

# Partnership Provision Controls Guidance

**This document is part of the YPLA Funding Guidance group of documents but is not expected to need an annual update. This document is intended to be used only by directly funded providers that sub-contract provision to partner-providers.**

**It does not apply to directly funded providers sharing delivery arrangements and this is more fully explained in the introductory paragraphs of this document.**

**It updates and replaces from 2010/11 the former Learning and Skills Council (LSC) ILR Funding Compliance Advice and Audit Guidance for Providers: Section 3.**

**Of interest to providers and other stakeholders involved in managing and delivering YPLA funded provision**

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# 1: Introduction

## Introduction

- 1 This document *Partnership Provision Controls Guidance*, sets out the Young People's Learning Agency's (YPLA) compliance and control advice for all providers that use third parties to deliver provision that is funded by the YPLA from 2010/11.
- 2 This document is part of a series of funding guidance booklets, published under the main heading *YPLA Funding Guidance 2010/11*. The booklet headed *Funding Regulations (2010/11)* has a full explanation of how each booklet fits within the full structure of YPLA Funding Guidance.
- 3 This guidance advice is issued for the benefit of the small number of providers who engage in franchising, partnership and sub-contracted YPLA funded provision to ensure they meet all eligibility requirements.
- 4 Although this advice will not be needed for many providers delivering provision that is funded by the YPLA the controls advice is repeated from 2010/11 for the benefit of those few providers that have engaged partner organisations to deliver their funded provision. For these providers they are required to put in place sufficient and reasonable control arrangements to assure the safety of any public funding transferred by them to other providers (especially where funds are transferring from the public to the private sector).
- 5 In this advice, directly funded providers include all providers who are either directly funded by the YPLA or are directly funded by a local authorities (LAs) using YPLA funding. The YPLA would not expect this guidance to be needed where such organisations agree to assist each other in their individual delivery arrangements to learners.
- 6 This guidance is however relevant to any delivery that a directly funded provider contracts with any other organisation that does not receive their funding payments directly from either LAs or the YPLA itself. These are referred to as 'partner-providers' in this guidance.
- 7 The term funding body has been used as a generic term where the document suggests providers should seek further guidance from their funding body, that is, the organisation from which they directly receive their funding payments.

## Classification of Partner-Provider Delivery Arrangements

- 8 To reduce bureaucracy the YPLA is not formally classifying delivery arrangements in a series of categories or asking providers to do so. Providers are expected to be capable of determining for themselves where delivery arrangements make use of partner-providers that require the application of this guidance. If, however, providers are unsure how to match their own individual delivery arrangements to this booklet they should consult their funding body for assistance in any necessary interpretation of the advice and guidance. In giving their advice, funding bodies will usually start from the funding principles set out in *Funding Regulations (2010/11)* paragraphs 14 and 15.

- 9 In discussing partner-provider arrangements with their funding body, providers must declare the level of funding they are retaining for all partner-provider provision taking into account that the YPLA requires the majority of its funding to be used for the benefit of the learner on their learning programme. The YPLA requires the amount of funding retained by providers to be proportionate to the costs they incur in the delivery of the provision and to take account of the actual costs incurred by their partner-providers in delivering any programmes to learners.
- 10 It is a requirement that providers make an annual declaration of the partner-providers with whom they are or will be working to their funding body. This is in addition to the normal data on partnership provision that providers already supply within the ILR and the partner-provider register. A standard form for this information is included in Annex A of this document.

### **Differences in Delivery Methods**

- 11 These definitions have been considerably shortened by the YPLA in recognition that the vast majority of YPLA provision delivery is direct delivery by directly funded providers.

#### **Direct delivery**

- 12 Delivery arrangements that are viewed as direct delivery and so outside this guidance are characterised as programmes delivered by providers using their own staff (or staff from a staffing agency used across main provider sites that has been subject to proper tendering procedures) in their own buildings. This includes buildings generally recognised as part of the provider's own infrastructure that may be rented or leased, usually on a long-term basis. This would usually include community halls and meeting rooms for community-based provision using the provider's own staff.

