

# **Brent Council**

## **High Needs Students Eligibility Policy**

### **1.0 Purpose of this document**

- 1.1 This document sets out the Policy for the Learning Disability Assessment (LDA) and the provision of additional financial support for Post-16 learners identified as high needs students attending a Further Education College or Independent Education Provider
- 1.2 This document is to ensure that Brent has a clear policy to assess the needs of students with high needs from 16-25 years old for the year 2014 -2015 onwards.
- 1.3 Whilst this document is guidance to ensure all interested parties understand the process in Brent for assessing the funding for high needs students; it is not designed to be prescriptive for every individual case.
- 1.4 This document will be reviewed to take account of any relevant policy changes by the Head of Pupil Parent Services.
- 1.5 Eligibility for financial support will be subject to a Section 139a Learning Difficulty Assessment being completed 12 months prior to the commencement of study
- 1.6 Applications for Independent Specialist Provision will require the Learning Difficulty Assessment (139a) to state why the local provision cannot meet student's learning needs.
- 1.7 The post 16 college/education provider will undertake their own assessment to ensure the student is suited to its provision and appropriate support can be provided and will confirm this to the Council based on the same criteria as assessments undertaken by the Connexions Service.

### **2. Introduction and Context**

- 2.1 Legislation requires each local authority in England to make the necessary arrangements for young people with learning difficulties and disabilities to receive suitable education or training over the age of 16.
- 2.2 The responsibility for making suitable arrangements for a young person lies solely with the local authority in which that young person is resident. The Department for Education publishes statutory guidance containing detailed information, mentioned below as Statutory Guidance.

2.3 The duty to provide a LDA is outlined in the following legislation:

- The Education Act 1996 (as amended by the Apprenticeships, Skills, Children and Learning Act 2009 (“the ASCL Act”) 1)
- Sections 139A to 139C of the Learning and Skills Act 2000 (“the 2000 Act”), which were inserted into that Act by section 80 of the Education and Skills Act 2008.

### **3.0 Learning difficulty assessment**

3.1 What is a learning difficulty assessment?

A learning difficulty assessment (LDA), often referred to as a Section 139a assessment, is an assessment required by statute. Its purpose is to provide a comprehensive report of the support needed by a young person between the ages of 16 and 25 with learning difficulties or disabilities to ensure he or she is able to succeed in post-16 education or training or higher education. The LDA is a stand-alone document that draws together a range of information about the young person.

3.2 When are Learning Difficulty Assessment carried out – the duty?

Brent Council has a legal duty to arrange for a Learning Difficulty Assessment (LDA) to be carried out for any pupil with a Statement of Special Educational Needs (SEN) who:

- Will be leaving school aged 16 -19 and up to 24
- Is going on to further education, higher education or training and
- is likely to need additional learning support to access education or training opportunities.

3.3 When is a LDA completed for non statemented pupils?

There will be occasions when a LDA will be made for a learner not previously the subject of a statement of special educational need but who appear to have significant learning difficulty and is likely to move to post-16 education or training or higher education.

A LDA may also be arranged for a young person not attending school if he or she intends to return to further education, training or higher education.

Where a learner has arrived from outside of the UK without a statement and with SEN

Where the learner has had additional funding/support at school that has been monitored by the LA i.e. school action, school action plus

### 3.4 Main duties of the Local Authority

The main duties when completing LDAs are set out below:

- Local authorities are responsible for ensuring that high quality and timely LDAs take place.
- If a young person has an LDA, the local authority must continue to support the young person up to the age of 25 (if they stay in further education or training and provided they still have learning difficulties).
- The LDA report must be specific about the level of need required and the support and learning provision required to meet those needs.
- The LDA should have a specific focus on the learning programme that is required to enable the young person to progress towards greater independence and where appropriate employment.
- The LDA should take account of the young person's aspirations and views.
- The LDA should build on the views, and where appropriate, expertise of other people who have already supported the young person being assessed.
- LDAs should be shared and where possible, agreed with the young person and/or their parents or carers
- "Unless the learner/parent/carer has expressly refused permission, the local authority will share the LDA with the college or other education or training provider and will do so in sufficient time to ensure provision and support is in place from the outset."

