



Department
for Education

Review how well the education or training provided meets local needs

**Statutory guidance for further education
colleges, sixth form colleges and
designated institutions**

July 2022

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Summary

About this guidance

This statutory guidance sets out key principles to enable governing bodies of institutions within the further education sector to comply with their duty under a new section 52B of the Further and Higher Education Act 1992 to review provision in relation to local needs, as proposed in the Skills and Post-16 Education Bill. Governing bodies of institutions within the further education sector (as defined under section 91(3) of the Further and Higher Education Act 1992) must have regard to this guidance when discharging the duty to review how well the education or training provided by the institution meets local needs.

Separate, non-statutory guidance on accountability agreements is due to be published in late 2022. These new agreements will be between governing bodies and the Department for Education, and apply from the academic year 2023/24. Section 52B reviews should inform the actions that are set out in the college plans which will make up the second part of these agreements.

To ensure full alignment between both pieces of guidance, we will review this statutory guidance for section 52B reviews in late 2022.

When this duty comes into force

The duty applies from 28 June 2022.

What legislation does this guidance refer to?

Section 52B Further and Higher Education Act 1992, as amended by the Skills and Post-16 Education Act 2022.

Who is this guidance for?

This guidance is for governing bodies of the following institutions within the further education sector:

- sixth form colleges¹
- further education colleges
- designated institutions²

¹ Institutions run by sixth form college corporations

² Institutions designated under section 28 of the Further and Higher Education Act 1992

Other stakeholders with a role in meeting local needs may find this guidance a useful point of reference, including Mayoral Combined Authorities, Local Authorities and schools (including 16-19 academies, also known as “sixth form college academies”).

Definitions

Throughout this guidance the following definitions are used:

College means an institution within the further education sector with a single learner-facing identity, brand name, viewed by learners as distinct with its own prospectus and/or website, through which a governing body delivers further education provision.

Governing body means further education corporation, sixth form college corporation within the meaning of the Further and Higher Education Act 1992, or the governing body of an institution designated under section 28 of the same Act. A governing body may deliver their provision through more than one college.

Learners means all those participating in education and training, such as those undertaking apprenticeships, but should also be taken to include potential future learners (including those currently not in education, employment or training).

Provision includes all aspects of the college curriculum and those functions that support its delivery.

Structure means how provision in an area is distributed between governing bodies, and between colleges and other providers.

Expiry or review date

This guidance will next be reviewed in late 2022, to ensure full alignment with our upcoming guidance on accountability agreements.

Main points

- Governing bodies must undertake regular reviews of how well the education or training provided by the college meets local needs, in particular needs relating to local employment.
- Governing bodies should undertake a review at least every three years, or when a new LSIP is published, if earlier³.
- In reviewing provision within a local area, governing bodies are expected to collaborate with other governing bodies also serving that area.
- Governing bodies are required to publish the outcome of their reviews on their websites.
- Governing bodies must consider what actions they and other providers (including providers not subject to the duty, and those located outside of the local area) can take to better meet local needs, in particular to better ensure learners have the skills needed to secure suitable employment. These actions could include changes to the structure through which provision is delivered within a local area.
- Accountability Agreements, due to be introduced in academic year 2023/24, should reflect any actions governing bodies have agreed to take as a result of a review.
- The responsibility for the curriculum offer continues to rest with individual governing bodies.

³ Where a college's local area is split between multiple LSIPs, a governing body should only seek to align the timing of their reviews with the publication cycle of the one LSIP they feel most relevant to their provision.

Introduction

Better alignment between further education provision and the skills learners need to secure suitable employment is a key objective underpinning the reforms set out in the Skills for Jobs White Paper⁴.

To help achieve that objective, the Skills and Post-16 Education Act 2022 has introduced a new duty on the governing bodies of colleges. The new duty will, in conjunction with other reforms we are introducing, strengthen the way that all governing bodies plan their provision, and ensure that where there are structural barriers to meeting local needs these are identified and addressed.