#### **Partner-provider delivery**

- 13 Delivery arrangements that require providers to be able to demonstrate the controls set out in Section 2 for partnership delivery can be characterised in the following ways.
  - All previous franchised, sub-contracted and/or partner-provider arrangements.
  - Provision delivered at premises owned or controlled by a partner-provider that also has contracts for the supply of educational materials and/or is involved in delivery of any learning. This includes community halls and meeting rooms for community-based provision using the partner-provider's own staff or any staff belonging to a staffing agency that is related to the partner-provider.
  - Provision delivered away from the main provider sites by staff belonging to organisations (or related organisations) with whom the provider has entered into any contractual arrangements for whom payments are then dependant on learner numbers, volumes or formula funding values.

## **2: Advice on Provision Delivered with a Partner-Provider**

### **Partner-Provider Provision and Control Criteria That Apply to all Providers**

#### **General advice on contracts for partner-provider provision**

- 14 It is essential that providers should have a written contract governing their partner-provider arrangements which clearly sets out the respective responsibilities of both the provider and the partner-provider. This contract must entitle the provider to exercise the required control over the partner-provider's activity, including access by auditors appointed by either the provider or the funding body. Each provider will wish to take its own legal advice before entering into contracts.
- 15 Where leadership and management is deemed inadequate by Ofsted or by the YPLA following a college's failure to meet minimum levels of performance, or any other quality threshold set out by the YPLA, or a college is in financial failure, recruitment restrictions may be applied and the provider may not enter into new, or extend existing, YPLA-funded partner-provider arrangements until the YPLA is satisfied that the deficiencies have been remedied.
- 16 For colleges, the control criteria require that governing bodies will approve a generic contract for partner-provider provision. They may then delegate to the principal the responsibility for ensuring that adequate scrutiny of individual contracts is undertaken.
- 17 The provider should have a written agreement, retained as compliance evidence, which confirms that the YPLA's funding has not displaced other funds and that there is no duplication of funding from another source for the provision. This should also confirm that the partner-provider arrangements have not been used to reduce the partner-provider's contributions to the training and development of its staff and have not been used to reduce the partner-provider's training budget or resources designated for training purposes.
- 18 The YPLA would not expect to fund provision that is the responsibility of another publicly funded body. Providers should have consulted their funding body if they wish to claim partner-provider provision in social services' day centres, residential homes or hospitals. LAs should consult their regional YPLA office if their advice as a funding body to a provider could be seen to have a financial conflict with any other LAs responsibility.
- 19 The contract should satisfy the following control test. The key elements of the control test are:
  - a provider being able to enrol or reject learners as it would do if the learners were to be taught on its own site;
  - a learning agreement entered into at the time of enrolment that reflects the outcome of initial guidance and assessment for an individual learner;

- a learning programme and its means of delivery that have been clearly specified by the provider;
- the provider being in control of the delivery of the learning;
- arrangements for assessing the progress of individual learners;
- procedures for the provider to regularly monitor the delivery of programmes provided in its name.

### **Controls over learners, tutors and provision**

- 20 Each learner should have a learning agreement, signed by the learner and the partner-provider, which accords with the funding guidance on initial guidance and counselling and with the terms of the partner-provider contract.
- 21 Partner-providers should not sub-contract the delivery of YPLA-funded provision to other organisations or self-employed individuals without the express and written approval of the provider's funding body.
- 22 The delivery of provision should be by the partner-provider's directly employed staff. In the case of volunteers, the control must be 'as if they were employed'.
- 23 It is not acceptable for any control activities to be undertaken by any provider staff with a financial interest in their partner-providers. This includes the signing of time sheets or invoices as well as organising and/or performing any monitoring visits about the partner-provider delivery. Providers must be in control of any timetabling of tutor activity.
- 24 The provider should be able to demonstrate complete control of the provision if it is to be considered eligible for funding. If the trainers normally sell their services as self-employed contractors, the partner-provider must create an employment relationship with them. Evidence of such an employment relationship would include a statement of terms of employment and evidence of taxation under PAYE. This does not include members of a national body who are licensed to carry out training, unless they are directly employed by the partner-provider.

