



Llywodraeth Cymru
Welsh Government

Securing provision for young people with learning difficulties at specialist further education establishments

Information

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Securing provision for young people with learning difficulties at specialist further education establishments

Audience Principals of institutions in the further education sector in Wales; heads of specialist further education establishments; young people; parents/carers; Careers Wales; local education authorities; social services departments; local health boards and other interested organisations.

Overview This document sets out the process by which the Welsh Ministers determine the funding of placements for young people aged 16–25 with learning difficulties at specialist further education establishments.

Action required All interested parties are required to have regard to the policy and procedure set out within this document. It must be noted that the policy forms part of a suite of documents which includes the Technical Guidance for both Careers Wales and Specialist Further Education Establishments and should be considered together on this basis.

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Additional copies This document can be accessed from the Welsh Government's website at <https://gov.wales/securing-post-16-education-young-people-learning-difficulties-specialist-further-education>

Related documents *Technical Guidance for Careers Wales (2020)*
Technical Guidance for Specialist Further Education Establishment (2020)

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.
This document is also available in Welsh.

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Introduction

1. The purpose of this document is to set out, for the benefit of interested parties, the policy and process by which the Welsh Government will make decisions about funding placements for young people aged 16–25 with learning difficulties who require access to specialist provision. It includes:
 - an overview of the Welsh Government’s relevant legislative responsibilities
 - the considerations that the Welsh Government will apply when deciding whether to fund specialist placements, which duration to fund, whether to fund changes to programmes of study that have already commenced, whether to fund extensions to an agreed programme of study, and whether to fund additional programmes of study
 - key considerations regarding the Welsh Government’s monitoring of any agreed placements
 - an overview of the timescales within which the Welsh Government and other interested parties seek to act.

Those with an interest in the information this document contains will include (among others) the individual themselves, their parent/carer, principals or heads of sector and mainstream/specialist further education (FE) establishments, Careers Wales, local authority (LA) education and social services departments and health boards.

2. The Welsh Government operates an inclusive education policy for all children and young people, regardless of their needs and background. This applies equally to both mainstream schools and mainstream FE establishments. The Welsh Government believes, in regards to post-16 education, that all young people who have a learning difficulty (see ‘Statutory context’ section on page 5 for a definition) should be provided equitable access to further education at a mainstream FE establishment, through the delivery of inclusive options available locally to meet their needs. It is therefore the Welsh Government’s expectation that mainstream FE establishments will normally meet the education and training needs of the majority of young people who have a learning difficulty.
3. However, the Welsh Government’s funding policy (as set out in this policy document) is to fund the specialist provision required for those young people with learning difficulties aged 16–25 who wish to undertake post-16 education but are not able to access the provision established as necessary¹ to meet their identified educational and training needs² through mainstream FE provision. This might also include boarding accommodation. The Welsh Government’s policy is to fund the duration required based on the young person’s capability to progress and achieve against their education and training outcomes³. For the majority of young people accessing specialist provision, the duration will be comparable with the duration of provision available within mainstream FE establishments, i.e. two academic years.

¹ See paragraph 52 for an explanation of provision established as necessary to meet a young person’s identified educational and training needs.

² See paragraph 52 for an explanation of a young person’s identified educational and training needs.

³ Education and training outcomes will be identified as part of a young person’s provision, established as necessary to meet their identified educational and training needs.

4. This policy is not aimed at providing either an alternative choice for the young person or respite for their family, or at mitigating the support arrangements that may not be available through other support services; it is intended as an equitable approach to secure provision to meet the identified educational and training needs of young people. This document sets out how the Welsh Government will apply this policy in practice.
5. This document is not intended as a guide to the assessment of a young person's needs nor does it describe a set of rigid requirements which must be met. The Welsh Government will exercise their powers in a flexible and responsible way to achieve this objective.
6. The Welsh Government invited the National Assembly for Wales to replace the existing law relating to post-16 education for young people with learning difficulties with legislation aimed at supporting young people with additional learning needs. The Additional Learning Needs and Education Tribunal (Wales) Bill was passed by the National Assembly for Wales on 12 December 2016 and subsequently became an Act on 24 January 2018 following Royal Assent. The roll out of the Act⁴ is expected to commence from September 2021. However, until this change takes place the current law remains in force.
7. The Welsh Government will adhere to this policy when making decisions on any funding applications. However, if doing so would break a clear and unambiguous promise of funding previously given (prior to this policy document), the Welsh Government will honour that promise if it would be disproportionate not to do so.

Further education provision

8. Nearly all mainstream FE establishments⁵ offer provision⁶ for young people with learning difficulties. This includes discrete specialist provision which can help young people to develop independent living skills, to prepare for work or to move on to mainstream learning opportunities, such as vocational programmes which prepare young people for work in their chosen field (e.g. programmes such as 'Employability' and 'Personal Development').
9. Mainstream FE establishments (with additional learning support funding from the Welsh Government) also provide a range of support, such as one-to-one staff support, to enable young people with learning difficulties to access vocational or general educational programmes alongside their peers.
10. However, sometimes a young person's holistic needs are too complex to be met solely by the mainstream FE establishment. In these instances it is considered good practice for mainstream and specialist FE establishments to engage each other regarding

⁴ [The Additional Learning Needs and Education Tribunal \(Wales\) Act 2018](#), includes a provision to transfer responsibility to secure specialist provision from the Welsh Government to local authorities and a provision for a right of appeal for young people in post-16 education. These provisions will replace the processes set out in this document in their entirety.

⁵ 'Mainstream FE establishment' means an institution in the FE sector that is not specially organised to provide education or training for persons with learning difficulties.

⁶ The quality of and standards relating to provision at mainstream FE establishments are inspected by Estyn/Ofsted.

these individuals to ensure the necessary provision can be established and delivered. Specialist FE establishments are available to support young people to access mainstream FE provision or to specifically deliver specialist educational provision directly to these individuals. Specialist FE establishments⁷ are mainly found in the independent sector so will not routinely receive recurrent funding from the Welsh Government. Funding is therefore provided by the Welsh Government to secure provision for individuals at these establishments.

⁷ 'Specialist FE establishment' means an institution specially organised to provide post-16 education or training for persons with learning difficulties.

