Independent Specialist Provider Placement Procedure
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Introduction and Context

This document outlines the process for new and existing placements at Independent Specialist Providers (ISPs) commissioned by Walsall Metropolitan Borough Council (the Local Authority) for young people with Special Educational Needs and/or Disabilities (SEND) subject to a Learning Difficulty Assessment (LDA) or an Education Health and Care Plan (EHCP) and who are over compulsory school age but under the age of 25. Annex 2 is the Section 41: Secretary of State Approved List of Independent Specialist Providers (ISPs).

Local Authority Duties

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

Section 15ZA of the Education Act 1996, inserted by the Apprenticeships, Skills, Children and Learning Act 2009 (ASCL) places on local authorities the duty to secure enough suitable education and training to meet the reasonable needs of persons who are over compulsory school age, but under 19, as well as for those aged 19 or over but under 25, who are subject to a learning difficulty assessment or EHCP. From 1 September 2014 transitional arrangements have been in place to support a phased conversion from existing LDA’s to the new EHCP, while all newly identified SEND learners are receiving Education Health and Care Plans as appropriate. Conversions of all LDA’s for post 16 learners to be completed by 2016.

Part 3 of the Children and Families Act 2014 and associated regulations relates to children and young people with special educational needs (SEN) and disabled children and young people. A ‘young person’ in this context is a person over compulsory school age and under 25. Compulsory school age ends on the last Friday of June in the academic year in which they become 16.

Local authorities have existing duties to encourage, enable and assist the participation of all young people with SEND up to the age of 25 and also in respect of transport arrangements. It is important that all of these duties are aligned with the interests of the learner. The Code of Practice issued July 2014 provides a clear focus on the participation of children and young people and parents in decision-making at individual and strategic levels along with a stronger focus on high aspirations and on improving outcomes for children and young people.

Local authorities along with FE colleges, sixth form colleges, 16-19 academies and independent special schools approved under Section 41 of the Children and Families Act 2014 have duties under the Equality Act 2010.

This document provides information in relation to the small number of young people in receipt of LDA or EHCP where the local authority is of the view that their education and training needs can only be met by an ISP or in other exceptional cases, in a mainstream setting. NB Any learner to whom this refers will have been through the process outlined in the Local Authority Policy paper: - Process for Providing Post School Education Provision for Walsall Learners with High Needs (SEND 16 – 25)
It is important to note that the LA is required to take into account value for money considerations when making ISP educational placement decisions and can refuse if a placement would ‘be incompatible with the efficient education of others, or the efficient use of resources.’ (Code of Practice 2014) The Local Authority will not confirm funding and commissioning decisions until the full costs and affordability of an educational placement has been considered in the light of the overall budget available. The total costs of the placement include the additional social and health care costs that might be needed.

In considering and securing an education programme, and with a view to maximising the efficient use of funds, the local authority may look at pooling resources between different agencies, encouraging the formation of partnerships and building community capacity to secure appropriate funding from other agencies during the decision making process.

The government introduced new arrangements for funding the educational provision of young persons with high needs in April 2013 for schools and August 2013 for ISPs and post 16 further education institutions. Pupils and students with high needs include those aged 19-25 who are subject to an LDA/EHCP. Under the new arrangements ISPs receive a base level of funding per planned place for learners direct from the EFA and top up funding above this level agreed and provided on a per learner basis by the local authority based on the young person’s reasonable assessed needs. The local authority will pay these monies direct to the ISP. The local authority’s SEND Commissioning Manager will liaise with other agencies/service area to request funding to cover any health and care costs associated with the placement. The local authority cannot guarantee that such funding will be forthcoming. Subject to budgetary constraints, confirmation of placements will be made and all relevant parties informed.

**Boarding Accommodation**

Section 46 of the ASCL Act provides local authorities with the power to secure boarding accommodation for persons who are over compulsory school leaving age but under 25 and subject to an LDA/EHCP. This is referred to as residential provision.

**Purpose of this Document**

The purpose of this information is to ensure that the local authority has documented procedures in line with national policy to facilitate and record placement decisions for provision at ISPs for young people aged 19 but not yet 25 with LDA/EHCP. This document can also be used to communicate the procedures to young people, their parents, carers and advocates, referring agencies, schools, colleges, ISPs.

