has it, or will it be considered by any other council committee, advisory panel or other body?**

Yes - The paper will be considered by a future meeting of the 14-25 Partnership

**Will this report go to Council?**

Yes, 23<sup>rd</sup> February 2010

**Report title:**

**Transfer of responsibility from the Learning Skills Council (LSC) to the Local Authority on April 1st 2010**

**1. Context**

- 1.1 From April 2010, responsibility for securing sufficient education and training provision for all young people, including those aged 16-19 and 19-25 year olds with learning difficulties/disabilities, as well as juveniles in custody, will pass from the LSC to local authorities. From April 1st, the Local Authority will become the commissioner of services from schools, colleges and other post 16 providers in order to deliver learning opportunities that equip young people with the skills that are relevant to the 21<sup>st</sup> century economy and environment.
- 1.2 In order to support local authorities and other key agencies to carry out their respective roles the government is currently consulting about a National Commissioning Framework. This outlines the responsibilities of local authorities, the Young People's Learning Agency (YPLA) the Skills Funding Agency (SFA) and Government Regional Offices. It also indicates how local authorities will participate in sub-regional and regional planning groups and it has been agreed locally that Coventry will join with Warwickshire to establish a sub-regional group.
- 1.3 Both Coventry and Warwickshire local authorities have kept head teachers and college principals up-to-date with developments through already scheduled network meetings. Coventry and Warwickshire LA 14-19 officers have a long history of working collaboratively in order to develop support packages and implementation processes to assist schools, colleges and training providers to deliver the 14-19 Reform agenda.

**2. Options considered and recommended proposal**

- 2.1 The Cabinet need to determine the appropriate terms of reference for the joint sub-regional Partnership Board. Two options have been considered:
  - a) The first involves the creation of a series of formal sub-regional decision taking structures involving regular meetings between the Cabinet Members of the two Local Authorities.
  - b) The second involves keeping the formal decision making structures with the respective authorities and creating a joint advisory officer group that will make recommendations to their respective Cabinet Members.
- 2.2 The recommended terms of reference are outlined in Appendix 1, which is based on option b) above. This option is being recommended because, given that the legal, financial and quality assurance responsibilities will remain with the separate councils, it is felt to be more appropriate that the formal decision making structures should remain with the two Councils. It is therefore proposed to delegate to officers in the Children, Learning and Young People's Directorate the authority to represent the Council on the joint Partnership Board with Warwickshire, on the basis this is the best approach to supporting elected member decisions on the effective delivery of the services where member approval is required.

### 3. Results of consultation undertaken

- 3.1 Widespread initial consultations about the DCSF 16-19 transfer arrangements and the implications of the ASCL act have taken place with the members of 14-25 Partnership, college principals, college governors, secondary heads, training providers, the Connexions Service and elected members of all parties. These consultations have been supportive of the Local Authority's proposed approach. There have also been specific consultations with the staff that are affected by the transfer and their respective trade unions. These staff members have indicated that they are currently very positive about the Local Authority's proposed arrangements.

