

###### Quality and Standards Directorate

###### LSC BRIEFING DOCUMENT ON REVIEWING THE PERFORMANCE OF COLLEGES AND PROVIDERS

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This briefing sets out the LSC’s approach to reviewing the performance of colleges and providers. It describes the framework and arrangements for conducting reviews. It is to be read in conjunction with Circular 02/19 entitled ‘Performance Review: Refined Arrangements for Colleges and Providers’

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# Foreword

1. This edition of the performance review briefing document outlines the performance review process in order that colleges and providers can supplement the information contained in circular 02/19.
2. Performance review is one of the LSC’s major strategies to deliver its key responsibility to raise standards in post-16 learning. As with all of the goals expressed in the LSC Quality Improvement Strategy for 2002-03, the success of learners is the primary focus.
3. The purposes that guide the performance review of colleges and providers stem from the LSC’s need to monitor and improve the quality of post-16 learning and to fulfil the responsibilities assigned by the then Secretary of State for Education and Employment (now the Secretary of State for Education and Skills). The purposes of performance review are rooted in the context of the LSC’s partnership working with those it funds. They are to:

* help drive up standards and quality
* identify areas of weaker performance as well as colleges and providers experiencing difficulty
* help in the planning of effective follow up activity to tackle problem areas swiftly, before they become serious
* help focus the LSC’s finite resources where they are best used to support colleges and providers appropriately
* identify and disseminate good practice
* inform LSC strategic planning and purchasing of post-16 provision
* have proper monitoring and reporting processes which can show progress across the sector, thus minimising bureaucracy.

1. The phrasing of these purposes has been developed from the original wording in Circular 02/05 in light of advice from the Performance Review Advisory Group with key external stakeholder members.
2. Guiding principles which underpin the purposes, are that performance review:

* is objective (evidence-based), systematic (determined by agreed procedure), reports regularly (every six months) and rigorous (fit for purpose)
* draws on the views of staff involved in all relevant functions of the local LSCs, and where relevant National Contracts Service (NCS), and so enables a comprehensive assessment of each college and provider’s performance to be made
* has at least an equal focus on targeting areas for improvement, as on assessment and reporting
* works best when both the reviewer and the reviewed value the process
* colleges and providers should not normally supply evidence/data, which is additional to that already held by the LSC or gathered through the normal pattern of visits. Requests should be avoided for the purpose of the review so as not to place unreasonable burdens on colleges and providers.

1. The roles of the LSC, the inspectorates, colleges and providers are complementary in the shared endeavour to raise standards. The LSC, in partnership with colleges and providers, focuses on continuous improvement in order to ensure that all learners receive high quality education and training.
2. Since April 2001, the LSC has regularly monitored the performance of the colleges and providers that it funds. During this time there have been three formal reporting dates for LSC staff to assess and report on the quality of colleges and work-based learning providers in their area. There have been two national evaluations of the performance review process, which resulted in some minor modifications and the publication of a formal publication Circular 02/05 in March 2002. This circular consulted on the purpose and focus of the performance review process.
3. The responses to the Circular 02/05 provided the LSC with a clear endorsement of:

* the purpose of performance review
* a reduction in the frequency of reporting performance review assessments made to twice per year
* a mandate to refine the process and to develop an overarching framework encompassing three key performance areas. This overarching framework was developed in consultation with local LSC regional quality networks and the Performance Review Advisory Group. The refined performance review framework was published in Circular 02/19 in October 2002 and will be applied by LSC staff from October 2002 onwards
* the suitability of evidence for assessment
* the use of evidence from inspection reports
* the use of a five-point assessment scale with revised descriptors.

1. 78% of responses supported the use of a five-category scale for assessment – however a significant number of responses were not supportive of the suggested phrase ‘with scope for improvement’. Therefore, the middle category is “acceptable”.
2. Further overall analysis of those comments made by respondents indicating support with some reservations, show that a significant proportion expressed positive views about the proposals in the consultation Circular 02/05.
3. The Performance Review Advisory Group also recommended that descriptors should be different from those used by the inspectorates. Consequently, the five descriptors are:

* excellent performance
* strong performance
* acceptable performance
* performance gives cause for some concerns
* performance gives cause for serious concerns

## Partnership working to improve quality

1. The LSC with partner organisations, colleges and providers, have made significant progress in developing working relationships often from a standing start, in April 2001. We recognise that we need to continue to strengthen how we work together with colleges and providers. The LSC, and the colleges and providers that it funds share a commitment and a responsibility for promoting and embracing a culture of continuous improvement in order to achieve excellence for all learners in post-16 learning.
2. The LSC, together with colleges and providers have the learners and the success of those learners as the primary focus for their activity. The LSC’s partnership with colleges and providers is based on a foundation of trust. The colleges and providers and the LSC need to have a mutual degree of trust in order that there can be open and honest dialogue to inform strategic planning and quality improvement. Ongoing liaison, advice, monitoring activity and performance review are strengthened by this relationship of openness and trust.
3. The LSC is guided by the principle of intervention in ‘inverse proportion to success’ and therefore devotes more attention to colleges and providers where there are concerns. The LSC’s approach to strengthening poor provision and intervention is set out in Circular 02/06 ‘*Quality Improvement: Intervention to Improve the Performance of Providers’*. The LSC is also committed to helping to further improve areas that are at ‘acceptable’ level so they can become ‘strong performers’ and then ‘excellent’.
4. The diagram below illustrates the four-year cycle of monitoring and quality improvement resulting from this partnership working.