**Learning Difficulty assessment (LDA) S139A/EHCP**

The Local Authority will use the evidence from the LDA/EHCP to make consistent, effective and robust decisions that will support the young person to move towards a positive outcome.
The LDA/EHCP must be specific about the young person’s reasonable educational and training needs and the support and learning provision that is required to meet those needs. Additionally the LDA/EHCP should have a specific focus on the learning programme that is required and which can actually and realistically be provided to enable the young person to progress towards greater independence and where appropriate employment. Preparing for adulthood should be included in EHCP review from year 9 onward and include support to prepare for education and employment and include identifying appropriate post-16 pathways that will lead to these outcomes.

Contributions to the EHCP may involve assessments and consultations with other agencies as appropriate (e.g. Educational Psychologists, Advisory teachers, Speech and Language Therapists etc...) to guide identification of needs for further education.

It is expected that a placement at an ISP will equip students with the necessary skills and knowledge to allow them to progress beyond independent specialist provision of education and training. For example, meaningful and relevant education and training that will improve the life chances of a young person towards taking their place in the community may mean:

**Education in personal independence to enable them to live in:**
- Supported living or;
- In a tenancy

**Work undertaken in a range of settings such as:**
- Voluntary work;
- Supported Employment and/or;
- Employment

**Education and Training in a variety of settings such as:**
- Further Education
- Higher Education
- Supported Internships
- Work Based Learning
- Apprenticeships
- Traineeships

**Placement Process: New Learners**

In the event that a local package of provision and support cannot be identified/agreed upon a decision will be sought from the Group Manager for SEND to approve a case being brought before the LA SEND Panel.

The referring agency must complete an application to the local authority SEND Panel on behalf of the young person and supply supporting evidence that the criteria for funding an ISP placement are met. Decisions made by the Panel are based on the evidence presented.
The local authority will seek the permission of the person for whom a placement request is being made (and/or his/her family or carer where appropriate) to share copies of all relevant supporting information with the EFA, other relevant agencies and potential providers.

For funding a day placement the local authority will need to be satisfied, on the basis of the available evidence that at least one of the criteria below is met:

- There is no suitable local mainstream provision or package of provision that can meet the young person’s reasonable education or training needs;
- There is evidence that the young person has medical or care needs that cannot be addressed by local providers and that would prevent the learners from accessing suitable education or training.

Additionally requests for residential placements must also evidence that the assessment of the young person’s reasonable education or training needs demonstrates that an essential element can only be provided in a residential setting and that other provision or packages of provision cannot meet those needs.

It is essential therefore that the evidence provided in support of any placement request is up-to-date (within last 12 months) and appropriate to the request being made. Evidence will need to demonstrate that the match between the aspirations of the learner, their identified reasonable education and training needs and the learning programme is only available through an ISP. Sources of the evidence required by the local authority are listed in Annex 3 of this document.

Whilst the local authority will endeavour to take account of the wishes of learners and their parents/carers, it does not have a legal duty to fund the independent specialist provision of their choice, if it is satisfied that it can secure adequate provision locally. The local authority will also take account of facilities whose provision might reasonably be secured by other agencies.

For all placement requests the local authority will require evidence demonstrating that the proposal for a placement has been made as a result of appropriate assessment and guidance involving collaboration between relevant agencies. In particular, the nominated local authority officer (Annex 4) will consider the appropriateness of multi-agency support packages to maximise the efficient use of funds for the benefit of young people. For example, joint arrangements with a range of multi-agency providers in relation to a customised placement in a local mainstream setting including adult social care and health.

Placement Meeting

The local authority will convene the SEND Panel before the end of March in the year the Learner wishes to begin their ISP placement wherever possible and before the end of June, to consider all available evidence together with representations that other professionals may want to make in support of the request. The Panel is chaired by education professional and attended by a range of professionals who have contributed to the EHCP. Representatives from other relevant agencies including health and social care will also be invited. All relevant evidence will be discussed and
judged against the required criteria listed above. Additionally, other factors will be taken into
account such as:

- Appropriateness of the independent specialist provider
- The programme proposed for the young person, including progression pathways
- The contact hours and costs for education, care and health elements

The Panel, having considered the application, will decide whether to recommend the placement or
not.

If it is found that the local authority does not have sufficient information on which to make a
decision, the Panel meeting will be adjourned and further evidence requested. The placement
decision will then be deferred to the next Panel meeting.

The local authorities SEND Commissioning Manager will arrange for confirmation of the
recommendation made about a placement to be given to the young person, parents/carers,
providers and other relevant parties as soon as all applications for top up funding have been
considered.

**Following a Placement Meeting: Appeals**

If, the recommendation is not to support the placement, the local authority’s SEND commissioning
manager will inform all interested parties and if necessary and requested to do so, invite all
interested parties to a discussion forum. This will provide an opportunity for the young person,
his/her parents or carers to meet and discuss the relevant elements of the request with the local
authority’s SEND Strategic Lead and relevant professionals. This meeting offers an opportunity for
the young person and his/her parents or carers to challenge the evidence on which the decision was
made.