Without removing governing bodies' responsibility for determining their curriculum, the duty will require them to review how well the education or training they provide meets local needs. The governing body must also consider what action they might take (including action which might be taken in conjunction with action taken by one or more other educational institutions) in order to better meet those needs.

This guidance is intended to assist governing bodies in complying with the new duty. Governing bodies must have regard to this guidance when carrying out reviews.

Alongside the new duty, employer-led local skills improvement plans (LSIPs) are being introduced. Governing bodies of colleges that provide post-16 technical education or training will consider LSIPs when making decisions on their provision. Our outcomes-focused funding and accountability reforms will further support governing bodies in focusing their provision on the skills that learners need to get good jobs.

⁴ [“Skills for Jobs: Lifelong Learning for Opportunity and Growth” White Paper, dated 21 January 2021](#)

Supporting principles for reviews

The duty applies to governing bodies with different curriculum offers, in different local contexts, who meet a different mix of local, regional, and national needs. Some governing bodies will deliver their provision through more than one college. Governing bodies will have the flexibility to conduct reviews in a way that is tailored to their circumstances. Governing bodies should ensure that their approach is consistent with the following principles:

Reviews should be evidence-based: All reviews should be underpinned by evidence, balancing both forward and backward-looking data and information. Governing bodies should look to use readily available evidence such as the local skills improvement plans, and the information used to develop those plans, including the data being made available through the new [Unit for Future Skills](#).

Reviews should focus on improvement: As well as building on established strengths, reviews should identify areas where improvement is required - together with an assessment of the key barriers (including structural barriers) that need to be addressed for improvement to be achieved.

Reviews should be collaborative: Where more than one governing body is involved in meeting the needs of a local area, governing bodies should consider collaboration in undertaking the reviews. Collaboration should focus on meeting local needs as the primary outcome, for example where curriculum collaboration could lead to a provision offer better aligned to local needs.

Reviews should be timely: Reviews should take place at least every three years, or when a new LSIP is published, if earlier. Reviews should be undertaken as required to ensure that they remain relevant, for example to reflect changes to employers' skills priorities set out in local skills improvement plans.

Reviews should involve stakeholders, including local employers: Engagement with local stakeholders is a key source of information and intelligence on changing local needs. Stakeholders should also have the opportunity to comment on the emerging review before it is published, to provide external challenge and validation.

Reviews should be proportionate: The scope and focus of the reviews should reflect the mission, specialisms and local area(s) served by the college or colleges through which provision is delivered. For colleges that offer a wide range of provision primarily focused on local needs, the scope of the review will be broader than for a college primarily focused on specialist provision.

Reviews should be integrated with strategic and business planning: Governing bodies will develop actions which can be integrated into their curriculum, estates and financial planning processes, and these should also be reflected in accountability agreements. The duty is not intended to distract from existing core planning processes, but rather to strengthen them.

Interpreting need

Colleges have a unique position in their local communities and economies, and for many this is central to their institutional mission. Compared to other educational providers, for many governing bodies their focus on meeting learners' needs by aligning provision to the skills needs of employers in the local area is a unique and distinctive characteristic.

In interpreting need, governing bodies should consider both enabling learners to meet employer skills needs and wider learner needs.

Securing suitable employment

Local skills improvement plans will be a key reference for those governing bodies whose colleges provide post-16 technical education or training.

Existing employers in the area will have both tactical (immediate) and strategic (future) skills needs and different sectors will have varying needs. Governing bodies should also consider what they know about potential future employers and their skills needs.

Governing bodies and their colleges will want to build strong partnerships with individual employers, the designated employer representative body, Local Enterprise Partnerships, Chambers of Commerce and other representative groups and forums to understand local skills needs. In a local area there may be regional or national employers who could define their skills needs on a regional or national scale. Enabling learners to secure suitable employment with these employers by meeting these skills needs should be treated as part of meeting local needs for the purposes of the duty.

