

i For information

FE ILR Funding Compliance Advice for 2004 to 2006

Summary

This booklet gives companion advice to *Funding Guidance for Further Education in 2004/05* for all Learning and Skills Council (LSC) further education (FE) funding providers for 2004/05 and 2005/06.

Audience:

Of interest to principals and/or chief executives of colleges and other providers, heads of providers, finance directors and management information officers of providers delivering further education and to funding auditors.

May 2005

This booklet gives companion advice to *Funding Guidance for Further Education in 2004/05* for all Learning and Skills Council (LSC) further education (FE) funding providers for 2004/05 and 2005/06.

This booklet gives some simple evidential guidance to help providers meet audit and inspection requirements.

For providers within plan-led funding this includes advice that helps the accounting officers of FE colleges and other providers in signing off their final funding claims.

For providers not within plan-led funding for 2004/05 and 2005/06 this booklet replaces the *ILR Audit Guidance for Further Education 2002/03* published by the LSC.

This booklet is of interest to accounting officers of FE colleges and other FE providers.

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Of interest to principals and/or chief executives of colleges and other providers, heads of providers, finance directors and management information officers of providers delivering further education and to funding auditors.

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Executive Summary

This booklet gives companion advice to *Funding Guidance for Further Education in 2004/05* for all Learning and Skills Council (LSC) further education (FE) funding providers for 2004/05 and 2005/06.

For providers within plan-led funding this booklet includes advice that helps the accounting officers of FE colleges and other providers in signing off their final funding claims (see Circular 05/01 *FE ILR Funding Estimate/Claim 2004/05*). The introduction of this booklet explains the relevance of this booklet to providers within the framework of plan-led funding.

For providers not within plan-led funding for 2004/05 and 2005/06 this booklet replaces the *ILR Audit Guidance for Further Education 2002/03* published by the LSC.

This booklet covers both the 2004/05 and 2005/06 teaching years to simplify evidential requirements for providers over the next year. This booklet refers to the teaching year throughout as 2004/05. For the teaching year 2005/06 readers will need to add one year to each calendar date.

Overview

The LSC is committed to simplifying the way it funds colleges and other providers, working in partnership to create a planning-led approach, and significantly reducing bureaucracy. These aims underpin Success for All, the Government's strategy for reforming further education and training.

The new approach to funding reconciliation introduced for all providers in Circular 03/11, and further simplified for providers within plan-led funding in Circular 05/01, enables the *ILR Audit Guidance for Further Education in 2002/03* to be replaced with this simpler funding compliance advice from 2004/05. Whilst providers within plan-led funding do not face retrospective clawback for underperformance, they still need to ensure the FE funding being claimed from the LSC supports eligible learners where there is evidence of their existence. This booklet gives some simple evidential guidance to help providers meet audit and inspection requirements.

In simplifying the compliance advice for FE funding, the LSC approach starts from the funding principles set out in paragraphs 41 and 42 of *Funding Guidance for Further Education 2004/05*. The LSC requires providers to consider and apply these principles before claiming funding from the LSC. In many funding queries, some simple 'reasonableness' tests often supply answers that should satisfy both providers and the LSC. Experience has shown it is not possible to write advice that exactly matches the wide variety of delivery arrangements in FE. If providers are unsure how to match their own individual delivery arrangements to either this booklet or the advice in *Funding Guidance for Further Education 2004/05* then they should consult their local LSC who will help them with any necessary interpretation of the advice and guidance.

In their interpretation, help and advice, local LSCs are expected to take full account of the advice in paragraph 7 of Circular 03/15 *Plan-led Funding for Further Education*, that the LSC should be selective in its interventions, so that these focus on areas of risk and poor performance, whilst offering maximum discretion to high performing colleges. This principle is further expanded in Circular 03/15 paragraphs 101 to 105 and summed up in paragraph 106 as the "principle of intervention in inverse proportion to success". Providers are also expected to work within the spirit of this advice themselves in determining their own individual compliance safeguards.

More detailed advice for providers is set out in Sections 2 to 6 of this booklet. Section 2 gives advice on the main evidential requirements for all learners for all providers. Section 3 gives advice on franchising, partnership and sub-contracted provision, and particularly on the controls providers should have over their partner provider provision. This advice is designed to help providers ensure that their funding claims meet all the LSC eligibility requirements. Sections 4 to 6 are intended to give advice to all providers in compiling their funding claims and these sections impose some mandatory evidential requirements on providers outside plan-led funding.