### 4. Timetable for implementing this decision

- 4.1 The draft National Commissioning Framework has established the expectations relating to the next three 16-19 commissioning cycles. These are:
- a) **The 2009/10 cycle:** Local authorities will become responsible for the final five months of the 2009/10 academic year, that is, for the period April 2010 to August 2010, particularly for payments of participation funding to colleges, schools, and other providers, with the exception of Young Offender Institutions. By the end of January 2009, the LSC will have informed local authorities of the arrangements needed to make these payments and by the end of March 2010 will have transferred contractual responsibilities to local authorities for private and third sector providers.
  - b) **The 2010/11 cycle:** This is the transitional commissioning cycle during which local authorities will become responsible for delivering the plans and allocations made by the LSC up to 31 March 2010 for delivery in the academic year August 2010 to July 2011. The Young People's Learning Agency will agree the Annual Statement of Priorities after the annual grant letter from the DCSF has been received. The Annual Statement of Priorities will set out the overall national priorities for commissioning, including the expected mix of provision, and targets for participation. The activities to be taken on by local authorities from April 2010 will include setting up contracts with private and third sector providers, and, from August 2010, managing the delivery cycle, including making payments of participation funding to colleges, schools and other providers.
  - c) **The 2011/12 cycle:** This will be the first cycle where LA will have end-to-end responsibility within the terms of the National Commissioning Framework, starting in the summer of 2010. The Secretary of State will write to the YPLA in October 2010 with the annual grant letter. The YPLA will then agree the Annual Statement of Priorities in November 2010, leading to allocations to providers by LAs in March 2011, for delivery in the academic year August 2011 to July 2012.
- 4.2 The Coventry 14-25 Partnership will review and monitor the progress being made with the implementation of the national 14-19 reforms, the realisation of local targets for participation, retention and progression and capacity building 14-19, as a key element of the work of the wider Children and Young People's Strategic Partnership. Regular monitoring and evaluation will also take place through discussions with senior and middle leaders in schools and colleges, School Improvement Partners, relevant lead officers in the Children, Learning and Young People's Directorate and other City Council departments and regional DCSF officers. Progress is regularly reported to the Cabinet Member and the Director of Children, Learning and Young People through the leadership team of the Education and Learning Service.

4.3 The joint sub-regional partnership board will ensure that both Coventry and Warwickshire apply a strategic and co-ordinated approach to the commissioning of services to 14-19 year old learners across the sub-region. The sub-regional partnership board will also ensure that the two partners discharge their legal responsibilities in the provision of 14-19 services under legislation resulting from transfer of functions from the LSC and promote closer working and best practice across the two partners and with other individual local authorities and sub-regional and regional groupings.

## 5. Comments from Director of Finance and Legal Services

### 5.1 Financial implications

The Director of Finance and Legal Services will ensure that appropriate arrangements are in place from April 1<sup>st</sup> 2010 to carry out the financial responsibilities summarised in Appendix 2. This is the January 2010 draft guidance from the LSC and summarises the arrangements (including funding, financial monitoring and assurance) that the City Council will need to have in place. From April 1<sup>st</sup> 2010 the Local Authority will take over responsibility for the current LSC contracts as outlined in the table below.

<b>2009/10 allocations</b>	<b>Funding (£)</b>
Further education	16,051,494
Work based learning	4,995,500
Entry 2 Employment provision	1,792,200
Additional European Social Fund provision	210,000
Schools	15,456,277
<b>Total</b>	<b>39,366,510</b>

The City Council will also continue to successfully manage the transfer arrangements for the LSC staff, within the context of the transfer budget of £ 349,797 for 2010 /11. Ministers have agreed to fund all posts created as a result of the transfer for a period of 3 years and the basis for the calculation of this transfer budget is described in more detail in Appendix 3.

### 5.2 Legal implications

The City Council, through the Director of Children, Learning and Young People and the line management structures of the Education and Learning Service, will ensure that appropriate arrangements are in place from April 1<sup>st</sup> 2010 to carry out the legal responsibilities contained in the Apprenticeships, Skills, Children and Learning Act (ASCL). The Act is largely an amending Act; many of the powers and duties being given to local authorities are simple transfers from the LSC, but the offender learning provisions are new. The fundamental shape of the new 16-19 arrangements is that local authorities will commission education and training for 16-19 year-olds (under 25 where they have a learning difficulty 139A assessment), and the Young People's Learning Agency will fund it; so the key strategic relationship will be between local authorities and the Young People's Learning Agency (YPLA). One of the most significant responsibilities is outlined in Section 41, which requires local authorities to secure that enough suitable education and training is provided to meet the reasonable needs of young people in their area. Section 42 requires local authorities to promote participation of young people in education or training.

Sections 48 to 52 relate to the education of children and young people up to age 19 in youth detention ('detained young people'). In what follows, the 'host' authority is defined as the local authority in which the young person is detained; the 'home' authority is defined as the local authority in which the detained young person is normally resident. Where a detained young person has a Statement of Special Educational Need immediately prior to detention, the 'host' authority must use best endeavours to secure appropriate special educational provision during the period of detention, and the 'home' authority must maintain the Statement on release.