Statutory context

11. A person will be considered to have a learning difficulty if that person:
 - (a) has a significantly greater difficulty in learning than the majority of persons of their age
 - (b) has a disability which either prevents or hinders them from making use of facilities of a kind generally provided by institutions providing post-16 education or training (see section 41(5) of the Learning and Skills Act 2000 (“the 2000 Act”)).
12. A person is not to be taken to have a learning difficulty solely because the language (or form of language) in which they are or will be taught is different from a language (or form of language) which has at any time been spoken in their home⁸.
13. The Welsh Government’s functions in respect of securing the provision of facilities for education and training and for funding placements, including those at specialist FE establishments, are set out in the 2000 Act, the key provisions of which are summarised in the Annex.
14. In brief, the Welsh Government are obliged to secure the provision of a range of facilities for education and training for young people aged 16–25 and they have powers to fund FE establishments and young people. When exercising these functions the Welsh Government must have regard to the needs of persons with learning difficulties and, in particular, to any report of an assessment the Welsh Government arranges under section 140 of the 2000 Act. Those assessments must be arranged for young people who have statements of special educational needs (SEN) and who are leaving school to go into further education. They can also be arranged for young people in other circumstances. The policy and guidance relating to this is detailed in ‘*Technical Guidance for Careers Wales*⁹’.
15. If the Welsh Government cannot secure the provision of the right range of facilities for education and training for young people with learning difficulties unless they also secure the provision of boarding accommodation, then they must also secure the provision of boarding accommodation.

Summary of effect

16. Taken together, one of the practical effects of sections 31, 32, 41 and 140 of the 2000 Act is to require the Welsh Government to consider whether they should fund the placement of a young person with learning difficulties at a specialist FE establishment where suitable provision cannot be secured at a mainstream FE establishment.

⁸ Learning and Skills Act 2000, section 41(6).

⁹ <https://gov.wales/securing-post-16-education-young-people-learning-difficulties-guidance-careers-wales>

The process

Overview

17. Careers Wales¹⁰ carries out an assessment of the young person and produces a report (known as a Learning and Skills Plan (LSP)) of the individual's education and training needs and the provision required to meet them. This should include the young person's desired outcomes linked to their future aspirations. The report will contain a recommendation about the necessary provision and placement. The assessment and LSP will be informed by information from a number of sources, including the young person, their parent/carer, the young person's current or previous school, relevant mainstream and specialist educational institutions, any health or social services body involved with the individual's needs, and any other relevant information.
18. Once the LSP is finalised Careers Wales submits it to the Welsh Government along with the young person's application for funding and other relevant supporting evidence.
19. In deciding whether to fund a placement the Welsh Government will take into account all information relevant to the funding application, and they will pay particular regard to the LSP.
20. The Welsh Government will make a decision in a timely manner and will inform the young person and their parent/carer, and Careers Wales, as soon as a decision has been reached (see 'Timescales' section on page 23).

Approach to funding decisions

21. In determining whether or not to fund placements at specialist FE establishments, the Welsh Government's approach is based on the following principles and objectives.
 - The Welsh Government's statutory obligations must be met (including consideration of availability of resources, where appropriate).
 - Young people will be treated fairly and equitably, and on a case-by-case basis.
 - The best interests of the individual will be considered.
 - The views and wishes of young people will be considered.
 - The provision available locally and across Wales is prioritised, where it is appropriate and reasonable to do so
 - A balanced conclusion will be reached on the basis of the evidence and advice.
 - Decisions will be communicated in full to the young person and other interested parties, as appropriate.
 - Decisions will be made in a timely way.
22. While the Welsh Government will take account of the wishes of the young person, their families and/or carers, it does not have a legal duty to fund the specialist provision of their choice; nor does it have a legal duty to fund their programme duration of choice. If the Welsh Government decides to provide funding and is satisfied that a placement

¹⁰ Careers Wales is a company owned and established by the Welsh Government to provide independent careers information, advice and guidance to people of all ages in Wales.

or duration which may not be the young person's preferred choice can realistically meet the education and training needs of the individual, then it may offer the funding for the alternative placement. This could, for example, entail a placement at a mainstream FE establishment with some additional support arrangements put in place either through the mainstream FE establishment or funded separately via local agencies such as social services.

Contacting Careers Wales

23. Applications for funding are submitted to the Welsh Government via Careers Wales. Some applicants will have statements of SEN at their existing schools, and so will already be in contact with Careers Wales through the annual review of their SEN statement. In these cases Careers Wales will continue to support the young person and their parent/carer through the application process. Applicants in other cases will need to contact Careers Wales¹¹ to begin the process of applying for funding.

Section 140 assessment (LSP)

24. In order to determine whether to fund a placement, the Welsh Government first needs to understand the young person's educational and training needs and the provision required to meet them. The Welsh Government will generally commission an assessment to be undertaken, and have arranged for Careers Wales to conduct these assessments on their behalf. This usually forms part of the transition process during the last year of compulsory schooling for the young person. In making decisions about securing and funding a placement, the Welsh Government will take the report (LSP) of the assessment into account, together with all other relevant matters, including any information or evidence collated by Careers Wales throughout the assessment process.
25. The starting point for the consideration of funding for specialist placements is the assessment under section 140 of the 2000 Act. A section 140 assessment is an assessment resulting in an LSP, identifying a young person's post-16 educational and training needs and the provision required to meet them.
26. These assessments are usually undertaken in accordance with the Welsh Government's duty to arrange assessments for young people with statements of SEN whom the Welsh Government believe will leave school at the end of their last year of compulsory schooling to receive post-16 education or training or higher education. Assessments may also be undertaken for a young person who appears to have a learning difficulty, who is over compulsory school age but under 25, and who is or is likely to receive post-16 education or training.
27. For young people who are in school, section 140 assessments are carried out on behalf of the Welsh Government by Careers Wales during the last year of compulsory schooling for the young person. Careers Wales will automatically provide an assessment where the young person has a statement of SEN and where a young person is supported by School Action or School Action Plus and has been subject to

¹¹ <http://www.careerswales.com>

an annual and/or transition review process consistent¹² with that undertaken for those with a statement of SEN.