Further information

For further information, please contact the appropriate local Learning and Skills Council office. Contact details for each office can be found on the Council's website (www.lsc.gov.uk).

Section 1: Format and Background

Introduction

- 1 This booklet gives advice on the provision funded by the Learning and Skills Council (LSC) in 2004/05 and 2005/06 and should be read with *Funding Guidance for Further Education 2004/05* which is the primary reference booklet to guidance for funding for 2004/05 and 2005/06. This booklet contains all information, advice and guidance issued by the LSC since that publication and is intended to help all colleges and other providers in making funding claims to the LSC for 2004/05 and 2005/06.
- 2 The information in this booklet supersedes that in *ILR Audit Guidance for Further Education 2002/03* and refers to further education (FE) funding claimed from the LSC in the teaching years 2004/05 and 2005/06. This booklet is substantially smaller than the previous individualised learner record (ILR) audit guidance and is written to reflect the greater level of trust implied in plan-led funding. It addresses the ongoing requirement for providers to ensure that their funding claims meet minimum funding eligibility requirements, replacing the previous complex detailed ILR audit guidance.
- 3 This booklet does not make any major distinctions between plan-led and non plan-led funding providers. This advice is written for the benefit of all FE providers, with the majority already inside plan-led funding for 2004/05 and with more providers expected to be inside plan-led funding from 2005/06. The LSC provider financial assurance team will issue separate guidance to funding auditors undertaking audit work in providers outside plan-led funding, including all independent providers funded by the LSC through a contract. Plan-led funding providers should be aware that the LSC still requires a funding audit for all independent training providers claiming FE funding from the LSC.
- 4 For providers within plan-led funding who enter into partnership arrangements with private sector organisations to deliver provision on their behalf, the LSC requires them to put in place sufficient and reasonable control arrangements to assure the safety of any public funding transferred by them to the private sector. Sections 2 and 3 of this booklet set out the evidential and control requirements needed to meet the fundamental funding eligibility requirements. Providers are expected to take account of the eligibility risks to their funding in determining their own approach to compliance evidence over their FE provision. The LSC requires them to adopt a risk-based approach with particular emphasis on partnership provision. The LSC will be addressing the issue of compliance with aspects of Sections 2 and 3 by providers within the new learner existence and eligibility audits. Compliance with Sections 4 to 6 will continue to be addressed by funding auditors.
- 5 The LSC is aware that directly funded LSC providers (and especially colleges) work with a variety of other education and training organisations and with a wide variety of contractual arrangements. These arrangements include provision that may previously have been regarded as franchised provision/delivery, partner-assisted delivery, sub-contracted provision or collaborative provision. In Section 3, particularly in paragraphs 60 to 76, this booklet sets out the new approach and priorities of the LSC in assessing this type of provision and the importance of

effectively controlling the provision, irrespective of the details of the partnership arrangements.

- 6 In this booklet whenever the term 'partner provider' is used this refers to all partners previously referred to as franchised, sub-contracted and/or partner-assisted providers, or any other terminology that describes provision not delivered by the LSC directly funded provider (that is, not delivered **both by** their own staff and on their own premises or premises under their own full control). Throughout this booklet, the simpler term 'provider' refers only to LSC directly funded providers. The application of the control advice and guidance by providers to any non-franchised provision should be seen as completely separate to the issue of when the franchise discount is applied; details are provided in Section 3. Any further help needed by providers in interpreting this advice is available from their local Learning and Skills Council (local LSC).