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LSC

Performance Review (PR)

PR

SA/DP

Provider’s annual SA/DP

**Improved quality and organisational effectiveness**

SA/DP

SA/DP

PR

PR

PR

PR

PR

PR

**Inspection every four years**

# 

###### Figure 1: Four year cycle of monitoring and quality improvement

Performance Review

PR

Development Plan

DP

Self-Assessment

SA

**SECTION ONE: BACKGROUND**

* + Sources of authority
  + Responsibilities
  + Role of the Quality and Standards directorate, national office
  + Responsibilities of local LSCs or National Contracts Service

# Section ONE: Background

## Sources of Authority

1. The Learning and Skills Act 2000 states at section 2 that:

*“The Council must secure the provision of proper facilities for (a) education, (b) training and (c) organised leisure-time occupation connected with (a) and (b)…”*

1. Section 9 of the Act states that::

“*(1) The Council may develop schemes for the assessment of the performance of persons in providing post-16 education and training.*

*(2) The Council may take the assessments into account in deciding how*

*to exercise its powers under section 5.*

*(4) The Council may take the results of the tests into account in exercising its power under section 5(1)(c)…”*

1. The Remit Letter from the then Secretary of State for Education and Employment (now Department for Education and Skills) states that the Learning and Skills Council (LSC) will:

*“have the key responsibility to plan, fund, monitor and improve the quality of post-16 learning up to higher education…..”.*

*“establish mechanisms to ensure that… for all providers there will be common nation-wide arrangements for funding agreements, payments, audit,* ***monitoring****, management information and health and safety.”*

*“introduce new and thorough review procedures with further education colleges and providers.”*

1. The Learning and Skills Council’s mission is to raise achievement and participation through securing excellence in education and training that puts learners first. The LSC is strongly committed to improving quality and raising standards through its corporate plan, one key objective is to:

*“…raise the quality of education and training and user satisfaction…”*

1. The LSC’s Quality Improvement Strategy for 2002-03, approved by the Secretary of State, sets out how the LSC intends to achieve its mission and how success will be measured. The main elements of the strategy are:

* driving up quality and improving consistency
* raising levels of retention and achievement
* early identification of colleges and providers where quality is declining
* supporting and improving weak colleges and providers
* ultimate sanctions – switching to other colleges and providers to achieve quality and consistency.

1. The LSC has adopted performance review as a key way in which it undertakes these responsibilities and implements its Quality and Standards strategy. The Quality Improvement Strategy 2003 onwards is being prepared for consideration by the Secretary of State early in 2003.

## Responsibilities

1. Performance review is a continuous process within which there is twice-yearly reporting at both national and local level. To enable this reporting, local performance review panel meetings are held twice a year to assess the evidence collected during the previous six months.
2. Performance review panel meetings are the comprehensive, regular, and formal assessment of the quality of training and education offered by LSC-funded colleges and providers, currently in scope for review. The review panel meeting outcome is:

* an **overall** assessment of the performance of **each** college or provider, made by LSC staff
* identification of priorities for improvement
* recommendations on the actions that need to be agreed with each college and provider in order to achieve continuous improvement.

## The Quality and Standards directorate, national office

1. The national office:

* reviews and develops the performance review system, framework and procedures, in discussion with LSC staff and other directorates in the national office
* works with key national stakeholders (for example, AoC, ALP, the ALI, OfSTED, NATSPEC and NIACE) to seek their views and commitment to performance review becoming effective
* reviews and develops national performance review moderation arrangements and procedures, in discussion with LSC staff
* will assist LSC staff to arrange development opportunities/support as appropriate to meet staff development needs
* analyses the assessments made at review panels, in order to provide information at a national level on the quality of provision being purchased by the LSC
* keeps under scrutiny the overall numbers in each of the categories to which colleges and providers are assigned by performance review panels and analyses the action being taken across the country to improve and progress quality improvement in provision and rectify identified weaknesses. It is not intended that the assessments made through performance review will be published at either college/provider or local LSC level.

## The local Learning and Skills Councils/National Contracts Service

1. Each local LSC or the NCS has the responsibility to:

* monitor performance and gather evidence, as part of usual partnership working with colleges and providers
* make arrangements to review the performance of each of its colleges and providers
* work with colleges and providers to improve the quality of their provision by addressing weaknesses identified through the performance review process
* explain to colleges and providers the aims and purpose of the performance review process and how it will be conducted and to engage their support and commitment to making performance review fully effective and valuable
* work to ensure consistency of assessments
* ensure feedback is confirmed in writing within a prompt timescale to each college and provider on the result of their performance review panel and the main issues that need to be addressed in order to improve quality
* inform the national office of the assessments made at each performance review panel by the specified deadline
* annually evaluate internal procedures and assessments and produce evaluation reports on their own effectiveness with action plans for improvement to their approach to performance review
* share the findings of evaluations and planned action with the Quality and Standards directorate, national office, within agreed timescales as requested
* work with the Quality and Standards directorate as appropriate to help strengthen performance review arrangements across the country.

**SECTION TWO: Refined arrangements for performance review**

* + Assessing colleges’ and providers’ performance
  + The scope of reviews of colleges’ and providers’ performance
  + Updating colleges and providers and briefing new colleges and providers
  + Table 1a: The LSC’s performance review framework from October 2002
  + Table 1b: The LSC’s performance review framework: illustrative targets and evidence from October 2002