Section 51 requires Youth Offending Teams to notify 'home' and 'host' local authorities when young people enter or are released from custody.

Section 52 requires that when a detained young person with a Statement of Special Educational Need is released, that Statement should be maintained by whichever local authority is then responsible for the young person.

Sections 53 to 56 relate to transport and access for young people in education and training. In essence, the legislation enhances the position developed over recent years concerning transport provision for young people. That is, emphasis is placed upon the duties of local authorities to ensure access to the offer and learning entitlement. Local solutions to reducing barriers to access are to be detailed through 16-19 Transport Policy Statements' for which local authorities have continued responsibility.

Section 58 reinstates the power of local authorities to make educational provision for young people in non-maintained institutions. Part 3 sets up the Young People's Learning Agency ('the YPLA') as a non - departmental public body. The core role of the YPLA is to provide funding to local authorities for the education and training of young people. The YPLA will have intervention powers where local authorities are failing, or likely to fail, to perform their duties. The YPLA has the sponsoring role for open academies. In addition the YPLA has a duty to intervene in the event that local authorities fail in their duties to secure suitable provision for detained young people. (see page 22) Part 4 sets up the Skills Funding Agency (SFA) –within the Department of Business, Innovation and Skills. The SFA will be responsible for training post-19 and both 16-18 and 19+ apprenticeships.

## **6. Other implications**

The City Council needs to establish clear priorities, following the transfer of responsibilities in April 2010, and it is proposed that the key priorities will include:

- a) Ensuring there is a common quality assessment and performance management framework which operates across all providers, as part of an agreed Commissioning Framework, that is consistent with the outcomes of the current national pilot of a common Framework for Excellence
- b) Ensuring 100% participation in learning to the age 17 from 2013 and to the age of 18 from 2015. This engagement in learning can be at college, with a work based learning provider, at school or in a job with training.
- c) Managing the transition to a system of funding allocation based on informed learner demand. From 2013 the Council will have to ensure that learner demand is met explicitly as far is reasonably practical. This will require more sophisticated methods of measuring learner demand and much more flexible and dynamic systems for meeting it while still sustaining and improving quality.

- d) Agreeing and reaching appropriate targets for achievement by 19 (or 25 for learners with learning difficulties)
- e) Ensuring that the commissioning of all services for all young people aged 11-19 (and up to 25 for students with learning difficulties) takes place in a coherent way.
- f) Implementing the National 16-19 Learner Entitlement which requires that, regardless of their background and no matter where in the country they live, all young people aged 14-19 are, for the first time, to be given access to the same range of learning opportunities and pathways. These include;
  - GCSE's and A-Levels
  - Apprenticeships
  - Diplomas
  - Foundation learning pathway
  - Employment with training

**6.1 How will this contribute to achievement of the council's key objectives / corporate priorities (corporate plan/scorecard) / organisational blueprint / LAA (or Coventry SCS)?**

Commissioning effective high quality provision that meets the needs of all 16-19 year olds (16-25 year olds for students with SEN) and successfully prepares them for adult life will make a significant contribution to the Council's core aims, with a particular focus on creating a prosperous Coventry; citizens living longer, healthier, independent lives; making Coventry an attractive and enjoyable place to be; ensuring that children and young people are safe, achieve and make a positive contribution; encouraging a creative, active and vibrant city; and developing a more equal city with cohesive communities and neighbourhoods.

**6.2 How is risk being managed?**

There are two key sets of risks associated with the transfer.

6.2.1 The first set of risks associated with these proposals relate to any potential adverse impact of the nationally determined structural changes in 16-19 responsibilities. These risks are being mitigated by providing regular opportunities and forums for constructive dialogue with the staff affected, key local providers and Warwickshire LA.

