

# POST 16 EDUCATION TRANSITION PLAN - TRANSFER OF RESPONSIBILITIES FROM THE LEARNING AND SKILLS COUNCIL

<b>Cabinet Member</b>	Councillor David Simmonds
<b>Cabinet Portfolio</b>	Education and Children's Services
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<b>Papers with report</b>	<p><b>At the end of the covering report there is a useful glossary of all the educational acronyms used.</b></p> <p>Annexes attached:</p> <ol style="list-style-type: none"><li>1. Hillingdon 16-19 Transition Plan</li><li>2. 14-19 Strategic Plan</li></ol>

## HEADLINE INFORMATION

<b>Purpose of report</b>	<p>This report seeks Cabinet approval of the attached plan to embed the post 16 educational changes within Education and Children's Services.</p> <p>The report provides information on arrangements being put in place by Education and Children's Services in respect of the Apprenticeship, Skills, Children and Learning Bill, given assent November 2009. Plans are in place to ensure both a smooth transition of services and to show how the enlarged role and responsibilities of the Local Authority are to be incorporated.</p> <p>Cabinet are asked to note the anticipated staff changes, where 2 staff that are to be TUPEed from the Learning and Skills Council (LSC). The exact nature of these arrangements is to be confirmed. Currently there has been some uncertainty and this has been noted by the Cabinet Member. Further details concerning the TUPE status of the proposed transferees are included in the Legal Section of this report.</p>
<b>Contribution to our plans and strategies</b>	<p>This plan will support the delivery of post 16 education and training in the Borough as part of enlarged responsibilities which now include:</p> <ul style="list-style-type: none"><li>- Young people aged 16-19;</li><li>- Those aged 19-25 for whom a learning difficulty assessment is in place;</li><li>- Education and training for young people in youth custody.</li><li>- Additional employer engagement responsibilities.</li></ul>

	<ol style="list-style-type: none"> <li>1. The plan will ensure smooth transfer of responsibilities to the Local Authority, enabling learning providers to offer uninterrupted learning needed for young people to study in Hillingdon, whether school sixth forms, Uxbridge College or work based learning providers, thereby supporting progress towards being “a borough of learning and culture” (Community Strategy)</li> <li>2. Supports the Council’s vision to provide “excellent and value for money services by ensuring a robust and accurate assessment of existing strengths within the team and identify possible realisable efficiencies in the planning process of post16 education.</li> <li>3. Substantially supports the outcomes in the Children’s and Families Plan 2008-2011</li> </ol>
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<b>Financial Cost</b>	There is no financial cost to the Local Authority for three years (April 2010 to March 2013) as LSC transfer money has been assured until that time to pay for the cost of these new responsibilities.
<b>Relevant Policy Overview Committee</b>	Education & Children’s Services
<b>Ward(s) affected</b>	All wards.

## RECOMMENDATION

**That Cabinet note the report and approve the attached 16 – 19 transition plan in Annex 1.**

### Reasons for recommendation

The 16-19 transition plan has three initial objectives:

- Implement a smooth transfer in the borough;
- Ensure accurate transmission of funding thereafter;
- Establishment of an effective post-16 commissioning model going forward.

The plan details how the Council will ensure readiness to undertake the responsibilities of the LSC, and ensure that learning for post 16 students, both resident and those travelling into Hillingdon to study, is uninterrupted.

The plan will ensure stability and continuity for institutions in Hillingdon providing that learning. It also incorporates a method of improving quality, accessibility and variety of that provision which will lead to improved achievement for young people post 16 studying in Hillingdon.

It will give the LA greater opportunity to plan provision for the greater number of Young People in Hillingdon who will be participating in education or training from 2013, and contribute to lowering of the NEET agenda.

### **Alternative options considered / risk management.**

Key risks:

- Funding stability through the handover.
- Funding instability impacting on learner programmes.
- Late submission of data by providers to new organisations resulting in incorrect payments and therefore impact on learning institutions.
- Local capacity, capability and expertise.
- Wider public funding cuts.
- The NAS commissions Apprentices directly – this may lead to a weakening of links between employers and LA in respect to training.