# Section TWO: Refined arrangements for performance review

## Assessing colleges’ and providers’ performance

1. The performance review framework is shown in tables’ 1a and b.
2. Within the performance review framework, the performance of colleges and providers is assessed in the three key performance areas. These are:
3. Participation and recruitment;
4. Learner experience and performance;
5. Management (underpins key areas 1 and 2).
6. Appropriate, up-to-date evidence should be collated and analysed to enable an overall assessment to be made of each college and provider (arising from an assessment of each of the three key performance areas). Data provided at national level should be supplemented by evidence gathered during normal pattern of visits and contact.
7. At the performance review panel meeting each college and provider’s performance is assigned a category for each of the three key performance areas detailed in the framework, and these are used to inform the one overall category of performance for the college and provider. The decision about which category is most appropriate arises from consideration of all the available evidence, in relation to the category quality statements, and relies on the professional judgement of local LSC and NCS staff.
8. Where a college or provider delivers more than one type of provision, should there be concerns about an area of provision which is a relatively small part of the provision, this might not, necessarily, affect the overall categorisation but these concerns should be reflected/included in feedback to the college or provider, for them to include in planning actions for improvement. However, if the concerns are not subsequently addressed, they might inform future assessment more significantly.
9. The one assessment for each key performance area, and the one overall assessment category must cover the range of LSC-funded provision in that one college or provider.
10. LSC staff analyse the assessments made from a variety of perspectives. In particular, it is important to know both the proportion and quality of provision for 16 -18 learners, and for 19+ learners. It is necessary for reviews to consider, wherever appropriate, the quality of provision for learners aged 16 -18 years old and those 19+.
11. The existing suite of national performance indicators is an important means of assessing the performance of colleges and providers. It is expected that a more comprehensive set of performance indicators covering the range of post-16 providers will be available by 2004.
12. It is not intended that the framework should be used in a formulaic way. Rather, each college and provider should be considered holistically and with reference to relevant national benchmarks where available.
13. To help ensure similar rigour and standards up and down the country, a process of moderation will take place following each round of performance review panel meetings. However, the moderation process will not delay LSC staff giving feedback to colleges and providers following panel meetings.

## The scope of reviews of colleges’ and providers’ performance

1. Performance review assessments are broadly based. They take into account evidence derived from the various functions of the LSC along with relevant evidence provided by external bodies. Reviews take account of the extent to which contracted volumes and recruitment targets are being achieved as well as the key consideration of the quality of learning and learners’ achievements.
2. There are significant differences between the various types of colleges and providers not currently within the scope of performance review. These differences include:

* nature and purpose of provision
* organisational structure of colleges and providers
* accountability
* arrangements for quality assurance
* recording systems
* data collected and returns made
* data definitions

1. We intend to extend the scope of performance review to LSC-funded providers beyond FE colleges, work based learning, Ufi hubs, independent external institutions and specialist designated institutions. However, there is a great deal of work required before this can happen during 2002 –2004.
2. Development work is being undertaken in liaison with providers including: the Small Business Service; Information Advice and Guidance for Adults (IAG); Education Business Links; Learning Partnerships and Further Education in Higher Education Institutions. Discussions are underway with the Local Government Association and Secondary Heads Association about an appropriate form of review for sixth forms in schools.

## Updating colleges and providers and briefing new colleges and providers

1. each local LSC or NCS conducts briefings or updates colleges and providers that are in scope for review;
2. the briefings/update should cover:

* the rationale and purposes of the performance review process
* the importance and status of the review
* the continuous nature of the review process and its key role in quality improvement
* the range of existing evidence that is considered in performance review
* that colleges/providers are not normally expected to contribute additional evidence to local LSC or NCS reviews
* the assessment of the college’s/provider’s performance
* the possible assessments resulting from the review and that the review will determine priorities for improvements, and appropriate rewards and sanctions, according to the LSC arrangements for these;

1. how the review will inform future planning and contracting.

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Key Performance Areas and Key Overall Questions** | **PERFORMANCE CATEGORIES** | | | | |
| **Excellent Performance**  ***May be able to provide support for others*** | **Strong Performance**  ***Requires little or no support*** | **Acceptable Performance**  ***May need support to move to ‘strong performance’*** | **Some concerns**  ***Needs support and possibly intervention to improve*** | Serious concerns  *Needs significant support/intervention to improve* |
| **Quality Statements** | | | | |
| **Participation and Recruitment**  ***How well is the college/ provider widening and increasing participation?*** | Consistently achieving critical strategic priorities for LSC funded provision. Consistently setting and achieving demanding targets. Demonstrating good practice, innovation and exceeding expectations of prospective learner/customer. | Achieving critical strategic priorities for LSC funded provision. Setting and achieving most agreed demanding targets. | Achieving most critical strategic priorities for LSC funded provision, but some targets achieved may not be sufficiently demanding. | Under achieving against some critical strategic priorities for LSC funded provision. | Significant trend of under-achieving against critical strategic priorities for LSC funded provision. |
| Learner Experience and Performance  *How well is the college/provider ensuring a positive learner experience and high performance?* | Consistently achieving critical strategic priorities for LSC funded provision.  Consistently setting and achieving demanding targets. High levels of learner performance. Demonstrating good practice, innovation, and exceeding expectations of learner. | Achieving critical strategic priorities for LSC funded provision.  Achieving most agreed demanding targets. Good levels of learner performance. | Achieving most critical strategic priorities for LSC funded provision, but some targets may not be sufficiently demanding. Overall, acceptable levels of learner performance, no significant areas of poor learner performance. No significant risk to learner experience. | Under achieving against some critical strategic priorities for LSC funded provision. Overall, some areas of poor learner performance. Indications show that ‘improvements’ can be achieved to the minimum ‘acceptable’ level. | Significant trend of under-achieving against critical strategic priorities for LSC funded provision. Significant level of poor learner performance. Significant threat to learner experience. |
| Management  *How well is the college/provider managing quality and sustaining organisational viability and stability?* | ***Supported by at least Excellent and/or Strong Performance in both the above Key Performance Areas.*** | | Delivery of planned targets, creating improvement in some key areas. No significant areas of poor performance*.* Provision is viable. | Failure to plan effectively and/or to deliver some planned activity, which may threaten the viability of the provision and/or LSC funds. Some areas have poor performance. | Failure to plan and failure to deliver the planned activity, to an extent which threatens the viability of provision and/or LSC funds. Significant areas have poor performance. |
| Delivery of planned targets, maintaining a trend of quality and improvement across the organisation. Demonstrating good practice, innovation and exceeding expectations of customer (i.e. employers/local community) | Delivery of planned targets, creating and developing quality improvement across the organisation. |