### **Controls over qualifications and curriculum**

- 25 The provider should normally be the centre approved by the awarding body for the qualifications being offered by means of partner-provider provision. Where this is not the case, the provider must inform its funding body in writing as to the reasons why it is not the approved centre. Providers are reminded that learners must be registered with the awarding body in order to be eligible for YPLA funding. The provider should be able to demonstrate that it is monitoring the activities of the approved centre, in particular its relationship with the awarding body, and that it is exercising control over, and making appropriate arrangements for, the quality assurance of all provision. One way for providers to demonstrate proper control would be for them to have 'observer' status at all meetings between the partner-provider (approved centre) and the awarding body and to receive copies of all correspondence between the two bodies.
- 26 Where the provider is making partner-provider provision in curriculum areas not normally covered by the provider, it should be able to

demonstrate that it can exercise effective control over the provision. In these circumstances the provider should employ an independent person with appropriate expertise in the curriculum area to provide advice on partner-provider arrangements and undertake the necessary checks on the operation of the arrangements, including monitoring of the quality of provision. This person should not have a financial relationship with the partner-provider firm or organisation.

- 27 Where the provider has joint approved-centre status with their partner-provider, all aspects of learner assessment should be carried out in accordance with directions given by the provider.
- 28 Where the amount and nature of the partner-provider provision represents a significant departure from the provider's previous declaration on this issue to their funding body, their funding body should then be consulted and the governing body should then approve the departure.

### **Other YPLA-funded learners**

- 29 Providers are reminded that once learners are enrolled by a provider they should not be transferred for funding purposes to other funded providers. *Funding Regulations (2010/11)* paragraph 40 confirms that providers should not claim any funding for inward franchising. Providers must also ensure that before any other YPLA funding is claimed for any partner-provider learners no 'double funding' is being claimed for them; see document *Funding Regulations (2010/11)*, paragraph 14.
- 30 Full-time provision made entirely on school premises by school staff is not eligible for funding by any provider apart from the school itself.

### **Monitoring (control) visits and spot checks**

- 31 Providers should continue to address these issues for themselves, and the following paragraphs give some advice on the content of the controls expected from YPLA-funded providers on their partner-provider delivery arrangements.
- 32 The spot-check visits should be carried out regularly in cases where the provision runs throughout the year. In other cases, the scheduled spot-check visits should take account of the pattern of provision so that they are applied to a significant proportion of learners. Systematic spot-check visits should involve the provider making unannounced visits in-year to each partner-provider. A sample of sites should be included for provision being delivered by each partner-provider, rather than simply revisiting the same site. The checks should be proportionate to the risk and volume of the provision and contract. They should also be undertaken during the year at times that are proportionate to the periods in which funding is being claimed.
- 33 Some providers have requested further clarification of this requirement. This means visiting without notice. It is suggested that at least some of these visits are unannounced to the partner-provider. If there are sensitivities, for instance to observe work-based training in a care home, then perhaps a courtesy telephone call just before arrival would be helpful. Partner-providers should be informed of the necessity of this type of visit before the contract is signed. The times should vary; for instance, when monitoring one-day provision or short courses,

unannounced visits should be undertaken at the expected start of the programme and during 'twilight' time. Providers should ensure that they meet and interview a sample of learners and, where appropriate, staff. Learners should be asked to name the provider they are enrolled at, and should also be asked if they are at the same time, or have been recently, a learner at another YPLA-funded provider. Other evidence sought should include marketing material, copies of registers, learning agreements, registration documents for awarding bodies, visit notes from external moderators and evidence of certification.

- 34 Systematic checks should be used to confirm that the provision exists and is consistent with the provider's expectations and the partner-provider's records. The number and characteristics of learners should accord with the provider's expectations and the partner-provider's records. For example, any obvious mismatch between the apparent and expected age of the learners should be investigated. These checks are relevant to all forms of partner-provider provision.
- 35 Monitoring of provision should include checks on eligibility of provision and direct observation of the initial guidance and assessment process and at appropriate intervals, of the delivery of the learning programmes.
- 36 Monitoring activities should be similar to those considered appropriate for external verification or moderation, sufficient to ensure that learner progress can be monitored, and used to gather regular learner feedback.