6.2.2 The second set of risks relate to the difficulties of achieving the agreed targets associated with the key priorities outlined in 6.01 above. Some of the likely targets, particularly those in relation to aiming for 100% student participation, improving achievement and broadening provision to include more apprenticeships will be very challenging for the Local Authority and local providers. This is likely to be even more the case in an adverse national and international economic climate. However the City is starting from a relatively successful baseline position and in 2008 the City was typically ranked 2<sup>nd</sup> or 3<sup>rd</sup> out of the 9 West Midlands metropolitan LAs for performance in relation to the key participation, provision and achievement measures. These risks will therefore be mitigated by building on this positive

starting point by securing collective ownership of clear system-wide improvement targets for 16-19 performance.

### **6.3 What is the impact on the organisation?**

The matching of local Learning and Skills Council (LSC) staff to Local Authority roles is well underway and interim job descriptions will be in place by April 1<sup>st</sup>, prior to the establishment of a coherent 14-19 staffing structure within the 11-19 Learning and Achievement Service by September 2010. These staff will be subject to TUPE arrangement. There are some human resource issues still outstanding, such as pension arrangements, and these issues are unlikely to be clear until at least the end of January 2010. Other resource issues, such as accommodation costs, have yet to be resolved. Relationships with the local LSC and with all local providers remain positive and much will continue to be achieved through existing collaborative mechanisms in the 'Transition Year'.

### **6.4 Equalities / EIA**

An EIA was carried out for the 11-19 Learning and Achievement Service just over a year ago. The Service undertakes a detailed annual review of the performance of all key underachieving groups across the 11-19 age range and this is reported to the Cabinet Member. The proposed transfer of commissioning responsibilities for students aged 16-19 (and to 25 for students with SEN) will enable the LA to ensure that provision meets the needs of all students.

### **6.5 Implications for (or impact on) the environment**

There are no specific implications arising from this report.

### **6.6 Implications for partner organisations?**

There are significant implications for local partners and these will be managed through regular discussion with the City's 14-25 Partnership.

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## **Appendix 1**

### **Proposed outline terms of reference for the Coventry and Warwickshire 14-19 Sub-regional Partnership Board**

#### **1. The partners**

The partners are Coventry City Council and Warwickshire County Council.

#### **2. The purpose**

The purpose of the partnership is to ensure the two partners apply a strategic and co-ordinated approach to the commissioning of services to 14-19 year old learners across the sub-regional area of Warwickshire and Coventry. The partnership aims to help the two partners discharge their legal responsibilities in the provision of 14-19 services under legislation resulting from transfer of functions from the LSC and promote closer working and best practice across the two partners and with other individual local authorities and sub-regional and regional groupings.

#### **3 Responsibilities of the Partnership Board**

The responsibilities of the partners will include:

- Developing and reviewing on an annual basis a sub-regional 14-19 commissioning strategy/ annual statement of priorities;
- Reviewing the adoption and delivery of the sub-regional strategy/statement of priorities by the two partners;
- Review and ensure compliance of sub-regional strategy with national policy including the national 14-19 commissioning framework and the 5 key outcomes for children under the Children Act;
- Represent the two partners on the Regional Planning Group;
- Raise sub-regional funding issues with the Regional Planning Group;
- Review any issues arising from data analysis by the two partners;
- Consider opportunities for joint commissioning between the two partners where appropriate and act as joint employer under any contracts;
- Develop links with other sub-regional groups to share best practice and with other local authorities where cross border delivery issues are identified;
- Establishing links with providers and learners to inform the development of sub-regional strategy.

#### **4 Representation and decision making**

The representatives of each of the partners shall include the Directors of Children's Services and/or Heads of Service and/or their nominees, the officers leading on 14-19 services and those supporting on the financial and commissioning aspects.

Each partner shall have an equal voting right and one vote in any decision that is taken, regardless of how many representatives participate in the decision making.

A quorum for a meeting shall be one representative of each of the partners.

The Partnership Board shall be advisory in nature and shall not take any decisions binding upon the partners. Binding decisions shall be referred to the partners' respective Cabinet Members and Executives as appropriate for approval.

## **5 Meetings**

The Partnership Board shall meet three times a year or more frequently if required, and the partners will share equally the responsibility for supporting and hosting meetings.