**Glossary of Terms**

**1 Consistently**: evidence of a trend, informed by the reports from at least two previous performance review panels

**2 Demanding targets**: agreed targets that aim to lead to step-changes and significant quality improvement

**3 Maintaining**: informed by the reports from at least two previous performance review panels

**4 Strategic priorities:** agreed with the local LSC

## Table 1a: The LSC’s performance review framework from October 2002

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Key Performance Area** | | |
| **Participation and Recruitment**  ***This key area encompasses the ’first phase’ of the learner pathway i.e. from the first point of contact to enrolment/start*** | Learner Experience and Performance  ***This key area encompasses the ‘second phase’ of the learner pathway i.e. from induction to completion/achievement*** | **Management**  ***This key area relates to the systems, procedures and processes underpinning delivery of the provision*** |
| **Examples of targets to be considered** | Relevant key targets expressed in the self-assessment report and development plan and business/strategic plan:   * enrolments/starts * widening participation recruitment targets * equality and diversity recruitment targets * recruitment targets relating to local and national LSC initiatives e.g. Local Initiative Fund (LiF) projects, Bite Size * initial guidance | Relevant key targets expressed in the self-assessment report and development plan and business/strategic plan:  retention rates  achievement rates  learner health & safety and induction and safe learner  equality and diversity  progression/destination  learner satisfaction  employer satisfaction  take up by learners and effectiveness of learning support, e.g. basic skills  take up of practical learner support, eg access funds, transport   * teacher/trainer qualifications and continuing professional developments | Management of targets expressed in the business/strategic plan and self-assessment report/development plan:  financial targets relating to LSC funding  staffing  curriculum range  statutory duties:  equality and diversity  learner health and safety |
| **Examples of evidence to be considered** | * evidence relating to impartial guidance given to learners * evidence relating to initial assessment of learners’ and their support needs * recruitment and enrolment data against targets * evidence of achieving widening participation and equality and diversity recruitment targets * current inspection reports * evidence cited in self assessment/development plans | * reports evaluating the support given to learners * reports analysing patterns in learners’ attendance * learner retention data * achievement data, including results of public examinations * value added data as available * progression and destination data * current inspection reports * evidence cited in self assessment/development plans * learner satisfaction surveys * employer satisfaction surveys * monitoring reports on the qualifications and expertise of staff * staff training and development records/reports * evaluation of induction * evaluations of learner health and safety * patterns of learners’ experience, retention and achievements according to age, sex, ethnicity, disability | * business/strategic plan * LSC contract * LSC funding agreement/financial memorandum * Management information * Current inspection reports * evidence of effective planning and target-setting * evidence of policies and procedures and their effective implementation (especially to meet statutory responsibilities, eg*: Race Relations Amendment Act*) * evidence of sound financial management and viability * evidence of continuous improvement * evidence of awareness of the local environment * evidence of internal training and development for staff * financial health assessments |

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## Table 1b: The LSC’s performance review framework: illustrative targets and evidence from October 2002

**SECTION THREE: MAKING JUDGEMENTS**

* + Targets
  + Success and achievement
  + Assessing equality and diversity
  + Assessing learner health and safety

# Section THREE: Making judgements

1. As was the case previously, the refined framework and guidance does not give weighting to any one key area. The significance of some local evidence to inform assessments is a matter for locally contextualised professional judgements.
2. The performance review panel should carefully determine a category for each of the three key areas and an overall category for each college or provider. There should be one overall category for each provider regardless of number and types of contracts/provision.

###### Targets

1. The local LSCs and NCS will consider the extent to which targets are challenging and realistic, and the extent to which targets are being met in order to decide on the categories of performance being achieved.
2. Colleges and providers have a range of targets that they set for themselves, as well as some that are agreed with their local LSC or NCS. The range of targets is likely to include participation targets, retention and achievement targets, MA framework and NVQ achievement targets, equality and diversity targets and basic skills targets.
3. ‘Success for All’ includes in goal 4 the priority given to providers setting quality improvement targets and floor targets. As arrangements are developed by the DfES and the LSC for these, evidence relating to both floor targets and improvement targets will be considered in reviews.
4. It is expected that colleges and providers are aware of the Government’s commitment to Skills for Life: the National Strategy for Improving Adult Literacy and Numeracy Skills. This is a post-16 policy covering all students and trainees in all learning environments. The strategy covers discreet provision and other provision embedded into vocational and adult and community learning. It is recommended that colleges and providers are familiar with the document ‘Success in Adult Literacy and Numeracy and ESOL provision’ which can be found on [www.dfes.gov.uk/readwriteplus](http://www.dfes.gov.uk/readwriteplus). These guidelines have been produced to support the common inspection framework and to give everyone involved with the delivery of Basic Skills an understanding of quality and what structures should be in place to deliver an effective service.

###### Success and achievement

1. In the case of colleges and former FEFC independent external institutions, LSC staff will use summary statistics in the first instance, to make judgements on learner retention and achievement rates and, where necessary, additional information on qualification level can be obtained from benchmarking data.
2. At the time of writing, the 2000/01 benchmarking data has not been published. However, the methodology for calculating approximate benchmarking data achievement rates from ISR 22 (31 December 2001: 2000/01) is available to LSC staff.
3. We recognise that there is much debate about the current policy for measuring success in WBL. A high level Measuring Success Steering Group, co-chaired by the DfES and LSC with OfSTED and the ALI, is considering what measures may be needed in the medium and longer term.
4. The current policy, confirmed by DfES, LSC and the ALI, for considering learners’ success in WBL is that the main emphasis is on the successful completion of the full MA framework. If learners do not achieve the framework, but do achieve an NVQ, key skills qualifications or other achievements, these can contribute to the assessments:

* For example, if a WBL provider has 25% achievement of framework but 65% NVQ achievement this would be viewed more positively than another provider with similar success rate for framework completion but only 35% NVQ achievement.