## 4 Content of LDAs

4.1 A LDA would identify a young person's learning needs and aspirations and detail the provision required to meet those needs. Assessment questions are likely to include:

- Nature of Disability/Special Educational Needs
- How does this affect the person? What can s/he/can't s/he do? What support does the young person currently receive/ how are the needs currently met?
- Current attainments and further education and/or training needs identified:
- What are the Young Person's short/long term goals?
- FE or work based provision explored and provision identified as appropriate by the young person and the transitions worker.
- What support will the young person need in the above provision?
- What other agencies are involved in helping to plan for the young person to provide further support, and what other relevant assessment plans have been drawn up? E.g. Social Services Assessment of Children in Need Plans, Care Plans.

## **5 Who carries out the LDA at Brent Council?**

- 5.1 In Brent the LDA will be carried out by the Connexions Service. The Connexions Personal Adviser (PA) or Careers Adviser will work with each school/College and the Council's Special Education Needs Assessment team to identify those pupils who are eligible for an LDA. The LDA will be prepared by the Connexions PA/Careers Adviser in collaboration with the special educational needs team and the Transitions Service.

## **6.0 PROCEDURE FOR ASSESSING APPLICATIONS for High Needs Students engaged in EDUCATION AND TRAINING POST -16**

### **6.1 Process for LDA**

- a. The preparation for the LDA will begin in the Autumn Term prior to the young person leaving school.
- b. Young People in conjunction with their parents will be assisted to apply for assistance with Education and Training by Connexions Personal Advisers.
- c. The Connexions Adviser or the Careers adviser in schools will liaise with the Parent and Young Person to provide independent Careers guidance for training as well education to identify a suitable course or training for the Young Person at a local further education provision.
- d. The Evidence in the LDA must demonstrate the match between the assessed education and training needs of the individual and the provisions that are being sought to meet those needs.
- e. The assessment should also consider whether the young person capable of further learning, what evidence is required/available to support future outcomes.
- f. The college will consider the application for the course and make an assessment whether the young person is suitable for the proposed course and whether they will be able to meet their needs.
- g. The college will submit the Rationale of High Needs form to Brent Council detailing how the college can meet the learner's needs as set out in the LDA. An outline of the expected benefits and educational outcomes expected from attending the course must be included.
- h. All additional costs with detail of the support to be provided must be clearly set out in the submission to the Council.

### **6.2 How should the LDA be written?**

- a. The LDA should be thorough, clear and specific about the provision required to meet needs. The PA will have considered up to date information about education and training provision, relevant support services, and of future plans for provision in the local area and to some extent nationally. This will

inform decisions over the education and training options that will be funded by the local authority.

- b. It is recognised that a LDA may reflect conflicting views, where, for instance, the family and some professional persons come to differing opinions. Local authorities are expected to come to an independent view and may on occasion have to prefer one body of evidence to another.
- c. The PA or Careers adviser is expected to give appropriate guidance on this and may make a recommendation. This expectation is intended to prevent the LDA from appearing ambiguous or not providing a robust evidence-based assessment as to the education and training provision needed.

## **7.0 Criteria for Decision**

In deciding whether the available education is suitable to meet the learner's reasonable needs the following will be considered.

- (a) The learner's age, ability and aptitude
- (b) The learner's learning difficulties as identified
- (c) The learning and career aspirations and wishes of the learner and his or her family
- (d) The quality and suitability of the education or training available locally; and
- (e) The locations and times at which the education or training is provided.