## **INFORMATION**

### **Background and context**

From April 2010, Local Authorities will commission learning provision for all young people 16-18 year olds and for young people with LLDD up to age 25. This will lay the foundations for Raising Participation Age to 18 in 2015, by providing greater focus on the needs of local learners and employers. This is detailed in the National Commissioning Framework, part of Statutory Guidance for Local Authorities. LAs will commission provision from school sixth forms, sixth form and FE colleges, and all other providers, except ISPs.

Local Authorities will be expected to determine the education and training needs of young people in each area, to ensure that provision is available for all young people to progress in learning. This provision should be planned to ensure Learner Entitlement, quality of provision and its affordability.

The National Commissioning Framework, which details how this process will work, was developed and tested in 2009 and is currently in consultation (November 2009 – February 2010), to be published by the YPLA with the Consultation response in April 2010. Although the guidance applies to planning process for provision to be delivered in 2011 /12 Academic Year, some aspects, including funding flows, apply from April 2010.

The following principles underlie the system:

- To operate in the interests of the learner, addressing learner choice and diversity, and to ensure access to learner entitlements and curriculum pathways.
- To take into account the needs of employers and employability, and to seek the involvement of providers as key strategic partners.
- Commissioning/planning should be sustainable, impartial and provider neutral, securing high quality provision from the most appropriate quality assured providers.
- Funding will be based upon the national funding formula and applied at the level of the provider, and that funding will follow the learners.
- The process will provide and encourage flexibility for Local Authorities and other partners to respond to needs.

- The system will ensure consistency in key features such as the timing of stakeholder involvement, timing of allocations, outcomes (including the offer to learners), data submissions and flows, and the funding formula/rates.
- The system must be transparent and equitable, and compliant with the principles in the Third Sector Compact.
- The system must deliver value for money.
- Accountability will be secured with the minimum bureaucracy between partners.
- It is expected that there will be collaborative planning between Local Authorities, and that the provision that is commissioned is of an appropriate quality.

**The key players and their roles** in this process are as follows:

- **Local Authorities** - as joint commissioners and champions of young people in their area, focusing on achieving better outcomes for them.
- **Children's Trusts** - to develop the local strategy for improving children's lives by delivering better services and helping them achieve the five Every Child Matters outcomes.
- **14-19 Partnerships** – to provide area-wide strategic assessment, owned and driven by key stakeholders and delivery partners.
- **RPG Sub Regional Groups** – to provide the essential coherence across the travel to learn areas of young people where these cross LA borders, bringing together regional education and skills.
- **The National Apprenticeship Service (NAS)** – to work with Local Authorities in their SRGs to identify the likely demand from young people for Apprenticeships.
- **Learning providers** – to encompass the full range of organisations that deliver education and training to young people, including Academies,
- **Government Offices** - to play a key role in supporting and challenging local authority performance, and in offering a strategic perspective through the Regional Planning Group.
- **Regional Development Agencies** - to be involved in the RPG and will help inform and challenge 16-19 Commissioning strategies and decisions collectively endorsed by the RPGs in relation to alignment with regional skills and economic regeneration and development policies.
- **Young People's Learning Agency (YPLA)** - to support Local Authorities in their new duties and have powers to intervene if they feel that the LA is not able to fulfil its responsibilities.
- **Department for Children, Schools and Families** - to set the overall national policy and priorities for 16-19 learning, agree national funding allocation through the Comprehensive Spending Reviews, set national targets, and review and agree YPLA performance.
- **OFSTED** - Inspection by Ofsted of both schools and FE provision will continue and will trigger support and intervention as now.

### **The New Responsibilities**

The first stage of the Commissioning cycle is with the publication of National Commissioning Priorities, determined by Ministers and set out in the DSCF's and YPLA's Statement of Priorities. This will fashion the response from the RPG Sub Regional Groups (SRGs) which will receive the individual Commissioning Plans from each area, and which will aggregate demand for places. In some parts of the country the Regional Planning Group may undertake the role of the SRG RPG. The SRG will consider the aggregated needs across the travel to learning area when approving Borough Commissioning Plans.