1. Local LSC or NCS staff, when reaching a decision on learner experience and performance in WBL will be mindful of the current policy as indicated above, and the standards used by the Adult Learning Inspectorate and their published comparator data.

###### Assessing equality and diversity

1. The LSC has statutory duties under the Learning and Skills Act 2000 (section 14) to promote equality of opportunity:

* between men and women
* between those with and those without disability
* between people from different racial groups.

1. It has expectations that all colleges and providers in receipt of public funds will strive for the highest standards in providing equality of opportunity for learners and in maximising the benefits of diversity.
2. The LSC has drawn up a national strategy on equality and diversity to enable it to meet its statutory obligations. In embedding equality and diversity into all its policies, programmes and actions, the LSC is committed to “work with providers and employers to help them adopt relevant standards, promote equality of opportunity and take systematic steps, including positive action to participate in, and benefit from, LSC programmes and initiatives.”
3. The LSC must have confidence that all colleges and providers comply with the legal requirements placed on them, as well as support the LSC in the achievement of the objectives outlined in the National Strategy for Equality and Diversity. Performance review assessments seek to ensure that providers are compliant with current legislation, in particular recent Equality and Diversity Acts.
4. Colleges and providers are also directly covered by the following equality legislation:

* The Human Rights Act 1998
* The Race Relations Act 1976
* the Race Relations (Amendment) Act 2000 (RR(A)A)
* the Disability Discrimination Act 1995 (DDA)
* the Sex Discrimination Act 1975.

1. The comprehensive nature of the performance review process offers an appropriate context for LSC staff to assess the performance of colleges and providers in relation to equality and diversity.

###### Sources of authority (equality and diversity)

1. In addition to the statutory duty outlined above, the LSC is required to have regard to the needs of those with learning difficulties and disabilities (section 13).
2. In the remit letter to the LSC in November 2000, the Secretary of State for Education and Employment wrote:

*“ I expect the Council to build equality of opportunity into all its policies, programmes and actions.”*

1. The Race Relations (Amendment) Act 2000 places duties on the LSC to promote race equality. The LSC will ensure that those in receipt of LSC funding are acting in a way, which ensures that the LSC’s duties are being met. For FE colleges this will mean compliance with the duties placed on them under the Act. For work based learning providers, the LSC will develop contracts which ensure that they contribute towards meeting the duties places on the LSC.

###### Evidence

1. All of the evidence sources detailed at section 5 are likely to have relevance to equality and diversity, either directly or indirectly. In addition, the following documents should also be considered:

* equal opportunities policies
* disability statements
* race equality policies (for colleges)
* equality and diversity impact measures
* complaints procedures
* prospectus and publicity materials.

1. Colleges and providers should be in a position to demonstrate how the promotion of equality and diversity is built into all aspects of all their programmes. Learners should have equality of opportunity to participate, which may require arrangements for differential treatment. Diversity in the learner population should be encouraged.

## Assessing learner health and safety

1. The LSC policy statement on learner health and safety takes account of statutory obligations and ‘duties of care’ relevant to providers and the LSC. It also confirms the LSC’s belief that safe learning is essential for learners to maximise their experience and achievement. The policy statement makes it clear that the LSC:

* expects providers to meet fully their statutory obligations and duty of care to learners
* expects learning to take place in a safe, healthy and supportive environment
* will seek assurance of these from providers.

1. The LSC has to meet the requirements of the Learning and Skills Act 2000 – the LSC is required to take account of the character of facilities and the abilities of learners.
2. The LSC expects the colleges and providers it funds to fully meet statutory obligations. Many of the learning activities that LSC funds are subject to important health and safety legislation. This legislation covers both employees (including employed learners) and third parties (including non-employed learners, students, trainees and pupils). These obligations arise under the Health and Safety at Work Act 1974 and an extensive range of associated regulations, the most significant of which are the Management of Health and Safety at Work Regulations 1999.

**SECTION FOUR: THE PERFORMANCE REVIEW PROCESS**

* + Mechanisms for conducting performance reviews
  + Quality improvement monitoring and advisory activity
  + Evidence
  + Twice-yearly panel meetings to assess college and provider performance
  + Inputs to the review meetings
  + The composition of review panels and meetings
  + First stage review panel meeting
  + Conduct of first stage performance review panel meetings
  + Second stage review meeting

# Section Four: The performance review process

## Mechanisms for conducting performance reviews

1. The mechanisms for reviewing colleges’ and providers’ performance comprise:

* regular visits by local LSC staff to monitor the quality of provision
* regular meetings between staff from relevant teams to enable continuous monitoring of colleges and providers
* consideration of data returns and other information
* twice-yearly performance review panel meetings
* feedback to colleges and providers.

## Quality improvement monitoring and advisory activity

1. Partnership working is key to the performance review process without which, local LSCs will be unable to reach objective and considered decisions. Advisory and monitoring activities include:

* review of evidence, data, action and recovery plans
* visits and/or telephone calls to the college or provider
* considerations of the views of the college or provider
* discussions with national and local LSC colleagues, as appropriate
* identification of priority areas for improvement and discussion with the college or provider about how actions could best be taken
* suggestions to the college or provider about sources of support or more specialist advice that might be useful.