## **6 Dispute resolution**

Any dispute which cannot be resolved by informal discussion shall be referred to each partner's Executives for consideration. Either partner may refer a dispute for external dispute resolution, such as a request for mediation to the Centre for Dispute Resolution.

## **7 Commencement, termination and review**

It is intended that this partnership will be effective from 1 April 2010 and will continue until it is review or terminated by the agreement of both partners.

## **Appendix 2**

### **Young People's Learning Division Briefing Note on the Handover of Financial Arrangements for 16-19 Funding on 1 April 2010**

1. This briefing note is of interest to both shadow SFA and shadow YPLA staff in the following LSC teams:
  - Learning, planning and performance
  - Regional and national contract management
  - Regional and national financial control
  - Regional and national PFM and PFA.

2. This note and accompanying slides can be shared with local authorities and other partners.

#### **Summary**

3. The briefing note sets out the main points of the LSC's handover of its financial relationships to local authorities from 1 April 2010 covering:
  - Funding local authorities will receive from 1 April 2010
  - Calculations of allocations payable to local authorities in relation to 16-19 providers
  - How local authorities will be paid and required to pay providers
  - Procurement and contracting by local authorities
  - Local authorities' relationship management of the providers they fund
  - Responsibilities for financial monitoring of sixth form colleges and 16-19 providers
  - Responsibilities for gaining assurance over YPLA funds for financial year 2010-11.
4. The briefing note does not cover:
  - YPLA funding of academies
  - SFA arrangements where these do not involve the YPLA.
5. The briefing note is to supplement other communications within the LSC and with external partners on the finance hand over, that inevitably do not reach all those concerned.
6. The briefing note should be read in conjunction with the draft National Commissioning Framework (NCF). While the NCF concerns academic year 2011/12 most of the principles it contains relating to finance are relevant from 1 April. As for the NCF itself, the points made in this briefing note are still under development and subject to consultation.
7. We welcome comments on our emerging thinking. Leads for the areas covered below are in the annex to this briefing note.

#### **Formal Guidance**

The YPLA will prepare a formal guidance note to local authorities covering arrangements, financial and otherwise, in its funding of local authorities from 1 April 2010. This guidance note will be issued in early 2010. The project for this guidance is being led by YPLD strategy colleagues.

## **Funding of Local Authorities from 1 April 2010**

8. The YPLA will be funded under a grant letter from the DCSF. This grant letter, when issued, forms the basis of the YPLA's own budget book for financial year 2010-11. Based on the DCSF's grant to the LSC for 2009-10, the following budgets will be paid over to local authorities for them to pay to providers:
  - 16-19 learner responsive at schools with sixth forms
  - 16-19 learner responsive at colleges (sixth form and general FE)
  - Entry to employment
  - Education business partnerships
  - Young apprenticeships
  - Family learning impact fund
  - LEA (sic) transports partnerships.
9. Of these budgets only 16-19 learner responsive at colleges and entry to employment are significant changes in terms of value of funds transferred. All other budgets above are already mostly paid to local authorities. There are some exceptions to this in these other budgets for example we understand some young apprenticeships funds are now paid by the LSC direct to providers. From 1 April local authorities are assumed to inherit this funding (see below).
10. Of the other 16-19 budgets:
  - The YPLA will fund academies direct
  - The YPLA will fund independent specialist providers direct for learners with learning difficulties and/or disabilities for the time being
  - The YPLA will probably fund learners with learning difficulties and/or disabilities at colleges for the remainder of academic year 2009/10 as a practical measure. Local authorities will take this funding over for academic year 2010/11
  - The YPLA will pay as appropriate learners, colleges and providers direct for all other learner support budgets. Most payments from the 16-19 joint capital Fund will be made to local authorities for presumptions and competitions at local authority maintained schools.
11. We understand that:
  - DCSF will pay BIS direct the value of the 16-19 apprenticeships budget for 2010-11. The SFA and NAS will pay providers of 16-19 apprenticeships
  - The SFA will be the co-financing body for all ESF the LSC now receives. The SFA will pay all ESF providers.