Format

- 7 This booklet is set out in the following way. Section 1 contains a general introduction and background for all providers. Section 2 gives advice on the main evidential requirements for all learners for all providers. Section 3 gives advice on franchising, partnership and sub-contracted provision, and particularly on the controls providers should have over their partner provider provision. This advice is designed to assist providers in ensuring their funding claims meet all the LSC eligibility requirements and avoid any risks of 'ineligible activity'. Sections 4 to 6 are intended to give advice to all providers in compiling their funding claims and these sections impose some mandatory compliance evidential requirements on providers outside plan-led funding.
- 8 If any further advice is necessary or a provider believes any particular circumstances are not covered by this guidance, the appropriate local LSC should be contacted in the first instance. This advice may assist provider accounting officers in making sure their college or institution is making valid funding claims and will also assist funding auditors for providers outside plan-led funding.
- 9 This booklet replaces the ILR *Audit Guidance in Further Education 2002/03* published by the LSC. It also includes FE ILR funding advice for areas of contention that have arisen in the past. This includes the new approach to partnership and franchise provision, where the emphasis is firmly on quality provision that meets local needs and with adequate funding levels paid to partner organisations. The former guidance on distinctions between franchising and direct delivery is updated with simpler guidance on the different delivery methods of provision in FE in Section 3, paragraphs 60 to 76.

Background

- 10 Colleges and other providers are reminded that in *Funding Guidance for Further Education 2004/05* paragraphs 41 and 42 the LSC has set out the fundamental principles for claiming FE funding for 2004/05 (please note that throughout this booklet it will generally refer only to 2004/05 for simplicity but the advice also stands for 2005/06). This includes references to prioritising funding for provision that meets local needs and targets set out in the local strategic plan. All providers are also reminded that funding guidance and compliance advice on provision applies regardless of the mode of delivery, the physical location of the learner or the location of the provision. Specific advice on either provision, recruitment area or delivery method should be read as additional to, rather than as a replacement of, the general advice.
- 11 It is expected that providers will fully comply with the spirit and intention of the funding principles set out in paragraphs 41 and 42 of *Funding Guidance for Further Education 2004/05* and consult their local LSC before undertaking any new or contentious provision. In consulting their local LSC, providers should be open and transparent in describing their arrangements.
- 12 Where providers (or for those providers not within plan-led funding, funding auditors) refer to a local LSC for complex or contentious funding advice, the national funding rates and eligibility team will assist, where necessary, in answering any queries through the local LSC.
- 13 The advice and information in this booklet apply to FE sector colleges, as well as specialist designated institutions, higher education (HE) institutions that receive funding from the LSC and to former external institutions (EIs). For the purposes of simplicity the term 'provider(s)' is used throughout the booklet. Advice specific to particular types of provider is separately identified.
- 14 The Audit Code of Practice, issued in Circular 04/07 in December 2004, reminds colleges that the responsibilities set out in the financial memorandum with the LSC are with the governing body and the Principal. The governing body of each college must ensure that there is a sound system of internal control within the college. The public nature of the governing body's role, its financial accountability through the LSC to Parliament, its stewardship of public funds, and not least the good name of the college and the interests of its students, all demand high standards of conduct in the exercise of its functions. The existence of a rigorous framework of compliance and internal controls can help senior management and governors in this process.
- 15 The college Principal is personally responsible for ensuring the proper and effective operation of these controls and may be required to appear before the Committee of Public Accounts of the House of Commons (PAC), alongside the chief executive of the LSC, on matters relating to the funds paid by the LSC to the college. The Principal, or the equivalent post holder for other providers, is responsible for signing off funding claims as eligible for LSC funding.
- 16 In former EIs there is no less a need for effective systems and controls to be in operation. The arrangements whereby they are monitored will be dependent, for example, on whether there is an audit committee, whether the institution is local education authority (LEA) maintained and, if so, the LEA's associated systems, and the proportion of an institution's functions supported by LSC funding.

- 17 There are similar arrangements for the accountability of senior post holders and the governing body in HE institutions. These are set out in the Higher Education Council for England (HEFCE) Audit Code of Practice, and its financial memorandum with HE institutions.
- 18 The LSC requires colleges (and all other providers) to adopt a rigorous approach to the use of public funds. The checks that should be undertaken prior to signing any funding claim or audit report, however, should be focused on the areas most at risk. It follows, therefore, that a provider with most of its provision in the higher risk categories should undertake more rigorous checks.
- 19 Past experience indicates that higher levels of risk are associated with:
- significant levels of provision (more than 5 per cent of funding total) delivered with partner providers and/or which may be delivered through college companies or joint venture companies
 - significant levels of provision (more than 5 per cent of funding total) delivered away from the provider main sites or outside the natural recruitment area of the provider (see paragraph 68)
 - a shortfall in funding identified by the provider at the end of the first term or later in the year that leads to any late unplanned partner provider arrangements
 - a significantly changed profile from year to year, for example, a move from full-time to part-time provision
 - a history of late and/or inaccurate data returns
 - key staff changes in an organisation, for example, a change in the management of data collection or management information systems, or a change in management information software
 - overseas ventures
 - multiple income streams, such as the European Social Fund
 - multiple sites at a distance from the main site
 - independent external institutions with different routes for LSC funding for different parts of the organisation; for example, an institution receiving direct funding that also has some centres with partner provider agreements with other FE providers.
- 20 Providers are reminded that the LSC can only fund provision for which it has been authorised by Parliament and any ineligible provision must be excluded from all funding claims (for example, overseas students).