28. Any other young person, or a person acting on their behalf, may approach the Welsh Government to request an assessment is undertaken so long as the young person is believed to have a learning difficulty, is over the compulsory school age but under 25, and is currently in or about to start post-16 education or training.
29. Where the assessment is being conducted in relation to a young person with a statement of SEN, it will form part of the transition planning process relating to such statements and is in effect the culmination of that process.
30. The transition planning process is set out in the *Special Educational Needs Code of Practice for Wales* (Welsh Government, 2004)¹³ and begins in Year 9. The *Special Educational Needs Code of Practice for Wales* highlights the importance of multi-agency input early in the SEN transition process in order that relevant multi-disciplinary assessments and care plans, which may include the provision of FE facilities, are conducted and can contribute to the formation of a young person's transition plan. However, the transition planning and/or annual review process must be undertaken in an impartial, unbiased, person-centred way. Therefore the Years 9 and 11 review meeting(s) for that young person should only involve those as identified within the *Special Educational Needs Code of Practice for Wales*. The Welsh Government would not normally expect specialist FE establishments to be actively involved in review meetings as it would be difficult to maintain impartiality when discussing appropriate and available options for the young person.
31. Where arrangements for an assessment have been made, that assessment should be completed as quickly as is reasonably possible in order to assist the young person to consider their options for further learning and to ensure appropriate arrangements can be arranged. It is expected that section 140 assessments will be completed by the end of the spring academic term for those young people expecting to commence post-16 education and training at the start of the next academic year, i.e. the following September.
32. The assessment is undertaken in conjunction with the young person and their parent/carer and with appropriate early input from other relevant agencies including the LA, the school, social services and health care professionals, mainstream FE establishments, etc. In order to carry out the section 140 assessment Careers Wales may need to ask the LA, the school or other relevant agencies for copies of available relevant and up-to-date information/evidence relating to the young person's holistic needs. This includes the young person's latest statement of SEN, where appropriate. The young person and their parent/carer are free to provide any information they think relevant to the assessment – this will be taken into account by Careers Wales in reaching an informed judgement about the young person's holistic needs and the provision required to meet them.

¹² By 'consistent' it is envisaged that the annual and/or transition review for a young person supported by 'School Action' or 'School Action Plus' involves multidisciplinary input, in a similar way that a review of a statement of SEN involves multi-professional input.

¹³ The *Special Educational Needs Code of Practice for Wales* is issued pursuant to section 313 of the Education Act 1996. LAs and governing bodies exercising functions under Part IV ('Special educational needs') of the Act have a legal duty to have regard to the provisions of the Code.

33. Where there is insufficient or conflicting evidence available the Welsh Government may, in these exceptional circumstances, arrange for an educational psychologist to undertake the section 140 assessment. The Welsh Government will act upon the outcome of that assessment.
34. The suitability of all available provision, local and otherwise, will form part of the assessment process. However, it is expected that provision available across Wales will be prioritised in order to ensure a young person can maintain closer links to their families and communities. The mainstream FE establishment's view on the extent to which it can meet a young person's needs is an important part of the assessment process. It is therefore essential that mainstream FE establishments engage early in the transition planning process and the subsequent section 140 assessment process. However, a visit by the young person to the FE setting is not always necessary for the local mainstream FE establishment to make a determination on whether they are able to meet a young person's needs. Where a young person has significantly complex and holistic needs the mainstream FE establishment could determine, based on a detailed description of the individual's needs, whether they clearly could not provide the necessary provision. A visit by the young person to the setting in these instances is likely to be deemed unnecessary.
35. Where it is established that a young person's identified education and training needs cannot be met within the mainstream FE sector, provision at a local or otherwise specialist FE establishment(s) should be considered. It is vital that, in these instances, the specialist FE establishment fully engages within the section 140 assessment process in order for Careers Wales to establish the necessary provision required and understand how this provision will meet the identified education and training needs of the young person. This should also include how the established provision links to the young person's future aspirations. In engaging in the section 140 assessment process it will be essential that specialist FE establishments have access to the relevant information for that young person, as contained within the LSP, in order to identify the provision considered necessary.
36. The assessment should result in a LSP, which will identify:
- the young person's education and training needs
 - the reasonable and realistic provision and duration required to meet those needs
 - prior education and training achievements
 - reasons why a specific FE establishment has been chosen as being able to meet the young person's needs
 - reasons why a young person's capability requires a particular duration for delivering the provision considered as necessary
 - the young person's desired outcomes linked to their future aspirations, such as employment or semi-independent/independent living and how the identified provision will equip the young person to achieve these outcomes.
37. The LSP should identify what can actually and realistically be provided and achieved, not what is ideal or what would be good in theory. Careers Wales must be satisfied that the stipulated provision is reasonable, realistic and, based on the young person's capability, can actually be met by the individual. Careers Wales must reach that judgement at the time of making its assessment and in reporting. The LSP needs to

make a recommendation about the placement, including the necessary course/programme of study and duration. The content and level of detail in the report will depend on the circumstances of the individual, but the report must reasonably reflect in sufficiently clear and intelligible form the principal important conclusions of the assessment based on the careers adviser's professional judgement.

38. The young person should be involved throughout the assessment process and every reasonable effort should be taken to ensure the young person and their parent/carer are kept informed. Once the assessment has been completed, Careers Wales must request the agreement of the young person or their parent/carer (where appropriate) to share the finalised outcome of the assessment with the Welsh Government, relevant mainstream/specialist FE establishments and relevant social services departments/local health boards (LHBs) (where applicable). If agreement is not received, the Welsh Government will not be able to consider a subsequent application for funding, and other agencies will not be able to engage with each other in respect to meeting that young person's needs.

Submission of applications for funding

39. Where a section 140 assessment identifies a need for a placement within a specialist FE establishment, Careers Wales must submit an application for funding, the LSP and supporting evidence to the Welsh Government for consideration. Where an assessment identifies provision other than specialist provision, the LSP will be submitted to the named mainstream FE establishment so that it can make suitable arrangements for support to be put in place.
40. Careers Wales act as the main point of contact for the young person and their parent/carer in the section 140 assessment process and any application that may be made. Careers Wales should therefore ensure that the young person and their parent/carer are fully aware of the facts and the advantages/disadvantages of any particular provision. However, regardless of whether the LSP establishes that mainstream provision is required, Careers Wales cannot refuse to submit an application for funding to the Welsh Government should the young person and/or their parent/carer wish. Careers Wales should ensure in these instances the young person and their parent/carer are aware of the considerations that the Welsh Government will take into account when making a determination on an application, as outlined within this document. In these circumstances, the Welsh Government will give consideration to the application and the supporting evidence base, together with any additional relevant information, including any the young person or their parent/carer wishes to provide.
41. Where the application and/or LSP is complete but lacks sufficient detail, or the supporting evidence is insufficient for the Welsh Government to determine whether funding should be provided, the Welsh Government will make reasonable enquiries to secure the necessary evidence and/or commission a new assessment for the young person. The Welsh Government will not proceed to consider an application for funding if the application or accompanying LSP is considered to be incomplete, e.g. where sections are blank or contain no relevant information. Where an application or LSP are incomplete it will be returned to Careers Wales. For this reason, it is important all necessary information is submitted to avoid causing any unnecessary delays in the decision-making process.