## Evidence

1. Colleges and providers will not be expected to supply evidence to the LSC that it already processes. The table below is an illustrative list of evidence that may be available, as appropriate to each type of provider and is generated as part of normal business activity:

| **Illustrative List of Evidence** |
| --- |
| Validated data relating to retention and achievement |
| Self-assessment reports |
| Development plans |
| Local LSC assessment of development plans |
| Monitoring of a provider's progress in implementing development plans |
| Inspection reports |
| Post-inspection action plans |
| Monitoring of progress made against post-inspection action plans |
| Previous performance review reports on the provider |
| Provider's strategic plans as appropriate |
| Provider's business plan as appropriate |
| Standards fund progress reports |
| Records/notes of advisory and monitoring visits |
| Recovery plan, if appropriate |
| Awarding body reports |
| Provider records as appropriate:   * senior management team minutes and papers * discussions with staff * staff development plans * target setting procedures * MIS reports * governance minutes and reports |
| Records relating to learners (as listed in table 1b) |
| Customer satisfaction information from learners, employers and communities |
| Information on customer complaints and feedback |
| Contract compliance audit reports |
| Health and safety reports |
| Equality and diversity reports |
| Provider financial assurance reports (local and national) |
| Other audit reports (eg external) |
| External body information, eg reports from awarding bodies, Investors in People, Business Excellence |
| Property planning and strategy documents |
| Annual reports |
| WBL provider monthly reports |
| CoVE proposals and their outcomes. |

Note:

1. The above list is not exhaustive and other items may be relevant. Neither will all items be essential in all circumstances;
2. Colleges and providers will not be expected to supply evidence to the LSC that it already possesses;
3. Wherever possible, evidence should be considered with respect to relevant benchmarks;

###### Using evidence

1. Performance review draws on a range of information and data returns from existing activities. It is important that:
2. all relevant evidence (including updates) is collated in time to enable consideration in preparation for the review;
3. it is recognised that evidence can be used as a basis for judgement to inform more than one key area. What is important is that methods of analysis and interpretation should be applied consistently;
4. all evidence should contribute to a comprehensive and succinct overview of a college’s and/or provider's performance that is readily usable by the local LSC or NCS and, as appropriate, by the national office;

## Twice-yearly panel meetings to assess college and provider performance

1. Performance review panel meetings are internal events, colleges and providers contribute evidence prior to reviews and receive feedback after them but are not present at review panel meetings. During routine visits, colleges and providers should have been made aware of the evidence being used to inform the LSC’s judgements.
2. As performance review panel meetings are part of an internal process, it will not be usual to have representation from the inspectorates in attendance. The inspectorates may contribute to reviews, but are not expected to attend panel meetings.
3. Review panel meetings are conducted at six-monthly intervals and the national office provides a reporting deadline by which each local LSC database is to be completed. LSC staff hold their panel meetings before these given deadlines to enable the national office to report at a national level on the assessments and issues arising from performance review.
4. Performance review panel meetings need to be carefully planned, carried out thoroughly, and followed up with colleges and providers promptly and confirmed in writing so that they take well-considered action to bring about further improvements. The process needs to be carried out consistently for all colleges and providers, but appropriately to suit the size and complexity of each college/provider and applying the principle of lighter touch where colleges/ providers are strong or excellent performers.

## The composition of review panels and meetings

1. Meetings are an internal LSC stock-taking of evidence supplied by colleges and providers, and issues already discussed with them. There should be two levels of local performance review meetings, first and second stage.
2. Membership of and attendance at the first stage review panel meetings is a matter for each local LSC or NCS to determine but it should be ensured that the panel involves the key disciplines, and that staff involved in the meetings have the appropriate level of authority and are knowledgeable about the different types of college and provider being reviewed.
3. The panel should be skilled in making sound and balanced assessments based on evidence, have the ability to make defensible and consistent decisions on actions required and be clear about their accountability.
4. Usually, the first stage review panels include staff with responsibility for:

* quality improvement
* operations/services
* provider/partner management
* contract management
* finance
* health and safety
* equality and diversity
* other functions as appropriate

## First stage review panel meeting

1. The first stage review panels will:
2. assess performance and make judgements in order to arrive at four categorisations of performance. Performance is categorised in the three key performance areas and finally an overall assessment for each college/provider;
3. make recommendations about the actions needed to be taken to resolve identified issues and facilitate quality improvement.

## Conduct of first stage performance review panel meetings

1. The guiding principles of the first stage performance review panel meetings are:
2. Good, comprehensive planning and preparation with sufficient lead-in times are essential to the success of the review;
3. Carefully considered and relevant evidence is fundamental to the review;
4. Appropriate teams within the local LSC or NCS are clear about the importance and status of the performance review panel meetings and abide by decisions made following each review;
5. Sufficient time is given to enable an assessment to be reached on each college’s and provider's performance and agree actions;
6. Colleges and providers will be assessed in a rigorous, fair, transparent and consistent way;
7. Decisions (and the basis for them) along with actions agreed and the names of those responsible for these actions should all be recorded during the meetings.

## Second stage review meeting

1. The second stage review meetings are crucially important as they moderate and have the authority to ratify and confirm the key decisions and recommended actions of the first stage review panel meetings.
2. The second stage meeting should:
3. be chaired by the executive director or their representative;
4. involve other senior managers as appropriate;
5. contain at least one member of staff who attended the first stage panel. This person can then link back to the first panel, giving further explanations/evidence as required on that panel's considerations;
6. take account of key issues and cover:

* confirmation of overall categorisations, following assessment at the first stage panel meetings
* moderation of colleges’ and providers' where their overall categorisation is excellent or serious concerns, together with any college/provider that has experienced a change in overall categorisation since the last performance review panel meeting
* assessment of the appropriateness of the actions for improvement recommended by the first stage panel
* proposal of additional remedies and areas of good practice to be disseminated, if appropriate
* confirmation of the existing recommendations, or alterations if needed
* assurance that all decisions have been clearly supported by evidence.