Local Authorities will establish funding agreements with either their local providers to deliver the learning provision in their agreed Commissioning Plans, or with other providers out of Borough through other Local Authorities. Where payment is a direct arrangement, eg contract, grant, or grant in aid will be dependent upon the nature of the provider and the legal status of the body issuing the instrument.

LAs will pay back to YPLA any provider underperformance. Provider over performance may be funded if affordable. There will be extensive assurance from statutory financial statements, auditors and requirements for internal audit. It is expected that LAs will be able to build capacity from existing sources of assurance. It should be noted that the special funding rules of the funding formula for post 16 education and training require expert funding audit beyond existing audit remits.

YPLA and Local Authorities will use basic payment and reconciliation processes depending upon the type of provision and the circumstances of the provider. There is a clear framework for provider quality assurance, focussed on assessing provider quality, performance and supporting improvements in standards.

The YPLA will be a funding and enabling body and therefore will not be involved in the commissioning of provision normally funded by LAs. However, the YPLA will procure provision with Academies and Independent Specialist Providers (ISP). It will provide an indicative budget to Regional Planning Groups for LLDD learning and assessment. LAs will draw up proposals on placement decisions for learners. These proposals will be aggregated and considered for the extent to which learner entitlement can be met, the extent to which LAs' duty can be met and best value for money. These proposals will be endorsed by the Regional Planning Group.

The YPLA have a power of intervention where they are satisfied that a local authority is failing or is likely to fail in its duties under section 15ZA(1) and 18A(1) of the Education Act 1996.

National Apprenticeship Service (NAS) and Skills Funding Agency (SFA) will have a duty to secure sufficient and appropriate Apprenticeship places to fulfil the entitlement for each suitably qualified young person who wants one. Schools will be required to provide advice about Apprenticeships so that young people are properly informed about Apprenticeships as a career choice.

Local Authorities will identify the mix and balance of Foundation Learning provision that is required as part of their overall Commissioning Plan and will be able and expected to include private, public, or third sector work based learning providers delivering Foundation Learning where appropriate.

Commissioning for all specialist providers, other than LLDD in Independent Specialist Providers (ISPs), will normally be the same as for other college provision - undertaken by the 14-19 Team in the local authority, usually the host local authority.

LAs with a juvenile custodial establishment in their area (the 'host LA') will have a duty to secure suitable education and training for the children and young people detained there.

Schools, colleges and providers will be required to submit data within agreed time frames to meet the requirements of the commissioning cycle. The arrangements and systems for data collections will be managed by the FE Data Services, housed within the SFA. For Schools, the relevant Data Service is with the DCSF. YPLA will then model and present the data in a nationally consistent format on a regional and local basis to inform local authority commissioning. Failure to submit accurate data within deadlines for returns will mean that the

LA and Regional Planning Group (RPG) will be unable to guarantee that allocations will be made within the agreed times.

There will be nationally controlled, locally and regionally applied planning and allocations spreadsheets to enable LAs to apply the national funding methodology. Allocations will be aggregated and modelled at SRG and RPG level, who will control and moderate unit costs and allow the YPLA to sign off regional plans within the cash limit of the 16 – 18 budget . Payment profiles to will be set against agreed volumes and allocations

Providers have primary responsibility for managing their own performance as they do now. Rigorous self-assessment is central and Local Authorities will hold providers that they fund to account for their performance, and make judgements about their comparative performance with other providers to inform commissioning decisions. All post 16 providers will be assessed annually against a clear set of national measures, Framework for Excellence, the provider's own self-assessment and inspection outcomes.

The Secretary of State supported by Government Offices' Performance has the role of performance management of Local Authorities and Local Authorities will be held to account through Local Area Agreements and new Local Performance Framework. At local level, GOs will support and challenge Local Authorities to improve their performance, through monitoring the development of 14-19 plans and by drawing on the Comprehensive Area Assessment.

The YPLA will provide Local Authorities with specialist knowledge in relation to assessing the quality of 16-19 provision they commission. It aims to ensure consistent approaches are adopted between all authorities and will expect Local Authorities to annually evaluate and assess the performance of all providers they fund, operating within national parameters to ensure consistent and fair decisions which are provider neutral.