42. If the Welsh Government has been notified of a safeguarding concern at a specific specialist FE establishment the Welsh Government may need extra assurances that suitable safeguarding standards are in place to protect young people. In these circumstances, a decision on an application may be delayed until such time as the necessary assurances are received.
43. The LSP should be based on up-to-date information. For this reason, the LSP and key supporting evidence should be as up to date as possible and preferably not be more than one year old at the date the application is received. Applications for funding should not be made more than one academic year before the start of the placement.
44. In circumstances whereby reconsideration of options are being undertaken by the young person, their parent/carer or service delivery partners, after an application has been submitted, the Welsh Government will give consideration as to whether it is appropriate to return the application to Careers Wales until such time as any reconsideration is resolved. If the outcome of this reconsideration continues to identify a need for specialist provision, then Careers Wales will be responsible for resubmitting the application, along with all necessary and up-to-date supporting information, including that which relates to the reconsideration.
45. In identifying the provision required and the appropriate establishment at which this should be delivered, Careers Wales will endeavour, in discussion with that mainstream/specialist FE setting, to reserve the placement on a provisional basis. This is especially important if an application for funding is being submitted to the Welsh Government for a young person whose needs could also potentially be met by a mainstream FE establishment. It must be clear to the Welsh Government that a place at a particular setting is available for the young person when making a decision. In exceptional circumstances, whereby a placement unexpectedly becomes unavailable following submission of an application to the Welsh Government, Careers Wales must seek out alternative options that will meet the young person's needs.
46. Once it has been established that a young person's needs could be met through mainstream FE provision, Careers Wales must make every effort to identify a suitable alternative elsewhere within the mainstream FE sector if the original placement becomes unavailable before a funding application is determined. The Welsh Government are unlikely to fund a placement at a specialist FE establishment solely because the original proposed placement at a particular mainstream FE establishment is no longer available.
47. A young person should commence a placement at the beginning of a full academic term, where appropriate. Applications for funding a placement commencing at the start of a new academic year can be submitted from the preceding October onwards. The Welsh Government will make every effort to make a decision on an application for funding within a six-week period. Where applications for funding placements are being submitted for an alternative commencement date (outside of the new academic year), consideration must be given to the appropriate academic term the placement can commence (see 'Timescales' section on page 23).
48. An offer of a placement at a specialist FE establishment by any officer of an organisation other than the Welsh Government is no guarantee of funding.

Criteria for consideration

49. In determining an application for funding, the Welsh Government will apply the general principles and objectives set out in paragraph 21. In particular, the Welsh Government will consider the application, the LSP and the supporting evidence and advice collated by Careers Wales, and any other evidence it considers relevant.
50. The Welsh Government will fund a placement for a young person at a specialist FE establishment on a day basis where they are satisfied that such provision is necessary to enable the individual to participate in education and training. Specialist provision will usually be necessary, in the Welsh Government's view, only where there is no other realistic means of providing the young person with effective access to the provision established as necessary to meet the individual's identified education and training needs.
51. The Welsh Government will only fund boarding accommodation if without it the young person would be denied effective access to the specialist provision established as necessary to meet the individual's identified educational and training needs.
52. The Welsh Government's starting point is that the provision established as necessary to meet the young person's identified needs is the provision specified in the LSP; and that the young person's identified educational and training needs are those specified in the LSP (and this is what those terms mean when used in this document). It is unlikely that the Welsh Government will prefer the findings of an assessment carried out by a person other than Careers Wales in the absence of cogent and compelling reasons to do so.
53. In making these judgements the Welsh Government will have regard to all relevant information before them, and will specifically consider whether:
 - all available evidence demonstrates that specialist provision is essential to meet the young person's identified education and training needs
 - alternative options are available through local mainstream FE establishments, including packages of support (that is, with LAs or other providers)
 - evidence demonstrates that an essential element of the young person's education or training needs can only be provided in a specialist FE establishment with boarding accommodation
 - the young person requires an educational setting with an extended curriculum which cannot be provided in an FE establishment without boarding accommodation
 - the young person has medical and/or social care needs that cannot be met by or in conjunction with local providers in a mainstream FE establishment and which would prevent the young person from accessing education or training suitable to meet their identified needs
 - a valid consent to the placement is in place (see 'Consent to placement' section on page 14)
 - a clear and realistic programme of study has been identified that meets the young person's identified needs, and whether there is a clear breakdown of how the programme will be delivered over the requested duration. This should include appropriate planning for transition arrangements (both into and out of the establishment)

- the provision established as necessary to meet the young person's identified needs can be delivered within a duration that fits with the Welsh Government's policy for funding (see 'Initial applications for funding' section on page 17)
- the young person's desired outcomes, linked to their future aspirations, have been identified and that the proposed programme of study will equip the individual to achieve these outcomes
- the establishment is an FE establishment inspected by Estyn or Ofsted, and has obtained in its most recent inspection a minimum judgement of at least 'Adequate' or 'Grade 3: requires improvement' in all key questions. The Welsh Government reserves the right to withdraw funding or not to fund new placements at an establishment where a judgement of 'Unsatisfactory' or 'Grade 4: inadequate' is recorded for any aspect of the establishment's most recent Estyn or Ofsted inspection report
- the establishment is a residential establishment inspected by the Care Inspectorate Wales (CIW) or the Care Quality Commission (CQC), and is operating within the standards set nationally, in its most recent inspection. The Welsh Government reserves the right to withdraw funding or not to fund new placements at an establishment where non-compliance against regulations or an inadequate rating is identified for any aspect of the establishment's most recent CIW or CQC inspection report
- the specialist FE establishment has confirmed its ability to meet the conditions of funding set out in the Welsh Government's 'Funding Agreement'¹⁴. The Welsh Government reserves the right to withdraw funding for existing placements or not to fund new placements at an establishment that does not confirm its ability to meet the conditions, or subsequently fails to meet the conditions set out in the 'Funding Agreement'
- the placement for which an application for funding is requested is not the one recommended in the LSP, and whether there are cogent and compelling reasons to fund the placement applied for.

Programmes of study generally

54. Specialist FE establishments must identify a clear, reasonable and realistic programme of study that meets the young person's identified education and training needs as part of the section 140 assessment process. This must include a breakdown of what is expected to be delivered in each of the academic years required and the expected outcomes linked to the young person's future aspirations. The Welsh Government will, following their decision to approve an application, write to the specialist FE establishment. This will identify the specific programme of study and its relevant breakdown by academic year that the Welsh Government are willing to fund. This enables transparency for all parties concerned about what is specifically being funded.
55. Specialist FE establishments are responsible for assessing a young person's progress against their agreed programme of study. In order for the Welsh Government to monitor the progress of young people against their agreed programmes of study, specialist FE establishments must provide an end of first academic term and an end of

¹⁴ The Welsh Government's Funding Agreement establishes a framework between the Welsh Government and the specialist FE establishment in respect of those young people agreed to be funded by the Welsh Government and the conditions of that funding.

academic year progress report to the Welsh Government (see 'Timescales' section on page 23). This ensures the placement is systematically reviewed on a regular basis to assess if the young person remains on track to achieve the intended outcomes, and will inform decisions regarding funding for subsequent years.