## **Calculations of Allocations**

12. YPLA funding of local authorities will be for either:
  - Specified volumes of learning outcomes with these outcomes priced up using the national funding formula or LLDD funding matrix. This applies to learner responsive, entry to employment and LLDD
  - Some other needs– based formula for funds such as special educational needs within 16-19 learner responsive funding of schools with sixth forms. These funds are then usually distributed to providers by the local authority as they see fit.

13. For the former, the LSC has calculated an allocation for each college and provider for academic year 2009/10 and is currently calculating allocations for 2010/11. The YPLA's funding of a local authority is then the sum of all the allocations to colleges and providers that each local authority leads for. It will be a condition of YPLA funding that local authorities must pass on the value of each provider's allocation intact, as already is intended for schools with sixth forms.
14. The YPLD is in the process of aggregating college and provider allocations by the local authority that leads for each college and provider:
  - Each college will normally only has one lead local authority for its 16-19 learner responsive allocation. The lead local authority will therefore receive the sum of all colleges' 16-19 learner responsive allocations for the colleges the authority leads for. Some sub-regional groups for example Manchester or Leicester are understood to be seeking for one member authority to act on behalf of all members of the group in administering YPLA funding. YPLA Finance is relying on LSC regions to tell us what has been decided for bilateral arrangements between local authorities
  - For entry to employment, it has been decided that each region will have one or more lead local authority for each only to employment provider delivering in that region. An entry to employment provider operating in seven regions will have at least seven lead local authorities each with the total allocation of entry to employment delivery in that region. Some regions have asked for more than one lead local authority e.g. one lead authority per sub-regional group. YPLD finance is relying on LSC regions to tell us what has been decided for each region's entry to employment lead authorities.
15. Other formula funding already paid to local authorities will be allocated to the current recipient authority unless we are told otherwise.

### **Payments to Local Authorities**

16. The YPLA will from April 2010 start making monthly payments to local authorities that are the sum of individual provider allocations for that authority and any other profile payments to the authority under formula funding. These YPLA payments to local authorities will be made under a grant agreement between the YPLA and local authorities that will set out total allocations by provider, by learning programme for each provider and by month and monthly profiles for formula funding. Local authorities will need be in no doubt who should receive how much and for what.
17. The YPLA will not give local authority's providers' bank account details, for security reasons. Local authorities will usually already be paying all 16-19 providers in their area for other reasons. YP LD has asked local authorities to give us their banking details and a contact name.
18. Local authorities will usually be required to pay YPLA funds to providers within seven working days of receipt from the YPLA. The exceptions are where the local authority funds:
  - Its own maintained schools where local authorities will have their own payment routines
  - Providers the local authority is funding using formula funding from the YPLA and the YPLA has not specified a particular provider as a recipient.
19. Neither of these exceptions should represent a change from current arrangements in terms of providers' receipt of YPLA funds.

20. The YPLA will pay authorities by BACS transfer from YPLA bank accounts. How authorities pay providers is up to them.
21. We hope to migrate all YPLA payments to local authorities to a common date, around the middle of each month. This may not be possible for the first months of 2010-11 due to systems changes that will be needed.
22. There is naturally concern about local authorities' ability to "make payments". On average a local authority will have three 16-19 providers to pay monthly, a grand total of twelve payments April to July 2010. Most authorities pay thousands of suppliers every month. Provided the YPLA gives authorities the right sums to pay over there is no reason to doubt local authorities' ability to pay providers correctly.