Funding claims, manual adjustments, materiality and computer assisted audit techniques reports

- 21 Providers and funding auditors should refer to Circular 05/01 *Further Education ILR Funding Estimate/Claim 2004/05* for advice on completing funding claims and funding audit opinions for 2004/05. This booklet includes the funding claim and the funding auditor opinions, and in Annex H gives details of recognised manual adjustments for 2004/05 and 2005/06 funding claims.

- 22 In order for a provider to make a manual adjustment to their final funding claim, they must agree this with their local LSC. For non-published manual adjustments, providers should also contact the LSC for a manual adjustment number.
- 23 Providers and funding auditors are reminded that providers are now expected to run the computer assisted audit techniques (CAATs) software in-year and use them to clean their data prior to submission to the LSC. For providers outside plan-led funding the LSC funding audit opinion continues to be based on the final funding claim and includes reference to claims being materially correct. The LSC acknowledges the difficulty for providers in trying to return data with perfect precision. Where a provider can demonstrate that errors identified by CAATs are not material, the LSC does not expect them to suffer unnecessary bureaucratic burdens in clearing these through the funding claim. Providers should be able to claim reasonable funding for all eligible learners and under no circumstances be required to lose all the funding for a few learners in order to solve their data processing problems.
- 24 Similarly, the LSC is not expecting providers to make small overall manual adjustments to their funding claim, in accordance with the recommendations of the Bureaucracy Task Force. As explained in a note published in November 2002 on the LSC website, providers and funding auditors have the opportunity to adjust funding claims before submission to the LSC by a manual adjustment of up to 2 per cent of the funding total, rather than having to make time-consuming changes to the actual ILR data returns.

Section 2: General Further Education Funding Compliance Advice: For all Providers and for all Learners

Evidence of learner existence and eligibility

- 25 The LSC recognises that different procedures and different emphases will be appropriate to different types of learner, but evidence will be required of the process used for the enrolment and record of teaching activity for each learner. It is for each provider to decide what procedures to carry out, but any provider that chooses not to carry out any procedures at all will put their programme funding at risk.

Compliance evidence for learner eligibility

- 26 Providers should not claim funding for learners who are not members of the 'home' population of England, irrespective of their mode of attendance.
- 27 The LSC does not generally fund learners who are not UK or European Economic Area nationals living in England ('from overseas') unless they meet the residency requirements specified in the Education (Fees and Awards) Regulations 1996 as amended in 1998, published by The Stationery Office.
- 28 The regulations are complex and are set out in Section 7 of *Funding Guidance for Further Education in 2004/05*.
- 29 Providers are required to scrutinise applications for study by learners to ensure that they are eligible for LSC funding and that they support the learner's case for consideration as ordinarily resident in England. Foreign nationals will have Home Office documentation that outlines their status, for example refugee status or exceptional leave to remain in the UK. Asylum seekers should be asked to supply evidence that they have a current application for asylum and that they are receiving assistance under the terms of the Immigration and Asylum Act 1999. This should include appropriate confirmation from the National Asylum Support Service, the local authority regarding such assistance, or the Benefits Agency regarding means-tested benefit. Good practice is for providers to retain documentation to prove eligibility. However, where this does not occur and the documentation is recorded as having been seen, providers need to be fully aware of the implications of the documents they are approving.
- 30 Provider management should check enrolment forms to see if evidence has been gathered on the residency status/eligibility of the learner.
- 31 Learners from overseas whose main reason for residence in England has been attendance at a fee-paying school will not be considered eligible for funding.
- 32 Learners of compulsory school age are only eligible for LSC funding in exceptional circumstances and where written approval has been provided by the LSC. Providers should have evidence for every learner of compulsory school age showing that the LSC has agreed to fund them.
- 33 Providers should not claim LSC funding for provision delivered outside England. This restriction applies to provision delivered in Wales and Scotland as well as in other countries.