56. Where a young person completes their programme of study and the young person takes the next step of their lives towards employment or semi-independent/independent living, specialist FE establishments should record this 'learner destination' information and submit it to the Welsh Government (see 'Timescales' section on page 23). This information allows the Welsh Government and Careers Wales to assess the effectiveness of the specialist provision delivered and the contribution it made towards the young person's future.

Consent to placement

57. As part of the funding application process the Welsh Government needs to understand whether the young person concerned has the mental capacity to consent to the placement and if so, whether they have done so. In cases where the young person does not have capacity to consent, the Welsh Government needs to know whether a valid consent is in place and the associated details.
58. This is to ensure that the young person's best interests and human rights are being appropriately safeguarded, and in order to decide whether and on what terms to agree funding for placements at specialist establishments, or how to deal with the funding application. In some cases, for example, an application to the courts might be needed to authorise the placement. Until such time consent is agreed, Welsh Government will not consider an application for a specialist placement.
59. Cases in which a placement might amount to a deprivation of liberty are particularly complex. The mechanisms available to authorise placements in these cases vary, depending on the nature of the specialist FE establishment at which the provision is intended to be made. For this reason it may take longer to reach a decision for a placement in cases where these issues have not been resolved before the funding application is submitted.

Funding

Joint funding

60. The Welsh Government does not act alone in supporting young people with learning difficulties. The Welsh Government, therefore, takes account of the role and responsibilities of other organisations towards young people. These organisations may include Careers Wales, Jobcentre Plus, LA education and social services departments, health boards and voluntary organisations, all of which may be involved in providing advice and/or support for individuals. By promoting inter-agency collaboration the Welsh Government aims to ensure the best possible response to young people's needs.
61. In circumstances where, in addition to educational needs, there are medical, domestic or social care reasons leading to a recommendation for specialist FE provision, the Welsh Government will look to the appropriate agency to enter into an arrangement for joint funding.
62. According to the *Special Educational Needs Code of Practice for Wales*, 'all agencies should recognise their respective funding responsibilities as early into the transition planning stage as possible. Joint planning arrangements should identify elements of planned provision and the agencies responsible for funding each of those elements, particularly where there is a recommendation for post-16 provision in a residential establishment.' Early involvement by funding agencies in the SEN transition process and early recognition of any respective funding responsibilities by LAs and LHBs facilitates an informed and timely response to applications for funding at a specialist FE establishment. This collaborative approach applies equally in cases where the young person's first contact with agencies arises after leaving compulsory schooling.
63. Specialist FE establishments should ensure that they have clearly identified the costs associated with the proposed placement during the section 140 assessment process; this includes a breakdown of the specific costs that relate to education, health and/or social care. Respective funding agencies must engage early with the assessment process and the proposed specialist FE establishment to discuss and agree the costs apportioned to them. This will enable a more effective process for determining the joint funding arrangements for the young person.

Backdating funding

64. The Funding Agreement between the Welsh Government and specialist FE establishments makes clear that establishments must not enrol a young person and subsequently request retrospective funding from the Welsh Government. Funding will not be backdated other than in exceptional circumstances, e.g. where a looked-after child or young person has been placed in a specialist FE establishment by social services or the LHB.

Funding per academic year

65. Funding is agreed by the Welsh Government on an academic year basis (maximum of 38 weeks/year).

66. Funding for each year of an agreed programme of study is dependent on progress and subject to review. The Welsh Government has procedures in place to monitor a young person's funded placement which will inform decisions regarding funding for subsequent years. Should a young person be making exceptional progress against their agreed programme of study, consideration will be given to adjusting/reducing the duration for which funding is provided to reflect the reality of the speed at which the young person is achieving in their agreed programme of study.
67. Where a young person is not making the expected progress, funding requests to extend the placement in order to allow the young person to complete the original agreed programme will be considered in accordance with the procedure explained in the section on 'Requests to fund an extension to an agreed programme of study' on page 18.

Fees

68. Specialist FE establishments set their fees based on young people's assessed needs. The setting will undertake a pre-entry assessment of a young person, as part of the section 140 assessment, in order to ascertain the provision they can offer to meet the young person's identified education and training needs. This assessment must not be taken in isolation and considered along with other relevant evidence, for example, care and support plan; and any information provided the local health board. The Welsh Government expects that any identified fees for a proposed programme of study will be inclusive of any pre-entry assessment costs identified by the specialist FE establishment.

Transport to and from college

69. It is important for the young person and their parent/carer to understand the likely arrangements for home-to-college transport especially where they may potentially access provision at a specialist FE establishment. Therefore it is expected that prior to an application for funding being submitted, any potential transport arrangements required are considered and identified in discussion with the LA as part of the section 140 assessment. These arrangements should be set out in the application for funding.
70. The Welsh Government does not usually fund home-to-college transport. This generally falls within the remit of LAs, who will consider transport requirements on a case-by-case basis, having regard to their statutory duties.

Absence and withdrawal

71. Once a young person has commenced a programme of study, specialist FE establishments must inform the Welsh Government immediately if the individual then becomes absent (short or long term) or has withdrawn entirely from their programme of study. The Welsh Government has financial procedures in place that must be adhered to in the event such a situation arises.

Procedure and considerations that apply to funding decisions

Initial applications for funding

72. Provision at mainstream FE establishments usually spans two academic years. Accordingly, the Welsh Government will generally fund placements within specialist FE establishments lasting up to a maximum of two academic years, based on a realistic programme of study agreed in advance.
73. The Welsh Government should not receive an application for a programme of study lasting more than two academic years unless exceptional reasons relating to the young person's capability to learn are demonstrated. Even in these cases, funding is unlikely to be offered for more than two years in the absence of objective evidence demonstrating that the provision identified as necessary to meet the young person's established needs cannot realistically be provided by a study programme of two years¹⁵. The duration of a programme of study must be identified by Careers Wales prior to the submission of an application.
74. The Welsh Government expects that arrangements for effective transition will be embedded within the young person's programme of study. Young people with learning difficulties often find it challenging to adjust to a new setting or environment in which they will undertake their proposed provision. It is important that transition arrangements are in place to ease the young person into their new provision to minimise the risk of stress and/or anxiety on the individual. It is equally important that transition out of the specialist FE establishment has been planned and implemented effectively, in conjunction with relevant support agencies such as social services or LHBs, in a timely way and in advance of the young person completing their programme. It is considered good practice for relevant support agencies to be engaged with the specialist FE establishment throughout the young person's provision and understand their desired outcomes/aspirations. This ensures that the young person is supported appropriately upon leaving.
75. The Welsh Government will not consider any requests to fund additional time to support those transition arrangements that the specialist FE establishment failed to put in place for the young person. This includes failing to make adjustments to provision where a young person is considered to have received minimal time for transition upon entry into the specialist FE establishment.