### **Procurement and Contracting**

23. Local authorities are, under the ASCL Act 2009, the legal inheritors of the LSC's funding agreements with colleges and providers for the programmes described above. Local authorities will not need to, and should not, issue funding agreements for the remainder of academic year 2009/10.
24. Many LSC funding agreements are valid until 31 July 2011 and we believe local authorities will be bound by these also. These funding agreements do not usually commit local authorities to a particular value of funding for 2010/11. This will be decided by the allocations process now in progress.
25. Some of the formula funded programmes relate to financial year 2010-11 funding. Local authorities will procure provision for this funding under their own arrangements as for financial year 2009-10. DCSF have given the YPLA clear legal advice that local authorities do not need to subject YPLA funding to open and competitive tendering for new allocations for financial year 2010-11 or academic year 2010/11. Thus local authorities should not hold open and competitive tendering for 16-19 learner responsive at colleges, for example.
26. Where local authorities procure provision and are not bound by novated LSC funding agreements, the authorities will use their own form of funding agreement. The YPLA will require local authorities to adopt standard terms and conditions drafted by the YPLA that will secure the operation of the national funding formula.
27. The YPLD will not attempt a mass handover of paper copies of LSC funding agreements to local authorities. Local authorities will in effect have access to the content of these through:
  - Schedules of provider allocations as described above
  - Hyperlink references to model LSC contracts and to LSC or YPLA funding guidance to academic year 2009/10 and financial year 2010-11 respectively.
28. Should local authorities need to access original paperwork to deal with a dispute then the YPLA will need support from SFA contract management in accessing these records.

## **Relationship Management**

29. From 1 April 2010 relations with providers in negotiating provision and managing delivery will fundamentally change:
- Local authorities will manage their funding of YPLA funded 16-19 delivery at all providers each local authority leads for
  - The YPLA will manage the relationship with independent specialist providers and academies (as an agent for DCSF) and a very few 'national' 16-19 funding relationships not being novated to local authorities
  - SFA will manage its funding of adult learning, ESF and through NAS 16-19 apprenticeships.
30. The LSC's additional regulatory relationship with colleges will change:
- For sixth form colleges local authorities will have most of the powers the LSC now does. The YPLA will retain some elements of financial regulation in the event of college financial failure and regulation on behalf of the Charities Commission (this is to be clarified)
  - For general FE colleges we understand the SFA will act as regulator.
31. Which colleges will be designated as sixth form colleges under the ASCL Act 2009 will depend on the choices made by those colleges invited by DCSF in November 2009 to choose and DCSF agreement of their choices. Colleges are asked to choose by February 2010.
32. While YPLA Finance will issue funding agreements to all bodies the YPLA funds, and carry out financial performance monitoring, YPLA Finance will not manage the YPLA's wider relationships with providers. YPLA Finance is exploring how it can access the SFA Single Account Management system for the YPLA's direct funding relationships with academies and independent specialist providers. For the time being the YPLA will continue to use AMPS, CODA and COMSHARE for its allocations and payments.
33. For those funds to be paid to local authorities, in year reconciliation of profiled payments to earnings only currently applies to all providers of entry to employment. The YPLD is considering what reconciliation of entry to employment is practical for the remainder of academic year 2009/10 and what role local authorities might play in this. In year reconciliation of 16-19 learner responsive for 2010/11 may be consulted on.

## **Financial Monitoring**

34. Responsibility for monitoring of colleges' and providers' financial health will follow that for relationship management. Local authorities will receive sixth form colleges' annual financial plans and financial statements from July 2010. Both the YPLA and local authorities will rate financial health and financial management under the Framework for Excellence for colleges and providers in scope.
35. Local authorities will carry out all of the consents and approvals for sixth form college borrowing, asset acquisition and disposal etc now in the LSC financial memorandum with colleges.
36. The YPLA and SFA are jointly drafting with React a financial management toolkit for use by any funding body with any provider in routine monitoring on provider financial health and on financial intervention. The YPLA is developing a practice note for local authorities on how the YPLA



expects authorities to use the toolkit to perform routine financial relations with sixth form colleges and the roles of authorities and the YPLA itself in financial intervention.

37. The YPLA expects that local authorities will turn to it for financial support in dealing with sixth form colleges in financial failure. The YPLA's ability to offer this support will be conditional on DCSF approval. The YPLA will want to retain a direct line of sight of local authorities' financial monitoring of sixth form colleges as a condition of considering local authority bids for support. One means of doing this will be validation of colleges' annual self-assessment of financial management through continued parallel YPLA Finance visits with OfSTED accompanied by local authority finance representatives.