#### 

**SECTION FIVE: ACTION FOLLOWING REVIEW PANEL MEETINGS**

* + Local LSC or NCS actions
  + Communicating and reporting on PR panel assessments to colleges and providers
  + Reporting to local LSCs or NCS Advisory Board
  + Sharing assessments with the inspectorates
  + Communicating assessments to national office
  + Changes in categorisation
  + Arrangements for dealing with disagreements

# Section FIVE: Action following performance review panel meetings

1. Guidance on raising standards of post-16 achievement states that the support or intervention provided by a local LSC is to be determined by the level of risk involved, will be timely, effective and in inverse proportion to success.
2. Colleges and providers about which there is an area of some concern receive more support, advice and frequent monitoring from LSC staff. It is envisaged that local LSCs or NCS will have dedicated resources to enable them to support colleges and providers in achieving improvements. Local LSCs or NCS need to identify key priorities in the support that is to be arranged.
3. Where there is major concern about a college or provider, it may be necessary for special monitoring and support to be organised. The performance review process is the key platform for identifying circumstances in which the threshold between the final stage of the normal partnership approach and the initial stages of the intervention approach has been reached. Details of the LSC’s intervention strategy can be found in Circular 02/06: *Intervention to Improve the Performance of Providers.*
4. The LSC Standards Fund will be used to support quality improvement in LSC-funded colleges and providers. Circular 02/02: *Learning and Skills Standards Fund 2002-03*, provides information on the LSC’s use of its standards fund for 2002/03.

## Local LSC/National Contract Service actions

1. Following performance review meetings, each local LSC or NCS should:
2. analyse the aggregate results of the review to assess the collective impact on the provision across the local LSC and consider the possible impact of overall categorisation on priorities, eg widening participation in the local LSC, concentrations of good or poor colleges and providers in a particular local area, etc;
3. analyse trends according to length of stay in each category and direction of movement between categories;
4. identify good practice for dissemination;
5. consider implications for the Standards Fund/Local Initiatives Fund (LIF);
6. consider implications for colleges and providers with strong/excellent performance, in particular the sharing of good practice to help other colleges/providers;
7. consider implications with regard to colleges and providers causing serious concerns,
8. take the necessary actions as recorded at the meeting.

## Communicating and reporting on performance review panel assessments to colleges and providers

1. Following the performance review panel meeting:
2. The local LSC or NCS should inform colleges and providers of the overall category agreed at the performance review panel meeting, together with the reasons for the decision.
3. where concerns are serious, intervention may be required. Details of the LSC’s intervention strategy can be found in *Circular 02/06: Intervention to Improve the Performance of Providers*.

## Reporting to local LSCs or NCS Advisory Board

1. Once the local LSC has completed its performance review meetings, overview reports will be provided to local Councils or the NCS Advisory Board.
2. It is recommended that performance review reports to local Councils or the NCS Advisory Board contain the following information:

* a summary of the aggregated performance review results
* the proportion of each type of college/provider within each of the performance review categories
* an overview of trends in performance review assessments over time
* a summary of significant progress made overall, and of areas where there are major challenges or problems
* the length of time colleges and providers are remaining in serious concerns before moving to some concerns, or acceptable
* a summary of actions for making improvements, particularly for colleges and providers about which there are serious concerns and where there are some concerns but indications of a further decline

1. Reports to local LSCs or NCS Advisory Board need to be clearly marked “Confidential, not to be circulated or quoted” as this information is not in the public domain. Members of the national and local LSCs are bound by the document *Code of conduct for Council Members,* which reinforces the need for confidentiality[[1]](#footnote-1), particularly in relation to the performance of individual colleges or providers.
2. All LSC staff involved in performance review need to be familiar with and abide by the LSC’s *Code of Conduct* and in particular the section *Access to Information*.

## Sharing assessments with the inspectorates and other organisations

1. In line with its commitment to the concordat agreement in 2002/03, the LSC intends to share the names of colleges and providers categorised as ‘excellent performance’ and ‘serious concerns’ with OfSTED and the ALI, on a confidential basis, to assist them with the planning of their inspection programme.
2. It is envisaged that the assessments made at performance review panel meetings may also be shared with other government bodies contracting with a particular provider, for example, Jobcentre Plus. It will be made clear that assessments relate to LSC funded provision

###### Communicating assessments to national office

1. LSC staff must inform the Quality and Standards directorate, national office, about assessments made at each twice-yearly performance review meeting. To do this, LSC staff make a return using the database supplied by the national office.
2. The database returns enable the Quality and Standards directorate, to analyse nationally how well different types of colleges and providers perform and in what areas strengths and weakness exist. This information will enable overall national trends to be identified and reported. This in turn gives useful national benchmarking information to LSC staff.

## Changes in categorisation

1. In some exceptional circumstances eg following an inspection, it may be necessary to amend the overall categorisation of a college or other provider between performance review national reporting dates. Where this is the case LSC staff should **notify the college/provider** and email details of the revised overall categorisation to the Quality and Standards directorate performance monitoring team who track such issues on a monthly basis.

## Arrangements for dealing with disagreements

1. We operate performance reviews to improve standards, in partnership with colleges and providers. If any minor disagreements arise in relation to the performance review we aim to settle these through constructive dialogue as normally, the LSC does not ask for additional evidence as this would be inappropriately burdensome on colleges and providers. The purpose of the second stage panel meeting is to moderate and ratify the decisions and the process for informing colleges/providers of the outcome of the performance review process itself allows providers to make representations following the reporting of overall categorisation.
2. Following the feedback meeting if the college or provider still feels that their representations made have not been addressed, the LSC’s complaints procedure should be followed.