Funding requests for changes within an agreed programme of study

76. The Welsh Government recognises that due to the complexity of some young people's needs, the agreed programme of study may need to be modified once the young

¹⁵ Specialist FE establishments are specifically set up to cater for the complex needs of those young people their provision is specifically aimed at, i.e. young people with severe autism or young people with profound and multiple learning difficulties, etc. The Welsh Government therefore generally expects specialist FE establishments to design bespoke programmes of study that are comparable in duration to that provided by a mainstream FE establishment. These programmes should be specifically targeted at the realistic level of education achievable in that duration for the general cohort of young people who attend these establishments.

person has commenced the provision. It is the responsibility of the specialist FE establishment to identify any changes that may be required to the individual's provision, involving and informing the young person and their parent/carer (if appropriate¹⁶), and submitting a request to the Welsh Government.

77. Where concerns or problems relating to a young person's agreed programme of study might affect the cost of the placement or the agreed provision, the specialist FE establishment must identify this to the Welsh Government and other funding partners as soon as they arise. Any proposed changes to the provision within the agreed programme of study, including accreditation, will require prior agreement of the Welsh Government.
78. The Welsh Government will not usually consider 'whole' programme changes where the request is received after the young person's first academic term. It is expected that the first academic term will provide sufficient time for the specialist FE establishment to assess if the young person is on an appropriate programme. In addition the Welsh Government will not usually consider any changes to provision if it impacts upon the agreed duration.
79. The Welsh Government will usually agree to changes that involve a small increase or decrease in costs, if they are satisfied that the changes are desirable in the interests of meeting the young person's identified educational or training needs. Where the changes involve a significant change in costs, the Welsh Government will consider requests for funding if they are satisfied that the changes are objectively necessary to meet the young person's identified educational or training needs as set out in their LSP.
80. The Welsh Government will not fund changes to programmes of study that have not been specifically agreed to. Any changes to agreed programmes of study or support requirements commenced by specialist FE establishments which the Welsh Government has not agreed prior to its delivery may also result in the withdrawal of funding from the agreed placement.
81. In the best interests of the young person, changes to the agreed provision should be submitted for the Welsh Government to consider as soon as the need is identified (regardless of whether additional costs are involved). The Welsh Government will endeavour to make a decision within four weeks of receiving a request. However, where a young person's placement is jointly funded with other agencies, securing the funding by those agencies if needed may take time. All agencies should be involved as early as possible in order to allow sufficient time to make decisions about any required changes to provision.

Requests to fund an extension to an agreed programme of study

82. Specialist FE establishments are responsible for assessing a young person's progress against their agreed programme of study and giving consideration, in conjunction with the young person, their parent/carer and Careers Wales, as to whether a request for an extension to the agreed programme is necessary. The specialist FE establishment

¹⁶ The specialist FE establishment will need to consider whether consent of the young person is needed in order to share information with the parent/carer.

is responsible for submitting a request for an extension to the Welsh Government. In this context 'extension' means an extension of time to complete the original programme of study which the Welsh Government agreed to fund (referred to as the 'agreed programme').

83. The request for an extension must only relate to extending the length of time required for a young person to complete their original agreed programme of study. A request to extend a young person's placement in order for the individual to undertake additional provision or accredited programmes over and above what was originally agreed is not a request for an extension, and different considerations apply to decisions about funding in those cases (see 'Requests to fund additional programmes of study' section on page 20).
84. Requests to extend a young person's placement beyond the programme's original agreed end date will only be agreed in **exceptional** circumstances. The Welsh Government will need to be satisfied that the circumstances giving rise to the need for the extension were unavoidable and that the extension is objectively necessary to ensure that the young person's identified educational and training needs, as stated in the young person's LSP, are met.
85. The Welsh Government will not consider any extension requests seeking to offer additional time at a specialist FE establishment for the reason of transition planning, e.g. where effective transition arrangements have not taken place. An example of where an extension request might be considered necessary includes cases where a young person has been unable to complete their agreed programme of study due to absence as a result of unexpected illness, which has ultimately impacted on their ability to learn.
86. Funding will not usually be provided for more than one extension to the same agreed programme of study. In the most exceptional of cases where a request for a second extension is in fact considered, funding is unlikely to be provided if the second request stems from the same exceptional circumstances as the first.
87. Each extension request will be considered on a case-by-case basis. However, the length of time required must be proportionate to what remains to be completed within the young person's agreed programme of study.
88. Any concerns or problems relating to the young person's ability to complete the agreed programme of study should be raised in termly reviews by the specialist FE establishment and recorded in the young person's progress reports. The Welsh Government must be informed of any concerns or problems relating to a particular young person through the early submission of progress reports using the appropriate Welsh Government form, and prior to a written request for an extension being submitted. Other than in exceptional circumstances, the Welsh Government are unlikely to agree a request for an extension where they have only been informed of concerns or problems associated with the young person's ability to complete the agreed programme of study at the time a request for an extension is received.
89. Requests to fund extensions, with comprehensive reasons, should be made in writing by the specialist FE establishment, clearly identifying what aspects of the agreed programme of study have been achieved to date and what remains to be completed. The request must:

- set out the need for an extension
- set out, with reasons, the appropriate length of additional time required by the young person to complete the original agreed programme of study
- show demonstrable consideration of all alternative options, which must be informed by discussion with Careers Wales and other interested parties such as social services/health boards where they have a direct interest.

90. In the best interests of the young person, extension requests must be submitted in the individual's final academic year as soon as the need for an extension is known, but no later than 30 April. Where the request is submitted after this date, the Welsh Government cannot guarantee to make a decision before the end of that academic year. Where a young person has started their placement later in the academic year, the extension request should be received no later than the end of the penultimate term of the academic year in which the young person's existing placement ends.
91. The Welsh Government will aim to reach a decision within four weeks of receiving an extension request. However, where a young person's placement is jointly funded with other agencies, securing the continuation of funding by those agencies may take time. Where the need for an extension arises, the specialist FE establishment should ensure other funding agencies are involved as early as possible in order to allow sufficient time for decisions to be made.