When a discussion forum is held, it is essential that any relevant information that was not previously
available for the panel meeting is made available.

The aim of the discussion forum is to ensure all the relevant information has been made available to
all parties; all parties have the opportunity to participate in the process, there is an opportunity to
ask questions and that the local authority is able to ensure any recommendation made is based on
relevant and up-to-date information. If appropriate, the local authority’s SEND Strategic Lead will
refer back to the Panel for further consideration. Every effort will be made to ensure that all parties
present understand the local authority’s recommendation.

If, following the discussion forum, the local authority’s recommendation is still that the young
person’s needs could be met through suitable local provision; the local authority will confirm this, in
writing within 7 days of the discussion forum, to the young person and his/her parent/carers.

Should the young person and his/her parents or carers still not be satisfied with the decision they
have the right to appeal against the decision and should follow the local authority appeal s process
for post 16 SEND placements as set out in Annex 4.
The First-tier Tribunal (Special Educational Needs and Disability)

When considering an appeal from a parent or young person the First-tier Tribunal (Special Educational Needs and Disability) (‘the Tribunal’) must have regard to the Code of Practice. The Tribunal will expect local authorities, early education settings, schools and colleges to be able to explain any departure from the Code, where it is relevant to the case it is considering.

Continuation of Placement: Existing Learners

Confirmation of continuing placements for existing learners will be made on the basis of the annual review of progress for each learner. This review will be undertaken by the local authorities SEND Commissioning Manager in conjunction with the ISP and other relevant parties.

Confirmation of Funding

Once a placement at an ISP is confirmed by the local authority, the Learner and his/her Parent/Carer should be notified in writing within a two week period. The local authority will then contract with and fund the top up element of the young person’s placement at the agreed provider. The local authority’s SEND Commissioner will ensure that all necessary documentation is completed. There may be a number of partner’s contributing to the funding in order for the local authority to be able to fund the placement. The funding also covers the costs of pre-entry assessments of the learners by the independent specialist provider. No separate fee should be charged to the learner or agencies in respect of this pre-entry assessment.

Programme Length

Whilst it is acknowledged that the total length of an individual learner programme may be in excess of one year, the funding of a learner placement will only be confirmed for the duration of one academic year and will be subject to on-going satisfactory progress, evidenced by annual review reports produced by the ISP, the EFA Conditions of Funding and any restrictions/conditions contained in it.

In some cases the programme length may be less than one academic year.

It is expected that learners complete their programme within the timeframe initially agreed and requests to extend an individual student placement beyond the duration of the programme’s original end date will only be granted in exceptional circumstances e.g. where a learner has been unable to complete his/her learning aims due to exceptional and unexpected medical reasons.

In-year changes

Following identification of a change in support needs, requests to change a learner’s level of funding in-year (that is, at any time other than through the end of the first term review for new placements and the summer term review process for all learners) are likely only to be considered in exceptional
circumstances. The changes must be discussed and agreed with the local authority before amendments are put in place.
Annex 1 – Documentation for Reference


The Special Educational Needs and Disability Regulations 2014

The Special Educational Needs (Personal Budgets) Regulations 2014

SEN Code of Practice (2001) reflect the changes introduced by the Children and Families Act 2014

Education Act 1996

Learning and Skills Act 2000.

**Working Together to Safeguard Children (2013):** Statutory guidance from the Department for Education which sets out what is expected of organisations and individuals to safeguard and promote the welfare of children

**The Children Act 1989 Guidance and Regulations Volume 2 (Care Planning Placement and Case Review) and Volume 3 (Planning Transition to Adulthood for Care Leavers):** Guidance setting out the responsibilities of local authorities towards looked after children and care leavers

**Equality Act 2010: Advice for schools:** Non-statutory advice from the Department for Education, produced to help schools understand how the Equality Act affects them and how to fulfil their duties under the Act

**Reasonable adjustments for disabled pupils (2012):** Technical guidance from the Equality and Human Rights Commission

**Supporting pupils at school with medical conditions (2014):** Statutory guidance from the Department for Education

**The Mental Capacity Act Code of Practice: Protecting the vulnerable (2005)**
Annex 2 – Independent Specialist Providers

The following details the Independent Specialist Providers that hold EFA Contract for Services (Education and Training) which legally allows the transfer of EFA funds to be made. The EFA notify local authorities of any changes throughout the year.