**The YPLA will have powers to intervene and arbitrate in the event that Local Authorities cannot fulfil their new duties to secure sufficient and sustainable provision for young people.**

In addition to their role in intervention, the YPLA have a role in complaints procedures, either for LAs or for providers that are unhappy with Commissioning decisions.

## **Proposal**

The Local Authority has duties and responsibilities for securing suitable education and training provision to meet the reasonable needs of 16-19 year olds in their area, including young people with LLDD, up to 25. This will be voiced through the Commissioning Statement.

The plan (Appendix 1) allows the LA to be responsive to the quality of the provisions being commissioned, the demand of Young People and the need to maintain stability for providers including School Sixth Forms, Uxbridge College and Work Based Learning Providers.

The commissioning group is seen to be a discrete area of the 14-19 Partnership to ensure that all plans and commissioning are transparent and fair, but also sensitive and able to incorporate improvement plans resulting from self evaluations, GOL and Ofsted comments.

It is also important that the proposed allocations and awarded contracts take account of student demand in and out of the Borough and the requirements of other LAs with significant learner inflows into Hillingdon. The 14-19 Strategic Plan shows the link between the Integrated Youth

Service, the School Improvement Service and the 14-19 Team, to provide a holistic learner offer for learners at post 16. (Appendix 2)

The annually submitted 14-19 Commissioning Plan, will give planned volumes and investment for each provider overall and for each element of the entitlement. Hillingdon's 16-19 Transition Plan (Appendix A) shows how this can be delivered and seeks approval from the committee.

### **Comments of Policy Overview Committee(s)**

None at this stage

### **Supporting Information**

1. The LSC is due to end March 31<sup>st</sup> 2010. This brings considerable responsibility to the LA, for contracting and performance measuring post 16 providers in Hillingdon, not only in schools, but with Uxbridge College and work based learning providers. Other responsibilities are part of this, for example in the provision of enterprise education and employer engagement.
2. The attached plan will ensure borough readiness.
3. The attached plan will provide on-site support during the transition period and for the first year of change. This will include providing strategic advice, training, 14-19 planning and 16-19 commissioning support, and the integration of LSC functions.
4. Sean McMahon, the consultant working with the 14-19 Coordinator, is a recognised expert within the LSC and has been approved by this Cabinet to work with the 14-19 Team in Education and Children's Services. He will provide expertise and support in respect to regional and central government operational requirements, 2010/11 business cycle, liaison on queries with regard to: LSC/YPLA; NAS; SFA; GOL/RPG and operational sub-groups on commissioning; funding; data and quality issues.

### **Financial Implications**

Approximately £37 million is to be passported through the LA to schools, Uxbridge College and work based learning providers in Hillingdon. This needs to be dealt with promptly to ensure the stability of schools sixth forms, Uxbridge College and work based learning providers.

The plan attached is robust, efficient and in the spirit of BID to provide a lean but thorough commissioning model that will make the money and expertise go further.

## **EFFECT ON RESIDENTS, SERVICE USERS & COMMUNITIES**

### **What will be the effect of the recommendation?**

- Smooth transfer of the responsibilities of the LSC to the LA.
- Accurate transmission of funding.
- Effective customer service to local 16-19 providers before, during and after the allocations process.
- A fresh focus on getting the best out of providers and ensuring better outcomes for participating learners.

- Development of the Learner Voice, the tracking of learners and the evidence base for more focused commissioning.
- Contribution towards our GOL targets of achievement at Level 2 and Level 3 by 19.
- Contribution to the lowering of our NEET targets as more young people are provided with education or training that mirrors their need and their wishes.
- The education of all our residents from the age of 16, including those with learning difficulties up to 25, are to be catered for in this plan. Therefore Equalities are key features of the work being done.
- A fresher, sharper commissioning approach that will underpin 100% participation and be more sensitive to local needs

In the writing of the attached Transition Plan concerning commissioning post 16 education and training in Hillingdon, every effort has been made to achieve efficiencies, supporting the Borough's pledge of being a 'well managed borough providing excellent services.'