Requests to fund additional programmes of study

92. In certain circumstances it may be necessary for a young person to undertake additional specialist provision over and above, and following completion of, the young person's original agreed programme of study. However, it is not the Welsh Government's policy to routinely fund continuous education and training up until the age of 25. Nor is it the Welsh Government's policy to fund an additional programme of study solely because it is considered desirable for the young person, for example, because the young person has fared well at a particular specialist FE establishment and would continue to make good progress or because appropriate transitional arrangements have not been put in place following completion of the previous/existing programme of study (see para 74/75 for additional information on transition planning).
93. The Welsh Government will only fund an additional programme of study at any specialist FE establishment in exceptional circumstances. Examples of exceptional circumstances are:
- where the education or training provided by the specialist FE establishment fell so far below the expected standard, that it is viewed, the establishment failed to deliver the provision established as necessary to meet the young person's LSP.
 - where the personal circumstances or needs of the young person have changed to such an extent that they failed to obtain, or subsequently lost the benefits of the LSP, adversely affecting their ability to engage meaningfully with the agreed programme of study, e.g. because of a change in nature of their disability (a very significant deterioration or a very significant improvement in their disability), or as a result of a traumatic experience. .
94. Before an application for an additional programme of study can be made, the Welsh Government must give consent to a request to update a section 140 assessment. This

request must evidence what has changed in the young person's circumstances to such an extent that would warrant an update to the section 140 assessment. Subject to this consent, there is no guarantee of Welsh Government funding for an additional programme of study (see 'Section 140 assessment (LSP)' on page 7; para 43(b) and para 81 of the Technical Guidance for Careers Wales).

95. Applications for additional programmes of study are made by Careers Wales. Where the Welsh Government has given consent for Careers Wales to undertake an updated section 140 assessment and the outcome does not identify provision at a specialist FE establishment, Careers Wales cannot refuse to submit an application but should draw the attention of the young person and their parent/carer to the contents of this document. The application should include a demonstrable consideration of all alternative options which should be informed by the input of interested parties, including social services and/or LHBs where they have a direct interest.
96. Where a placement requires joint funding with other funding agencies, the same considerations apply as set out in the 'Funding' section on page 15.
97. Until such time that Welsh Government has made a decision regarding an additional programme of study, transition arrangements within college and with relevant external agencies should continue.

Making an appeal/raising a complaint

98. The Welsh Government will endeavour to act in accordance with the policy, set out in this document, and in adherence to the 2000 Act. However where a young person and/or their parent/carer believe the Welsh Government has not made a reasonable decision in line with this policy and/or the law, they can appeal to the Welsh Government to review the decision made.
99. An appeal can be submitted on a decision made by the Welsh Government in regards to:
 - an application for funding
 - a request for change(s) within an agreed programme of study
 - a request to fund an extension to an agreed programme of study
 - a request to undertake or update a section 140 assessment
100. In making an appeal, the young person and/or parent/carer must set out the decision being appealed and the reasons for that appeal, i.e. why the decision is wrong. This should be submitted in writing within 28 working days from the original decision date, along with any evidence that supports the appeal. Receiving an appeal in writing is particularly important as supporting reasons and evidence can be complicated and detailed. Advice and support is available from Careers Wales should the young person and/or parent/carer wish to consider an appeal.
101. An appeals form can be accessed via the Welsh Government website should a young person and/or parent/carer wish to submit an appeal. This can be found at <https://gov.wales/securing-post-16-education-young-people-learning-difficulties-specialist-further-education-appeal-form>

102. An appeal can be submitted:

- via e-mail to the Welsh Government mailbox at Post16ALN@gov.wales
- via post to:

Post-16 Additional Learning Needs Team
Support for Learners Division
The Education Directorate
Welsh Government
Llys-y-Ddraig
Penllergaer Business Park
Swansea
SA4 9NX

103. Following receipt of all relevant information relating to the appeal request, the Welsh Government will convene a panel and give consideration to the appeal. A response will be provided setting out the outcome of the appeal and the reasons for that outcome.

104. Where a young person and/or parent/carer remain dissatisfied with the outcome of the panel consideration, they can request the appeal is passed to an independent assessor. Such a request should be submitted in writing within 28 working days from notification of the appeal outcome. The Welsh Government will commission an independent and impartial person to act as the independent assessor to review the appeal and make a recommendation to the Welsh Government. The Welsh Government will have regard to the outcome of that review and will inform the young person and/or parent/carer accordingly.

105. Timescales relating to the process of appeal is set out in the section on 'Timescales' on page 23.

106. Should a young person and/or their parent/carer wish to raise a complaint about the process leading to a decision, they can make a complaint using the Welsh Government's customer complaints policy. The customer complaints policy sets out what they should do if they are dissatisfied with a service provided by the Welsh Government and they want to make a complaint. The complaints policy can be accessed at <https://gov.wales/complain-about-welsh-government>

Timescales

107. The transition planning process should commence in Year 9 and culminate, where necessary, with the submission of the application for funding to the Welsh Government in the final year of a young person's compulsory schooling. This enables sufficient time to consider all options relating to the young person's future aspirations and to plan how to meet them accordingly. This is especially important for those young people with complex needs who will require a multi-agency input into supporting them in the next phase of their lives. The Welsh Government expects, therefore, that section 140 assessments should be completed by Careers Wales by the end of the spring academic term for those young people in their final year of school, or as soon as is feasible for those young people above compulsory school age but under 25.
108. The Welsh Government recognises that specialist FE establishments may accept a young person at various times in the academic year and therefore applications for funding can be submitted at any time in the calendar year. However, applications for funding a placement (for initial/additional programmes of study) should be submitted by Careers Wales between 1 October and 30 April for provision commencing at the beginning of the following academic year. This is in order to guarantee a decision in time for the start of the academic year. Priority will be given to those applications received during this set timeframe.
109. The Welsh Government will endeavour to issue a decision on applications received by 30 April within six weeks of receipt, and will confirm its decision in writing. However, it may take longer to reach a decision where further information or valid consent is required, or where joint funding is necessary. In these circumstances, the Welsh Government will contact Careers Wales who will keep both the young person and the parent/carer informed of progress towards a decision.
110. Where an application for funding is approved, the Welsh Government will write to the young person, their parent/carer (where applicable), Careers Wales, the specialist FE establishment and other relevant agencies to confirm the decision. Following this confirmation, Careers Wales **must** provide the relevant specialist FE establishment with a copy of the young person's finalised LSP so that they may ensure the necessary support arrangements can be put in place.
111. The Welsh Government will not consider applications received on or after 1 May for programmes of study expected to commence at the start of the following academic year, i.e. September. Receipt of applications after this date makes it difficult to engage meaningfully with relevant stakeholders, especially those within the education sector, in order to identify any further information that may be required to support the application. In addition, decisions made after this time are not conducive to enabling effective transition planning for the young person, their families and for specialist FE providers prior to the agreed placement commencing.
112. Careers Wales can still submit applications on or after 1 May. However, in these circumstances the Welsh Government would normally expect to see the careers adviser liaising with the appropriate specialist FE establishment and families with a view to securing a start date at the beginning of the next academic term (see table on page 24). This must be reflected within the application for funding. The alternative commencement date must allow sufficient time for both a decision to be made and for

suitable transition arrangements to be put in place for the young person. It is not considered good practice to commence specialist provision early just so that the young person can access provision quickly; this is likely to have a negative effect on the young person and their ability to learn.