Funding implications

34 Where LSC funding has been claimed for ineligible learners and/or programmes the provider would be expected to revise the ILR return to record such learners listed above as not eligible for LSC funding. This includes amongst others:

- learners under 16 for which the provider has no evidence that the LSC has agreed to recognise them as exceptional cases
- provision outside England
- overseas learners.

Records of learner existence and eligibility

Learning agreement

35 The LSC considers it is essential that learners have access to clear and full information on the costs of their programme before enrolment and that they are provided with pre-entry advice and guidance. The successful outcome of pre-entry advice and guidance is a learning agreement signed by the learner and the provider. Whilst recognising that different types of learners may require different approaches to advice and guidance, the learning agreement should provide confirmation that the following broad areas have been covered:

- the choice of learning programme
- entry requirements for each learning aim within the learning programme
- an assessment of the suitability of the learning programme
- support for the learner
- the nature of the procedures involved in the process of advice and guidance.

36 To support its funding claim a provider should retain as compliance evidence a learning agreement signed on behalf of the provider and by the learner. Whilst all learners funded by the LSC should have a learning agreement, the detail should be proportionate to the length of the learning programme. Learning agreements may also be combined with enrolment forms as complementary documents to prevent any unnecessary document duplication. The learning agreement should include the following key details:

- the learner's name and address
- evidence, where appropriate, that the learner is eligible to receive LSC funding
- the learning programme and expected learner outcomes, including start and end dates for all learning aims
- the number of guided learning hours planned in each year of the programme for each learning aim – this includes both listed and loadbanded provision
- the average weekly guided learning hours planned for the programme and the number of tri-annual periods in which it is planned to complete the programme
- a summary of any additional support to be provided to the learner
- where relevant, a statement that the learner falls within the LSC's tuition fee remission policy and that the provider has agreed to remit 100 per cent of the tuition fee that would otherwise be charged to the learner

- where provision for the learner is delivered by a partner provider, the name of the partner organisation
 - evidence of the assessment and guidance process by which the learning agreement was reached.
- 37 Providers should be able to provide evidence that they are delivering good information, advice and guidance (IAG) to their learners through good retention and achievement levels. This should provide supporting evidence that any basic skills and additional support needs have been properly identified, leading to good progression opportunities for the learners. For learners receiving IAG directly from partner providers, LSC providers should make sure that equivalent quality IAG is being delivered to these learners. Providers are also reminded that they should not seek to divide programmes artificially in order to increase the amount of funding being claimed.

Enrolment form

- 38 Each student should have completed and signed an enrolment form relating to the learning programme for which LSC funding is being claimed (for some providers or learners this may be a combined document with the learning agreement). The enrolment form for funding eligibility purposes should indicate as a minimum the learner's name, address (including the postcode and time spent at that address), age and the residency status, which would indicate whether the student is a home or overseas learner. For learners not resident in the United Kingdom for the three years prior to commencement of their programme providers must be able to give evidence of alternative learner eligibility as set out in paragraphs 307 to 310 of *Funding Guidance for Further Education 2004/05*. The provider may wish to use the enrolment form to collect other information as necessary for their learner record and monitoring purposes.
- 39 Providers will wish to give particular attention to ensuring that there is appropriate evidence of assessment and guidance for short courses. Providers may wish to consider including information on their assessment and guidance procedures in their prospectus, so that learners could be made aware of the matters to be considered when they enrol at the provider.
- 40 LSC providers must make sure that they and all of their partner providers fully understand the rules on learner eligibility. Enrolment forms completed by partner providers must fully address the issue of providing evidence of learner eligibility. This is particularly important if the partner providers are usually only recording they have seen any necessary supporting documentary evidence, rather than copying the documentation with the enrolment form to the provider. Providers should ensure their partner providers provide, on a sample basis at least, actual copies of the documentation being used to support the eligibility of their learners.
- 41 The enrolment form and the learning agreement may be combined to form one document, which should contain all the relevant information.