Learner needs

When considering learner needs governing bodies will need to consider current learners in the local area, including learners attending other providers, and also the needs of potential future learners. Ensuring that the education and training provided by the college enables learners to progress to skilled sustainable employment (including, where applicable, after further study) should be a key consideration when addressing learner needs.

Governing bodies will be familiar with the needs of different groups of learners and potential future learners, for example:

- Learners with SEND, including those with education, health and care plans;
- Young people not in education, employment or training;
- 16-19 learners;
- Apprentices;
- Adults returning to learning;
- Part-time learners who are in employment; or

- Prisoners and prison-leavers

Governing bodies will also be aware that learners will also have different categories of needs that will be reflected in the college's provision, for example:

- Academic and vocational curriculums;
- Work experience and placements;
- High quality careers education, information, advice and guidance; and
- Pastoral care and support

Governing bodies will need to determine how those needs are best met, and what actions they may take in response.

Balancing differing needs

Local needs will reflect a combination of factors relating to both local employment opportunities and broader learner needs. Governing bodies will have to balance different aspects of local need, reaching an approach to provision that best meets local needs whilst ensuring a financially sustainable offer of high-quality education and training. In making decisions governing bodies will need to ensure that they comply with their existing statutory obligations such as those in relation to SEND, equality law, and promoting participation⁵.

Local area

It is for governing bodies to determine their local area for the purposes of the review. This should be done by looking primarily at the travel to learn patterns of learners and travel to work patterns.

Governing bodies with geographically dispersed colleges will need to define the local area for each of their colleges, and will be expected to carry out a review for each local area served.

Specialist provision

Many colleges will offer some specialist provision that is directly responding to local needs, for example high needs provision for local learners with education, health and care plans. But there will also be colleges offering specialist provision that is primarily meeting regional or national needs, with fewer learners attending from the local area. Such provision is in scope of the duty to the extent that it serves learners who live locally, or to the extent that its learners would be expected to go on to seek employment in the

⁵ Section 11 of the Education and Skills Act 2008

local area. Governing bodies may nevertheless still want to consider out-of-scope provision as part of wider curriculum and strategic planning processes.

Undertaking reviews

Governing bodies have the flexibility to conduct reviews in a way that is tailored to their circumstances, and aligned with existing strategic and business planning processes.

Key review challenges

Governing bodies are encouraged to challenge themselves and others serving the local area about their provision. There is no set of standard questions that governing bodies should look to answer, but prompts could include the following:

- How do governing bodies and other providers know they are meeting local needs, in particular local employment-related needs?
- How does the current provision support learners hoping to secure local employment?
- How is the curriculum changing to increase the employment rates and salaries of learners when they leave?
- Where would strengthening collaboration help overcome barriers to meeting local needs, in particular local employment-related needs?
- Is intake limited to popular provision?
- Does the curriculum on offer enable learners, particularly those studying below level 3, to make sufficient progress?
- What provision has stopped, and what impact does that have on how well local needs are being met?

Further prompt questions to assist governing bodies are set out in the annex.

Evidence considerations for reviews

It is important that governing bodies consider all relevant factors and evidence when conducting a review. As well as the analysis and priorities in local skills improvement plans, that evidence may include Ofsted judgements, and data on learner employment destinations, learner participation, and outcomes by institution and curriculum area. The new [Unit for Future Skills](#) may be a particularly useful source of data on skills and jobs. It is for governing bodies to determine how evidence should be tested.

Working with others

Governing bodies are strongly encouraged to collaborate with other governing bodies and engage with other education providers serving their local area in making an assessment of how well the overall provision in the area meets local needs now and prepares for those that will emerge in the future. This includes engaging with relevant education providers outside of the statutory FE sector, such as Independent Training Providers, schools and/or universities.

Governing bodies should also engage with other relevant local stakeholders, including:

- Employers;
- Any designated employer representative body;
- Learners (recognising that different learners have different needs);
- The college's own workforce;
- Local authorities (including in relation to SEND provision and NEETs);
- Any combined authority (where learners are funded through a combined authority)
- Jobcentre Plus; and
- Regional Directors at the Department for Education, formerly known as Regional School Commissioners (in relation to 16-19 provision by schools in the local area).