#### **Partner-providers with multiple provider contracts**

- 37 A partner-provider should report on an ongoing basis to each provider whether it has entered into contracts with other providers, and should commit to confirming the volume and value of those contracts. Providers should be proactive in ensuring that they receive such reports. The providers should liaise to determine which of them holds the largest contract with the partner-provider, where size is defined by the total amount of cash delivered with the partner-provider. For these purposes, providers should treat all companies or organisations that are in the same common ownership or control as one partner-provider, and should look carefully at any arrangements where a number of companies or organisations seem to share a similar ownership or control. Each provider should have a written agreement, retained as compliance evidence, which confirms that the YPLA's funding has not displaced other funds and that there is no duplication of funding for the provision from another source.
- 38 The provider with the largest contract shall be regarded by the YPLA as having lead responsibility for the provision. In the event that all contracts made by one partner-provider (or by a group of related partner-provider organisations) are of a similar size in terms of the amount of cash, it is expected that the provider with the most long-standing relationship with the partner-provider shall take lead responsibility. The responsibilities of the lead provider include co-ordinating with the other providers, by:
  - initiating sample checks, either directly or through YPLA partnership teams, to confirm that the provision exists and is consistent with the expectations of the provider and of the learners undertaking the programmes;

- undertaking visits (some of which will be unannounced) to ensure that the provision is taking place;
- checking that the provision is recorded consistently by the partner-provider, in that the number and characteristics of the learners accord with the provider's expectations and records;
- confirming that arrangements are in place to ensure that there is no risk of double funding and that conflicting approaches to control and quality assurance arrangements are minimised;
- ensuring that these checks are also applied to provision delivered by related partner-provider organisations.

### **Funding implications: all aspects of partner-provider provision**

39 For non-existent or ineligible funding activity either recorded or claimed by providers, the YPLA will seek recovery of funds paid for the ineligible activity or learners, including funding not usually subject to any reconciliation arrangements. This will be on a costs basis for non-reconciled funding and on an activity basis for any reconciled funding arrangements. Reductions in non-reconciled funding arrangements for YPLA providers will usually be made only where funding returns have material and/or significant amounts of ineligible activity and/or learners. The YPLA requires all its providers to avoid this risk.

### **Advice for accounting officers on all aspects of partner-provider provision**

- 40 The YPLA advice on the checks expected by YPLA-appointed programme and funding auditors over partner-provider delivery arrangements is made available to accounting officers and chief executives of providers that have significant volumes of partner-provider provision.
- 41 The YPLA sees the delivery postcode as a key field on the ILR (field A23) that will identify to the funding body (and any funding auditors) the higher risk elements of a provider's provision. A data self-assessment toolkit (DSAT) is provided to identify provision by postcode delivery, and providers are required to cross-reference this field to their declarations of partner-provider arrangements. The management teams of all funded providers must ensure that this is appropriately monitored internally within their own organisations.
- 42 The YPLA requires provider management to undertake systematic in-year checks on partner-provider provision where it is delivered away from the provider's main premises, and delivered wholly or in part by people who are not members of the teaching staff of the provider. These checks should, therefore, have been completed while the provision was taking place.
- 43 Provider management are required to satisfy themselves of the following.
- All learners on partner-provider provision should be recorded as such on the ILR return and identified in ILR field A22 (franchise and partnership delivery provider number) by the code assigned by the provider to their partner-provider.

- The controls set out above were in place and operating for all of their partner-provider arrangements.
  - Their management were making appropriate systematic checks to ensure that learners enrolled by partner-providers on their behalf and recorded in the partner-provider's records were correctly described in their learner record system and were actually receiving the scheduled provision described.
  - The planned guided learning hours recorded for unlisted provision from which the funding value is derived must be correctly calculated. Guidance on the calculation of guided learning hours is contained in paragraph 91 of *Funding Regulations (2010/11)*.
- 44 Providers are also reminded of the following examples of controls required from them for their partner-provider delivery arrangements:
- a original enrolment forms, which may be completed either:
    - at the provider by the learner and signed in person; or
    - completed online by the learner. In all cases, the enrolment form or learning agreement should be printed out by the learning centre and posted to the learner's home address. The form should then be signed and returned in the post by the learner.
  - b original registers, which may be electronic
  - c in-year checks to establish the quality of delivery together with checks on the accuracy of the data and actual existence of learners
  - d systems for ensuring that the control criteria for any partner-provider provision are met with regular meetings to discuss progress and any emerging issues.