Learner attendance

- 42 There should be evidence that individual students were undertaking the specified learning programme during the learning period in which funding is being claimed.
- 43 For most learners this will take the form of registers of attendance. Experience has shown these are key legal records in supporting the accuracy of provider ILR

returns. Regular management review of registers may, therefore, be of benefit to providers in ensuring the accuracy of ILR returns and reducing the risk of making ineligible funding claims on the LSC.

Register systems

- 44 All providers should consider the benefits of a good register system to help them monitor learner attendance and progress. This will also support materially accurate ILR returns and funding claims. Register systems need to be proportionate in delivering benefits to providers that offset the costs involved in running them. The LSC offers no advice or preference on types of systems that may be either paper based, or electronic or a mixture of such systems.
- 45 It is very important that all LSC providers ensure any partner providers can supply evidence of claimed learner contact time with tutors to avoid any eligibility issues over their partner provider provision.
- 46 The following advice on registers is compulsory for providers outside plan-led funding. Accounting officers for providers within plan-led funding may find the advice helpful in considering appropriate controls over their own provision:
- Each specific course should have a register including the title of the course, the course code, the qualification aim, the intended start and end date, the day, time and duration of each session, and the number of guided learning hours to be delivered.
 - Each register should include the name of the learner, the learner reference number and the name of the tutor. It should be completed at the start of each session with the relevant date and should indicate attendance, absence or lateness. In the case of authorised absence, appropriate evidence of prior approval should be available
 - The register should be signed or initialled by the tutor at each session.
 - The register should also include the location at which the provision is being delivered.
 - Consideration should be given to sample checks on learner attendance in classes. Checks are especially important in the case of any partner provider assisted delivery/provision.

Cease to attend/withdrawal from course/learning agreement amendment form

- 47 Where a student withdraws, transfers to another programme, or changes one of their learning aims or their mode of study, this should be indicated on an appropriate pro forma used by the provider. This should be signed by the tutor, and used to ensure that the information on the ILR is correct, and that the learning agreement is amended correctly. Providers should consider whether learners should also sign to confirm their consent to the change in their programme. Further advice on withdrawals is given in Section 5 of this booklet.

Achievement

- 48 The funding arrangements from 2004/05 change the basis of claiming achievement funding so it is now claimed each year on the basis of the historical achievement factor. The final ILR F05 return each year still records actual achievements as these will then be used to calculate the following year achievement factor. The advice on evidence of achievement is therefore still

applicable, both for funding and inspection purposes. Evidence that a learner has achieved their learning goal should be available. This could be:

- evidence of entry to and completion of a relevant programme
 - an official results list/slip or a certificate issued by the awarding body
 - for provider-accredited programmes, a record of achievement, provider certification and/or progress reports indicating achievement of the learners' learning programme.
- 49 Achievement should be accurately recorded and substantiated by appropriate compliance evidence. The outcome field of the ILR includes values that distinguish between achievement for which achievement funding can be claimed, and achievement for which no achievement funding can be claimed. Providers should check whether a learning aim is eligible for achievement funding, in addition to whether the learning aim was achieved.
- 50 The LSC requires evidence that supports claims for achievement of non-accredited learning aims to be as robust as that for nationally recognised and approved qualifications on the National Qualification Framework (NQF).
- 51 Where achievement funding is to be claimed, providers should retain learning outcomes records with the associated initial assessment records or learning agreements, showing that the learner has met the agreed learning aims and achieved the appropriate objective.
- 52 A learning aim may only be recorded as partially achieved where the student has achieved at least one of the credits or modules towards the final award.
- 53 Evidence should exist to show that claims for achievement were supported by the attainment of approved qualifications for the first time at the provider by students.
- 54 Achievements may not be claimed where the student is merely seeking an improved grade and the provider has previously claimed achievement(s) for the student.
- 55 Providers are reminded that achievement may not be claimed for a learner where there is no corresponding claim for on-programme funding.