113. The following sets out the Welsh Government expectations of standards for those involved in the process of securing and funding a young person's placement.

Process	Lead	Timescale
Complete section 140 assessments. This must include the appropriate involvement of all necessary agencies	Careers Wales	End of spring academic term in the young person's final academic year of school End of spring academic term, or as soon as is feasible for those young persons who are not at school and who are above compulsory school age and under 25
Submission of an application for a new/additional programme of study to the Welsh Government	Careers Wales	Priority will be given to those applications received between 1 October and 30 April, for a September start date Applications should be submitted by 30 September for a January start date; or by 31 January for an April start date
Consideration by the Welsh Government of an application for a new/additional programme of study	Welsh Government	Decision within six weeks of receipt

114. The following sets out the Welsh Government's expectations of standards for when a young person is undertaking a programme of study at a specialist FE establishment.

Process	Lead	Timescale
Identify any changes required within an agreed programme of study and submit a request to the Welsh Government to consider the required changes	Specialist FE establishment	Within the young person's first term of study in any academic year
Consideration by the Welsh Government of requests to change provision within an agreed programme of study	Welsh Government	Within four weeks of receipt; however, this could be longer if it requires consideration by other funding agencies
Submission of extension request to an agreed programme of study	Specialist FE establishment	By 30 April in the young person's final year of study, or the end of the penultimate academic term if the young person started their provision outside of the standard academic year
Consideration by the Welsh Government of an extension request to an agreed programme of study, submitted by 30 April	Welsh Government	Decision within four weeks of receipt
Submission of progress reports to the Welsh Government	Specialist FE establishment	Within one month following the end of first academic term; and within one month prior to completing the academic year
Notification of absence or withdrawal	Specialist FE establishment	Immediately
Submission of destination information	Specialist FE establishment	By the half term, following completion of the young person's programme of study

115. The following sets out the Welsh Government's expectations of standards for those involved in the process of an appeal.

Process	Lead	Timescale
Confirm receipt of an appeal request	Welsh Government	Within five working days of receiving an appeal request
Provide a response to the young person and/or parent/carer confirming the outcome of the appeal	Welsh Government	Within 15 working days of receiving an appeal request; provided all relevant supporting evidence has been submitted
Commission an independent assessor to consider the appeal	Welsh Government	Within 10 working days of the request to proceed to an independent assessor
Consider the appeal and make a recommendation to the Welsh Government	Independent assessor	Within 20 working days of being commissioned by the Welsh Government
Provide a response to the young person and/or parent/carer confirming the outcome of the appeal	Welsh Government	Within 3–5 working days of receiving a recommendation from the independent assessor

Annex: Statutory background

Sections 31 and 32 of the Learning and Skills Act 2000

1. Under section 31(1) of the 2000 Act the Welsh Ministers must secure (among other things) the provision of proper facilities for:
 - (a) education (other than higher education) suitable to the requirements of persons who are above compulsory school age but have not attained the age of 19
 - (b) training suitable to the requirements of such persons.
2. Section 31(2) states that facilities are 'proper' if they are:
 - (a) of a quantity sufficient to meet the reasonable needs of individuals
 - (b) of a quality adequate to meet those needs
 - (c) sufficient to satisfy the entitlements conferred under section 33F (students' local curriculum entitlements).
3. Under Section 32 of the 2000 Act, the Welsh Ministers must secure (among other things) the provision of reasonable facilities for:
 - (a) education (other than higher education) suitable to the requirements of persons who have attained the age of 19
 - (b) training suitable to the requirements of such persons.
4. In performing the duties imposed on them under sections 31 and 32, the 2000 Act requires the Welsh Ministers to:
 - (a) take account of the places where facilities are provided, the character of facilities and the way they are equipped
 - (b) take account of the different abilities and aptitudes of different persons
 - (c) take account of the education and training required in different sectors of employment for employees and potential employees
 - (d) take account of facilities whose provision the Welsh Ministers think might reasonably be secured by other persons (see sections 31(3) and 32(3)).

Section 41 of the 2000 Act

5. Section 41(1) of the 2000 Act requires that in discharging their functions under sections 31 and 32, the Welsh Ministers must have regard:
 - (a) to the needs of persons with learning difficulties
 - (b) in particular, to any report of an assessment conducted under section 140 of the 2000 Act (see below).
6. Under section 41, if the Welsh Ministers are satisfied that they cannot secure the provision of facilities for education or training which are sufficient in quantity and adequate in quality for a person with a learning difficulty who is over compulsory school age but who has not attained the age of 19 unless they also secure the provision of boarding accommodation for them, the Welsh Ministers must secure the provision of boarding accommodation for the person with a learning difficulty (see section 41(2)).
7. In addition, if the Welsh Ministers are satisfied that they cannot secure the provision of reasonable facilities for education or training for a person with a learning difficulty who has attained the age of 19 but not the age of 25 unless they also secure the provision

of boarding accommodation for them, the Welsh Ministers must secure the provision of boarding accommodation for the person with a learning difficulty (see section 41(3)).

Section 140 of the 2000 Act

8. Section 140 of the 2000 Act requires that if a young person has a statement of SEN under section 324 of the Education Act 1996, and the Welsh Ministers believe that the young person will leave school at the end of their last year of compulsory schooling to receive post-16 education or training or higher education, the Welsh Ministers must arrange for an assessment of the young person to be conducted at some time during the young person's last year of compulsory schooling.
9. Furthermore, section 140(3) says that the Welsh Ministers may at any time arrange for an assessment to be conducted of a person:
 - (a) who is in their last year of compulsory schooling or who is over compulsory school age but has not attained the age of 25
 - (b) who appears to the Welsh Ministers to have a learning difficulty (within the meaning given in section 41(5))
 - (c) who is receiving, or in the opinion of the Welsh Ministers is likely to receive, post-16 education or training or higher education.
10. For the purposes of section 140, an assessment of a person is an assessment resulting in a written report of:
 - (a) their educational and training needs
 - (b) the provision required to meet them (their educational and training needs) (see section 140(4)).

See 'Section 140 assessment (LSP)' on page 7 which sets out further information on the assessment process.