#### 

**SECTION SIX: EVALUATION OF THE PERFORMANCE REVIEW PROCESS**

* + Monitoring of consistency of the review process

# Section SIX: Evaluation of the performance review process

## Local LSC/National Contracts Service monitoring of consistency of the review process

1. To monitor the consistency of the performance review process, the local LSC or NCS is required to:
2. put in place procedures for evaluating the effectiveness of the review process, including:

* monitoring how effectively the purposes of performance review have been met
* monitoring how effectively the national guidance on performance review and the commitments made in the circular, have been implemented at local level (essential for helping to ensure national consistency)
* assessing the impact of reviews in raising standards
* testing the rigour of the review process
* consulting with colleges and providers on ways to improve the process
* considering feedback from panel members
* identifying ways of working with the national office to improve the process
* determining specific actions to improve the effectiveness of reviews to bring about greater national consistency and rigour, and to help raise standards;

1. conduct annually, a full evaluation of the effectiveness of their local review process;
2. consider its staffing arrangements to support the performance review process;
3. evaluate its staff development programme to ensure it properly supports the performance review process;
4. share good practice in review with the neighbouring LSCs in regional quality groups with the national office;
5. highlight what works well and prepare an action plan for further improvements that need to be made;
6. In 2003-03 there will be a national evaluation of the revised arrangements for performance review. This will not duplicate local LSCs’ or NCSs’ own evaluation but complement these.

**SECTION SEVEN: SCOPE OF PERFORMANCE REVIEW**

* + October 2002 onwards

# section SEVEN: Scope of performance review

## October 2002 onwards

1. Currently in scope for performance review are colleges and work-based learning providers all Ufi hubs and the group of independent EIs (non-LEA adult and community learning providers, formerly reviewed by the FEFC) and specialist designated institutions listed from para 162.
2. We intend to extend the scope of performance review to more LSC-funded providers beyond FE colleges, WBL, UfI hubs, independent external institutions and specialist designated institutions during 2002 to 2004.
3. However, there is a great deal of work required before this can happen. Development work is being undertaken in liaison with other providers including: Adult and Community Learning (ACL); Independent Specialist Residential College for learners with learning difficulties and/or disabilities; the Small Business Service; Information, Advice and Guidance for Adults (IAG); Education Business Links and further education in higher education institutions.
4. Discussions are underway with the Local Government Association and Secondary Heads Association about an appropriate form of review for sixth forms in schools.

## 

**APPENDIX ONE: USEFUL DOCUMENTS AND PUBLICATIONS**

# APPENDIX 1: Useful documents and publications

## Key documents

* LSC Corporate Plan – Strategic Framework to 2004
* LSC Grant letter 2002-2003 DfES 10 DEC 2001
* Code of Conduct for Council Members
* *Success for all* – DfES
* LSC Quality Improvement Strategy 2002-2003
* Quality and Standards: Policies and Framework

## Relevant Acts

* The Learning and Skills Act 2000
* The Race Relations (Amendment) Act 2000
* The Disability Discrimination Act 1995
* The Sex Discrimination Act 1975
* The Health and Safety at Work Act 1974

## LSC Circulars

* FEFC Circular 00/28 – Target Setting: Outcomes 1999-2000
* Circular 02/02 – Learning and Skills Standards Fund 2002-2003
* Circular 02/05 – Reviewing Performance: Arrangements for Colleges and Providers (consultation circular)
* Circular 02/06 – Intervention to Improve the Performance of Providers
* Circular 02/10 – The Audit of the Use of Funds in ACL Establishments
* Circular 02/13 – Funding arrangements for WBL for Young People in 2002/03
* Circular 02/19: Reviewing Performance: Refined Arrangements for Colleges and Providers from October 2002

## Publications

* National Equality and Diversity Strategy 2001-2004
* Framework for a Race Equality Policy for FE colleges – May 2002
* Race Relations (Amendment) Act 2000: Equality and Diversity Guidance 03/2002
* Mainstreaming Equal Opportunities – Guidance DfEE, April 2001
* Equality in Practice – A guide to mainstreaming
* Raising Standards in Post-16 Learning, Self Assessment and Development Plans – March 2001
* Guidance to the LSC on meeting the needs of learners with learning difficulties and/or disabilities, DfEE, April 2001
* Summary Statistics for FE institutions (LSC produce annually)
* Benchmarking Data. Retention and Achievement rates for a three year period 1997/98 – 1999/2000
* ALI – Retention & Achievement Data from WBL Inspections, May 2002
* Management of Health and Safety at Work Regulations 1999

## Useful Websites

* [www.ali.gov.uk](http://www.ali.gov.uk)
* [www.ofsted.gov.uk](http://www.ofsted.gov.uk)
* [www.aoc.co.uk](http://www.aoc.co.uk)
* [www.learningproviders.org.uk](http://www.learningproviders.org.uk)
* [www.niace.org.uk](http://www.niace.org.uk)
* [www.lsda.org.uk](http://www.lsda.org.uk)
* [www.cre.gov.uk](http://www.cre.gov.uk)
* [www.hse.gov.uk](http://www.hse.gov.uk)
* [www.lg.employers.gov.uk](http://www.lg.employers.gov.uk)
* [www.natspec.org.uk](http://www.natspec.org.uk)
* [www.skill.org.uk](http://www.skill.org.uk)
* [www.Ufiltd.co.uk](http://www.ufiltd.co.uk)
* [www.lga.gov.uk](http://www.lga.gov.uk)
* [www.cabinet-office.gov.uk](http://www.cabinet-office.gov.uk)

1. *This states: “Although any legal proceedings initiated by a third party are likely to be brought against the Council, in exceptional cases proceedings may be brought against the chair or other individual members. For example, a member may be personally liable if he or she were to make a fraudulent or negligent statement, which resulted in loss to a third party. A member who misuses information gained by virtue of his or her position may be liable for breach of confidence under common law or under insider dealing legislation. Members who act honestly, reasonably and in good faith should not normally incur any liability in an individual capacity.”* [↑](#footnote-ref-1)