### **Consultation Carried Out or Required**

Not applicable

### **CORPORATE IMPLICATIONS**

#### **Corporate Finance**

The key financial implication of the report is the transfer of responsibility for commissioning and funding post-16 local education for young people in the borough from the Learning and Skills Council to the Council with effect from April 2010. Out of the £37 million annual commissioning budget that will transfer, around £17 million already passes through the Council to school sixth forms in the borough as part of the schools budget. The remainder is passed on to other local providers including Uxbridge College. This represents a significant change to the nature of the Council's business and its ability to influence outcomes for local young people in partnership with providers and other stakeholders.

The administration of this responsibility being placed on the Council represents a new burden and as such the Government is required to provide additional funding to the Council to cover the cost of these responsibilities. Accordingly it is expected that around £0.25 million of revenue funding will be provided through the Area Based Grant for the 2010/11 financial year. This funding has not been included in the provisional Area Based Grant announcement for 2010/11 made in November 2009, however, there is funding held back nationally for additional Area Based Grant commitments. It is expected that the Government's next announcement on Area Based Grant allocations will be in March 2010 and that this funding will be included at that time. In line with the Council's normal approach to pass funding for new burdens on to the relevant service area, it is anticipated that this additional funding will be used to fund required new posts transferring into the School Improvement Service as well as additional finance support.

#### **Legal Comments**

The report to Cabinet follows the guidance to local authorities on the implementation of the devolution of the responsibility for post 16 Education, which is set out in the National Commissioning Framework (16.11.2009).

Under the said Framework local authorities are expected to establish a financial monitoring and audit framework that will minimise the burden on providers whilst providing full assurance on National Commissioning Framework and delivering value for money.

Part H of the Council's Constitution will apply to the commissioning elements of the transfer of responsibility from the LSC to the Council.

The Education Act 1996 (amended) and the Apprenticeships Skills Children and Learning Act 2009 are the main pieces of legislation applicable to this report. Schedule 7 of the 2009 Act makes it clear that the TUPE Regulations will apply to the transfer of designated employees of the LSC to a permitted transferee, namely a local education authority, and in this case, the London Borough of Hillingdon.

The power to agree service specific strategies, action plans and to agree proposals for enhancements and alterations to service provision is delegated under the Constitution to the appropriate Cabinet Member. It is then a matter for the Cabinet Member to determine which proposals for alterations to service provision should be reported to Cabinet for a decision. In this report it has been decided that, because of the significance of these changes, the matter should be referred to Cabinet which has the necessary authority to approve the recommendation.

## **BACKGROUND PAPERS**

NIL

## Glossary of acronyms used in the report

<b>DCSF</b>	Department for Children, Schools and Families
<b>FE</b>	Further Education, usually at a Further Education College
<b>GO</b>	Government Office for London, or GOL.
<b>ISPs</b>	Independent Specialist Provider. They are often the organisations providing learning to Young People with specific or severe learning difficulties or disabilities
<b>LLDD</b>	Learners with Learning Difficulties and Disabilities
<b>LSC</b>	Learning and Skills Council is to cease on March 31 2010. For over 10 years the LSC has been funding amongst other things, all sixth form education, including school sixth forms, FE and organisations providing work based learning, that is, almost all learning for young people over the age of 16 and for adults.
<b>NAS</b>	National Apprenticeship Service - further explanation within the report
<b>NEET</b>	Young People Not in Education, Employment or Training. Originally a Government classification for young adults aged between 16 and 19. Includes those who are long term sick or who might be looking after families
<b>RPG</b>	Regional Planning Group. In some areas this is a Sub Regional Group – depending on the size of the region. This is not relevant for London, where the 32 London Boroughs have formed the RPG.
<b>TUPE</b>	TUPE is an acronym for 'Transfer of Undertakings (Protection of Employment) Regulations 1981'. The purpose is to preserve the employees' terms and conditions when a business or undertaking, or part of one, is transferred to a new employer.
<b>SFA</b>	Skills Funding Agency - further explanation within the report
<b>YPLA</b>	Young Peoples Learning Agency - further explanation within the report