# Annex A: ILR Partner-provider Details

Reference: Partnership Provision Controls *Guidance* (also available on the Agency website)

## Part 1

All colleges and other providers using funding from the YPLA for provision delivered in partnership with other organisations are asked to complete and forward this self-declaration form to their funding body (usually YPLA regional office). This form is available in a workbook on the website and returns are expected to be made using the workbook format.

The YPLA have issued advice on this form in document *Partnership Provision Controls Guidance*.

Name of funded provider in (state year)  
(please print):

Data Service unique provider information  
number (UPIN) code:

Date of return:

Type of partnership delivery: (* delete as appropriate)	*Sub-contracted / Franchise / Partnership
Trading name of partner-provider: This must include any other related business trading names involved in any Agency-funded provision.	
Trading address of partner-provider: Only the postcode is needed if the full address is returned in Annex H ILR Return Register of Franchise and Other Partners.	
Partner-provider delivery number (ILR field A22):	
Value and length of annual contract*: Record total £ of Agency funding expected to be claimed for the provision from the Agency. Record expected start and end date of contract in the format mm/yyyy.	
Value of annual contract in learner numbers:  Record either full-time (FT) and part-time (PT) learner numbers or learner numbers and expected funded standard learner number (SLN) values – state which.	
Delivery location postcode(s) of partner-provider provision (ILR field A23)*:	
Amount (as a %) of Agency funding passed to partner-provider for the provision*:	

# ILR Partner-provider Details

Reference: *Partnership Provision Controls Guidance* (also available on the YPLA website)

## Part 2

**\*The amount of detail required by the provider's funding body in this part of the form depends on the answers given to the questions marked \* in Part 1 and any other individual requirements defined by the funding body.**

**Provision delivered within the normal recruitment area of the provider, contributing to agreed targets and with most of the funding passed to the partner-provider reduces the need for detailed information below. To reduce unnecessary bureaucracy, providers must therefore discuss with their funding body the amount of detail needed on their individual forms before returning them to their funding body.**

Details of any known lead-provider arrangements and/or other directly funded providers that the partner-provider contracts with:

Details of any out-of-area recruitment:

Details of qualifications (usually the titles) and/or curriculum areas being delivered (or any funding body defined information needs):

Details of contribution to funding body targets:

Summary of services given for funding retained by directly funded provider:

Any additional information or concerns the provider wishes to share with the funding body:

## Completing YPLA Partner-provider Details (Annex A)

1. The YPLA does not expect much of its funding to be delivered by partner-providers as defined in this document. Individual returns should be sent to the providers funding body but where this is a local authority they are expected to share the information with the relevant YPLA regional office. Historically the type of provision covered by this document has had the greatest funding eligibility problems and compliance with this document should ensure directly funded providers funding risks are minimised.
2. Providers are asked to read the full document *Partnership Provision Controls Guidance* before completing the form at Annex A to this booklet and returning to their funding body. The level of detailed information required by the funding body will depend on the value of the partnership provision contract. In this context, the funding body will be using this data to help assess the risk levels of funding eligibility in their providers, and those with higher levels of partner-provider provision should expect to face more stringent scrutiny by the funding body. This information will also be used by the YPLA to assist in determining providers' funding audit cycle. Providers must therefore discuss with the funding body the amount of detail needed on their individual forms before returning them to the funding body.
3. This form is also available in a workbook (labelled 'Partner-provider Self-declaration') with this document on the YPLA website and returns are expected to be made in the table-formatted return worksheet. Providers should only use the provider-level return worksheet where the contract value is significant **and** a more comprehensive disclosure of the partnership provision is required by the funding body.
4. The YPLA expects to see this information declared by all providers before the start of the academic year. Providers who then engage in new partnerships during the year should update their return to their funding body before they commence delivery with new partner-providers.

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