Documentation: this advice applies to all providers and partner providers

- 56 In all circumstances, the provider must retain original documents including, for example, attendance records, enrolment records and learning agreements. Under no circumstances must these be retained by partner providers or at partner provider premises. It is normally expected that the provider itself will be registered with the awarding body for the qualification being studied and learners must be registered with the awarding body in order to be eligible for LSC funding. In considering how long these documents should be retained, all providers are reminded that documentation that underpins funding claims needs to be treated as financial and legal records. Methods and decisions over retention should be consistent with the provider's usual rules and methods for financial record retention.

Funding implications: all providers

- 57 Where data or evidence is identified as being incorrectly recorded in the ILR return the provider is expected to revise their ILR return and funding claim accordingly (but see paragraph 24 for advice on materiality).

Providers outside plan-led funding

- 58 For providers outside plan-led funding where funding auditors find inadequate or insufficient compliance evidence this is likely to be raised as a management letter point. They are normally expected to identify the amount and type of funding affected for material errors, and to remove it from the funding claim. For serious or systematic errors the funding auditor will usually qualify the ILR audit report. For example, if attendance registers were missing, incomplete or incorrect then funding auditors would usually qualify their audit report and undertake any necessary further sampling to validate that part of the provider's funding claim affected by the inadequacy. Where insufficient or no compliance evidence is available, and assuming the inadequacy is material to the overall funding claim, then the affected funding is likely to be reduced or disallowed from final funding claims by the LSC.

Additional learning support

- 59 For providers outside plan-led funding, where additional support funding is being claimed, the following documentary evidence should be available:

- evidence of initial assessment
- an additional support plan; and/or
- a completed additional support costs form signed by the tutor and the learner.

Evidence of the provision of the additional learning support (ALS) being claimed should be available. Please see Section 4 for further advice on claiming additional support.

Section 3: Advice on Provision Delivered with a Partner Provider

Background

- 60 This section includes reference to provision previously called franchising or direct with a partner or sub-contracted provision. All providers are reminded that the LSC has a duty to prevent uncontrolled and undesirable franchising and partnership activity, but at the same time much of this activity meets the needs of learners that might not otherwise take part in education or training. It also provides industry-focused courses for employers who are not LSC providers.
- 61 This booklet sets out the new approach and priorities of the LSC for all types of partner-assisted provision. It is particularly important for providers to describe delivery arrangements in an open and transparent manner and in accordance with 'Trust in FE' when seeking advice on how partnership arrangements should be classified for funding purposes from their local LSC. The LSC is concerned that providers do not put 'Trust in FE' at risk by avoiding the application of FE funding guidance and compliance advice regarding proper controls over partner provider delivery and/or provision.
- 62 As stated in paragraph 6, whenever the term 'partner provider' is used this will refer to all partners previously referred to as franchised, sub-contracted and/or partner-assisted providers, or any other terminology that describes provision not delivered directly by the LSC directly funded provider, that is, not delivered by **both** their own staff and on their own premises or premises under their own full control (excluding any learner placements away from the provider's own premises as a part of their programme). Throughout, the simpler term 'provider' refers only to LSC directly funded providers.
- 63 This guidance will make clear that the application of the control advice and guidance by providers on any partner provider delivery and/or provision is now seen by the LSC as completely separate to the issue of when the franchise discount is applied. In accordance with plan-led funding, the application of the discount should now be addressed as part of the planning process with the provider's local LSC and this should be based primarily on the costs involved in the delivery of the partnership provision. These discussions and approval must take place prior to delivery of the provision.
- 64 Providers are assured that the LSC is constantly seeking efficiently delivered provision that is of good quality and contributes to national targets or local skills priorities. The LSC also requires partnership provision to be delivered locally to local people. Local LSCs may continue to support partner provider activity where they directly contribute to the priorities of the 16- to 18-year-old age group, adult basic skills qualifications, full level 2 and employer engagement, even if the 5 per cent steer is exceeded. The LSC will not unreasonably reduce any partner provider activity of this nature. Partner providers are crucial if we are to meet the needs of employers.
- 65 Recent advice to local LSCs confirmed that partner providers have been built into FE providers' three-year development plans where the aim is to develop long-term stable relationships between providers and their partner providers. The

provider has a duty to build capacity within its partners by supporting professional and organisational development with them.