All those providing evidence, engaging and collaborating with governing bodies in assisting with reviews should be encouraged to follow the core principles set out in this document.

Review conclusions and actions

The review should identify how well a college is currently meeting local needs, in particular local needs associated with securing suitable employment. On completion of the review governing bodies must publish the report on the college website. This should be within three months of completion of the review.

Where governing bodies have agreed to carry out a review jointly with another governing body, the report should be published on each college's website referencing the other colleges to which the report applies. If reviews have been endorsed by key stakeholders, such as local authorities or employers, then these endorsements can be published alongside the review conclusion.

The legislation requires governing bodies to consider, in light of the review, what actions might be taken (including actions in conjunction with other governing bodies) to better meet local needs. These actions could include, for example, decisions to expand the curriculum offer to respond to emerging needs relating to securing local employment, or to collaborate with other providers to strengthen the quality and resilience of local provision. It is for governing bodies to determine the feasibility of these actions.

In considering the actions, the governing body should also take into account any relevant findings or recommendations from recent Ofsted inspection reports, and (for colleges in intervention) FE Commissioner recommended actions.

Upon the introduction of accountability agreements for academic year 2023/24, governing bodies should reflect any actions they have agreed to take in light of a review as part of these agreements. When doing so, governing bodies should consider our non-statutory guidance on undertaking accountability agreements, which will be published in late 2022. Reviews should be published separately and in addition to any documents required as part of an accountability agreement.

Agreed actions derived from the reviews should be integrated into existing curriculum, estates and financial planning processes.

Governing bodies should engage at an early stage with their territorial team lead and the FE Commissioner if any of the agreed actions following on from the review could lead to structural changes.

The review conclusions and associated accountability agreements will be part of the ongoing territorial team and FE Commissioner discussions with governing bodies, including as part of annual strategic conversations.

Annex: Further example prompt questions

To assist with undertaking the reviews governing bodies may want to consider some or all of the following questions:

- What is the relevant local area for the purposes of the review?
- What is the impact of current offer from colleges in the area?
- How have the needs of learners seeking suitable local employment changed/how will they change?
- How well does the current post-16 curriculum offer for technical education in the local area align with any local skills improvement plans?
- How well does the current post-16 curriculum offer support the local authority's responsibilities in relation to NEETs?
- How well are the needs of learners with special educational needs and disabilities being met?
- What is the careers impact of the current offer from colleges in the area, what do the career guidance providers tell us?

- How well are we as a single college and as a collection of colleges currently meeting local needs, in particular the needs of learners seeking suitable local employment. What are the key messages from feedback from key stakeholders and users?
- Where there are local needs that are not being met by colleges, to what extent are these being met by other providers?
- Are there gaps in the curriculum offer, or current/forecast undersupply of provision?
- When considering how colleges meet local needs, in particular those needs relating to securing local employment:
 - Does the current provision in the area represent a sustainable approach?
 - How is capacity impacted by the quality of provision in an area?
 - How is capacity impacted by the college's financial resilience?
 - Where might changes to the structure of local provision help?

Further information

Useful resources and external organisations

- [Local skills reports - GOV.UK \(www.gov.uk\)](http://www.gov.uk)
- [The Unit for Future Skills – GOV.UK \(www.gov.uk\)](http://www.gov.uk)

Other relevant departmental advice and statutory guidance

- [College oversight: support and intervention – GOV.UK \(www.gov.uk\)](http://www.gov.uk)
- [Further Education Corporations and Sixth Form Corporations: Governor Guide](#)

Other departmental resources

- DfE territorial teams are responsible for the oversight of the FE provider base to promote high quality sustainable provision in each territory. To get in touch please contact your local territorial team lead.
- To contact the Office of the Further Education Commissioner please send an email to the following address: FE.Commissioner@education.gov.uk.



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