The outcome for each learner will be one of the following:

1. Local non 'high cost' provision
2. Local 'high cost' provision
3. Neighbouring local authority 'high cost/ provision
4. ISP day provision
5. ISP residential provision
6. Social Care placement (day or residential)
7. Non take-up in the year in question for health or other reasons
8. Other
9. Further consideration required/evidence to be obtained

## **8.0 Criteria for Provision**

- 8.1 Education and training will be considered for young people with learning difficulties and or disabilities in a local mainstream provider where possible. It is expected that this will include all or nearly all learners with additional needs.
- 8.2 When determining the level of provision required by a learner, the learning difficulty assessment will remain the leading informative document. Recommendations for certain services and therapies will be considered only where they are identified in the learning difficulty assessment by suitably professional persons. Local authorities are under a duty to provide appropriate education, and are required to do so in a cost-effective way.
- 8.3 A potential placement will be regarded as appropriate if it meets generally most of the aspirations of the learner. It will not be necessary to meet each and every aspiration of the learner.
- 8.4 Local authorities will be fully involved in reviewing the needs of the learner in all areas where support is to be funded and also in working closely with the young person, their family/carers and educational establishments to ensure that the learning the young person undertakes is both meeting their needs and is going to benefit them in later life.
- 8.5 Local authorities will also work with local further education providers to commission new forms of personal educational development opportunities. These will be person centred and focussed on enabling young people with learning difficulties and disabilities to learn new skills and live active, independent and fulfilling lives in the community.
- 8.6 Local authorities will seek to make a placement locally before looking elsewhere. Where the needs of the learner cannot be met in mainstream provision, 'high cost' or more specialist local provision will be sought. Because of the quantity and quality of existing local provision it is only when education for a learner in a mainstream or 'high cost' local setting is not possible will education in an Independent Specialist Provider (ISP) be considered. Such independent provision will not be agreed where suitable local provision can be made. The breadth and scale of provision locally, regionally and nationally will be considered when determining how best to meet the learner's need, in the most cost effective way.
- 8.7 Residential provision will be made only where this is essential to allow the learner to attend the necessary course.
- 8.8 Any recommendation for placement at an ISP must include evidence that clearly demonstrates that education in a mainstream or 'high cost' local

setting has been considered but is clearly not appropriate. Local authorities will not consider requests for funding a placement at an ISP where there is insufficient evidence to demonstrate that all other options have been properly considered. The evidence must further demonstrate, through relevant and up to date assessment that independent specialist provision is essential to enable the learner to participate in education and training. An ISP may be considered if the learner has medical or care needs which mainstream provision cannot address and which would otherwise prevent his or her access to education.

- 8.9 Evidence must demonstrate the match between the assessed education and training needs of the individual and that the placement that is being sought. This will form part of the LDA, which will also show the likely benefits that the granting of the placement would provide, including how the placement will impact on the learner's reasonable long-term prospects, in terms of educational, employment and social aspirations. In this regard, local authorities will assess the costs of the placement in line with the benefits that the learner is expected to gain. Benefits must be commensurate with the cost of the placement.
- 8.10 It is recognised that independent provision is usually more expensive and that the budget available to local authorities is limited. Any placement decision is made within the context of the limited resources available.<sup>1</sup>
- 8.11 Periodic reviews of the LDA will be arranged depending on the changing needs of the client. These may be requested by the learner, parent/guardian, education and training providers, local authority, or other professionals.
- 8.12 Local authorities in considering the provision of education will take into account the Equality Act 2010, which imposes duties upon providers to make support available for learners with learning difficulties. Local authorities will also take into account their duty to encourage diversity in the education and training available to learners.

### **ISP Placements decisions further information**

- 8.13 Decisions to fund a placement at an ISP will be agreed on an annual basis by the Local Authority.
- 8.14 The authority expects the relevant ISP to provide a learner review report at the end of the learner's first term, each summer term, and in the final term of a placement. The responsibility to make such a report lies with the ISP. The

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<sup>1</sup>The Statutory Guidance states specifically that 'the model for commissioning provision should take account of value for money considerations ensuring that placement proposals ... remain within the indicative budget allocations made by the Education Funding Agency ... while delivering positive outcomes for young people' (section 17.2)

report will demonstrate the learner's progress towards agreed outcomes and transition planning.

- 8.15 The authority will use such reports to inform future funding decisions for learners who are due to continue their agreed programme of study for a further academic year. The authority will consider whether the programme of learning is still relevant, whether appropriate progression is being made, recent developments and changes in the learner's circumstance or programme.