Section 41: Secretary of State Approved List of approved independent specialist providers (ISPs)


Providers that are newly approved or have other restrictions are indicated.

<table>
<thead>
<tr>
<th>Provider</th>
<th>SEN</th>
<th>Pupils aged under 16</th>
<th>Pupils/students aged over 16</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alderwasley</td>
<td>ASD</td>
<td>Y</td>
<td></td>
</tr>
<tr>
<td>Cruckton Hall School</td>
<td>ASD</td>
<td>Y</td>
<td></td>
</tr>
<tr>
<td>Learn 4 Life</td>
<td>BESD</td>
<td>Y</td>
<td></td>
</tr>
<tr>
<td>Sunfield Childrens Homes</td>
<td>ASD/SLD</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>New Elizabethan School</td>
<td></td>
<td>Y</td>
<td></td>
</tr>
<tr>
<td>Action For Children, Spires School - Parklands Campus</td>
<td>BESD</td>
<td>Y</td>
<td></td>
</tr>
<tr>
<td>Rugeley School</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Exeter Royal Academy for Deaf</td>
<td>HI</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Queen Alexandra College</td>
<td>VI/ASD</td>
<td>N/A</td>
<td>Y</td>
</tr>
<tr>
<td>Glasshouse</td>
<td>BESD/ASD</td>
<td>N/A</td>
<td>Y</td>
</tr>
<tr>
<td>Derwen College Ltd</td>
<td>ASD/SLD</td>
<td>N/A</td>
<td>Y</td>
</tr>
</tbody>
</table>
Annex 3 – Evidence Requirements

Evidence within the last 12 months must demonstrate the match between the reasonable assessed education and training needs, the realistic aspirations of the learner and the suitable provision that is actually available to meet those needs.

The local authority will require a detailed breakdown of different elements of the package i.e. education, health and care

Required evidence is as follows:

- LA Summary Sheet for SEND Panel
- EHCP
- Relevant and up-to-date report(s) from the Multi-Agency Team around the Learner who have assessed the young person and concluded they cannot put in place/ source a suitable package of provision and support to meet the learner’s educational and/or training needs
- a report from the ISP detailing how the provider can meet the learner’s reasonable assessed education and training needs set out in the EHCP
- the signed consent of the learner (and his/her family or carer where appropriate) to share information with the EFA, other appropriate agencies and any potential providers

The list is not exhaustive and the local authority may wish to seek additional relevant and up to date information depending on the individual circumstances of the learner.
Annex 4 – Post 16 SEND ISP Placement Process: Appeals Process

This document outlines the procedure to be followed if a young person, their parents/carers wishes to appeal against a decision regarding placement at an ISP.

Review

Every effort is made to ensure that ISP placement decisions for post-16 learners are made based on up to date information contained within the EHCP. If the decision of the SEND Panel is that an ISP placement does not best meet the reasonable needs of the young person, there will have already been an opportunity to present further evidence and challenge this decision at the Discussion Forum which forms part of the ISP Placement Procedures. Should the young person, their parent/carers still not be satisfied with the decision, they have the right to request that the local authority undertakes a review of the decision by a senior officer not involved in the original consideration.

If the original decision is upheld and the young person, their parents/carers remains dissatisfied access to the local authority’s disagreement resolution service may be sought.

Disagreement Resolution Service

The disagreement resolution services provide an informal way of preventing and sorting out disagreements between young people with SEND, their parents/carers and the LA. This is an additional service young people their parent/carers can use if they wish to

The First-tier Tribunal (Special Educational Needs and Disability)

When considering an appeal from a parent or young person the First-tier Tribunal (Special Educational Needs and Disability) (‘the Tribunal’) must have regard to the Code of Practice. The Tribunal will expect local authorities, early education settings, schools and colleges to be able to explain any departure from the Code, where it is relevant to the case it is considering
Annex 5 – Local Authority Contacts

Karen Grandison
SEN Strategic Manager
EDC
Pelsall Lane
Rushall
Walsall
WS4 1NG
Tel 01922

Mike Morris
Group Manager
Strategic Lead
Children with Disabilities Team and SEN
Tel 07506716208

Kerry Wootton
SEND Commissioning Manager
Children’s services
Civic Centre, Zone 2E
Darwall Street
Walsall
WS1 1TP
Tel 01922 653759

Rita Martin – SEND Post 16 Coordinator
Walsall Children’s Services
Education Development Centre
Pelsall Lane
Rushall
Walsall
WS1 4NG
Tel: 01922 686385
Mobile: 07827351242