### **Assurance**

38. Colleges' existing arrangements for financial statements audit and internal audit will not change. YPLA interest in college regularity audit, not a local government concept per se, is being considered.
39. Both the YPLA and SFA remain primarily interested in colleges' and providers' earnings against allocation through delivery of valid learning outcomes evidenced as appropriate by funding audit. The YPLA, SFA and React are committed to the principle of one funding assurer per provider. Under this principle, the lead local authority will assure for each 16-19 provider all YPLA funding paid by local authorities and all SFA funding of those providers. The SFA will assure for each adult provider all local authority and SFA funding. The YPLA, SFA and local authorities will then exchange assurance on each other's funding at the providers they lead for. While most providers can be easily classified as 16-19 or adult, assurance leads for a few mixed – economy commercial and charitable providers are to be decided. These arrangements are fully set out in the Joint Audit Code of Practice being issued for consultation in early January.
40. The YPLA will not specify how local authorities should gain assurance but will, in an assurance practice note, set out expectations on the SFA's and YPLA's behalves. Local authorities will prepare an annual grant return, starting for 2010-11, which will include their chief financial officer's assurance on funding received by 16-19 providers they lead for.
41. Local authorities will self-certify and assure earnings of funding by schools with sixth forms and other local authority maintained learning providers. The YPLA will not audit this funding.

### **Briefing Pack for Local Authorities**

42. This briefing note is accompanied by a set of slides used for briefing local authorities on the financial handover for April 2010. More detailed briefings on finance will be given at the regional events for local authorities hosted by React starting on 19 January.

**Peter Newson, YPLD Director of Finance, 22 December 2009**

### **Appendix 3 DCSF note summarising the terms of the LSC /LA transfer grant**

In October 2009, local authorities were notified by the Learning and Skills Council (LSC) of the specific names of those staff who had been matched to a post transferring to them on 1 April 2010. There has been some movement in the matching process since then, but the process is now very largely complete. The LSC do not propose to undertake any further matching except by agreement with the local authority concerned.

Ministers have agreed to fund all posts created as a result of the transfer for a period of 3 years. The fair and equitable divide of the 2010-11 LSC administration budget for the successor bodies has been a complex process, but we are now able to publish the local authority allocations for posts (filled and vacancies) for 2010-11. The figures have been discussed with the React Programme. As 2011-12 and 2012-13 is subject to the next Spending Review, a separate communication will be provided setting out the estimated figures as soon as the Department is in a position to do so.

#### **The Basis of 2010-11 Calculation**

The 2010-11 budget allocation for each local authority is based on staffing information provided to the Department by the LSC as at 7<sup>th</sup> January 2010. Whilst it is possible that further staffing changes will take place before April 2010, we believe that the position is settled enough to be able to provide final allocations to local authorities to enable them to plan and budget for 2010-11. The figure is made up of:

- Pay Costs:
  - For matched staff this is:
    - Actual basic salary including any area adjustments, such as inner or outer London weighting (\*);
    - Actual National Insurance Contributions (\*);
    - Actual Employer Pension Contributions (\*). Note that this is based on the current Principal Civil Service Pension Scheme values. Separate adjustments will be notified in early 2010 to each pension scheme administrator as soon as these have been agreed between the Government Actuaries Department and LGPS actuaries (see also attached note);
    - An average of £400 to cover for PHI and childcare costs; and
    - Any other contractual allowances actually paid. The LSC will provide details of any allowances as part of the due diligence process to each new employer.
  - (\*) Including an applied uplift of 3.67% (in line with the overall LSC pay envelope/settlement) to reflect anticipated 2010-11 pay rates and associated contributions
  - For vacancies we have provided funding based on a point on the salary scale, based on band averages. The LSC's usual recruitment allowance is 85% on the salary scale. To ensure that LAs have some headroom within which to exercise flexibility we have increased this to 91% of the normal maximum salary.
- Other Costs: Covering information technology, travel & subsistence, learning & development, postage & telecoms and other admin related costs we have provided funding of £3,884 per full time equivalent for matched staff and vacancies.

#### **Method of Payment**

We propose to create a special purpose grant for 2010-11 which will be a separately identifiable amount within the Area Based Grant (ABG).