### **Requests for extensions to placements**

- 8.16 Any request for extending the duration of an originally agreed placement should be made only in exceptional circumstances, such as if a medical emergency has prevented a programme of study from being completed.
- 8.17 Any extension request must be accompanied with reasons to justify the extension together with appropriate evidence. Extension requests must be made to the local authority by no later than 31st May in the calendar year in which the extension would take effect.

## **9.0 Approval of Applications**

- 9.1 The High Needs Officer in the Special Education Needs Service will assess each application for post 16-education to ensure that it meets all criteria and that sufficient funding is available.
- 9.2 The application will then be considered by High Needs Panel, agreed and appointed by the Head of Pupil and Parent Services, and will include Local Authority Education, Adult Social Care, Connexions and Health representatives.
- 9.3 Internal meetings will take place, usually by the end of January prior to the September in which the learners will commence placement. These will examine the requirements of each learner for whom high cost provision is an option or is being sought. At these meetings the recommendations of the LDA will be considered, these recommendations will have been produced through collaboration between the SEN Key worker, the PA and in certain cases the Transitions Worker.
- 9.4 The case for each potential high cost learner will be discussed and a minuted decision will take place. Cases will be considered in accordance with the principles explained above in the Section 7 'Criteria for Decision' and Section 8 'Criteria for Provision'

9.5 A decision with reasons will be sent in writing to the college/applicant.

## 10 **Review process**

10.1 Where a decision has been made to refuse an application and the learner, their parent/carer believes the assessment process has not been followed correctly they may ask the Council to review its decision. The following process will apply:-

Starting the review process

10.2 If the applicant disagrees with the decision regarding funding they must inform the authority in writing within 28 days of the date on the decision letter stating the grounds for a review and enclosing a copy of the decision letter.

10.3 The review is an opportunity to ensure that all relevant information and evidence has been made available to all parties. It will also ensure that the authority is able to ensure any decision made is based on relevant and up-to-date information.

### **Grounds for a review**

10.4 The applicant should provide reasons why they are requesting a review. The reasons don't have to be lengthy but will need to explain clearly why they disagree with the decision reached and what they are asking the authority to do.

10.5 If the applicant has additional information or evidence, which supports the review they should send copies of this with their request, in particular, if any relevant circumstances have changed.

### **Who will review the decision?**

10.6 The review will be carried out by the Head of Pupil Parent Service or her appointed nominee within the Council who would not have been involved in the assessment of the original application.

10.7 The review will generally be by written representations and on the basis of the documents considered by the Panel and any subsequent documentation put forward. On occasion if required due to the needs of the learner the Head of Pupil Parent Service or her appointed nominee may decide the review is better conducted by way of oral presentation in which case a hearing will be held.

## 11 **After the Review - The Decision**

11.1 The applicant will receive the decision and reasons by post within 21 working days of the review.

- 11.2 If the Local Authority finds in favour of the young person Education Services will set the appropriate processes in motion.
- 11.3 If the application is refused and the applicant remains dissatisfied further redress is set out under Section 12 below.

## **12.0 Complaints and Further Action**

- 12.1 Students with learning difficulties and/or disabilities should have a choice in the education and training provision that is made available to them. Wherever possible an appropriate system should allow an individual's preferences to be met. However, as with other young people entering post 16 education, choice is constrained by the availability and cost, both of learning and additional support. Through the assessment process pre- and post-16, the system should encourage agreement to be reached between young people and their parents and the local authority. This will not always happen, and parents or the young person may wish to challenge the decisions of the local authority.

How this will happen will vary according to the circumstance:

- i. If the local authority decides not to carry out a LDA, the parent can complain using the local authority's complaints procedure.
  - ii If the original decision is upheld and the young person remains dissatisfied, access to the local authority mediation service is available. Brent Council uses an independent mediation services to support this process.
- 12.2 Having complained to a local authority, parents or students, if they remain dissatisfied, of course have recourse to the Local Government Ombudsman or to seek a judicial review.

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