- 66 The above paragraphs should help to allay concerns raised by providers over paragraph 16 of *Funding Guidance for Further Education 2004/05* and in particular the fifth bullet point. As stated above, the LSC remains committed to providers working with quality partner providers to deliver the LSC priorities and objectives over the coming years. However, the LSC remains concerned about the very small number of providers, and colleges in particular, that have continued to contract with either very poor quality providers and/or with providers for whom significant problems have arisen in providing evidence of real learner contact that reasonably matches the funding being claimed from the LSC through the provider. For non-existent or ineligible funding activity claimed by providers, the LSC will seek recovery of funds paid for the ineligible activity or learners. This will be on a costs basis for plan-led funding providers and on an activity basis for providers outside plan-led funding. Reductions in funding for LSC providers will only usually be made where funding claims have material and/or significant amounts of ineligible activity and/or learners. The LSC requires all its providers to avoid this risk and this advice sets out clearly the new priorities of the LSC for all providers delivering provision with partner providers in their widest sense.
- 67 From 2005/06 it will be a requirement in the further education funding agreement that providers make an annual self-declaration of the partners with whom they are or will be working. This is in addition to the normal data on partnership provision that providers already return within the ILR and the partner register. A standard form for this information (together with the funding claim and timetable for 2005/06) will be published in the Addendum to Circular 05/01 (see paragraph 27 of Circular 05/01), which will be published on the Council website in June 2005. This will include details of:
- who the partners are
 - what provision the partners are providing, and how it fits into priorities
 - the levels of funding the providers are retaining and the services they supply to their partners for this funding (see the guidelines on this matter in paragraph 74)
 - 'out of normal recruitment area' provision and confirmation of agreement from all the LSCs involved
 - any lead provider arrangements.
- 68 The LSC has also indicated that there should be no growth in out-of-area partner provider activity. Providers are reminded that to operate outside their own, but within another provider's normal recruitment area, they should have both their local LSC's and the other provider's prior written consent. A local LSC will usually regard activity delivered outside its own, or an adjacent local LSC area, as out-of-area activity. This definition may be varied more tightly or loosely by local LSCs depending upon the provider location, and each local LSC can help providers to agree on a reasonable definition of their normal recruitment area. It is the responsibility of providers to check with their own local LSC that they are content to fund any activity delivered outside that local LSC area. These definitions apply to all modes of delivery, including e-learning and distance

learning. Provision that is offered more widely than the local area must fit into one of the following categories:

- provision of a specialist nature, where very few providers are able to offer the provision
- provision that has very limited demand, so that it would be uneconomic for a large number of providers to offer it
- new or novel provision that is being developed by a small number of providers.

Revised classification of partner provider delivery arrangements from 2004/05

- 69 To help providers determine how partner provision should be assessed in accordance with *Funding Guidance for Further Education in 2004/05* paragraph 16, Table 1 includes a column identifying provision covered by the paragraph's fifth bullet point. Providers are reminded that the fifth bullet point used the words 'normally' and that local LSCs may agree partner-assisted delivery arrangements that exceed 5 per cent of total funding income for provision that also meets the first four bullet points. As described above, this is more likely to be agreed by the local LSC for quality provision that assists providers in meeting their local priorities and targets.

Table 1: Classification of different partnership/delivery methods.

Type of delivery	Features of actual delivery of provision	Funding eligibility risk rating	Local LSC consent required in advance?
1. Direct delivery by LSC-funded provider	The provider delivers provision only on its own controlled premises using only its own staff to deliver the actual provision. No funding paid to any partner organisation (apart from awarding bodies and any third party teaching materials).	Low	No
2. Direct delivery by LSC-funded provider (and also using a staffing agency for teaching delivery)	The provider delivers provision only on its own controlled premises using only its own staff (or a recognised staffing agency contracted for supply of temporary teaching staff across the provider's provision) to deliver the actual provision. No funding paid to any partner organisation (apart from awarding bodies and/or a staffing agency and/or provider is paid a fixed fee for recognised educational material from a third party supplier).	Low	No
3. Direct delivery by LSC-funded provider (as 2 and marketing service provided)	As 2 above but also uses a third party supplier of marketing service to encourage take up of learners and it is not a related business to the staffing agency business.	Low	Advised
4. Direct delivery by LSC-funded provider (as 3 and IAG provided)	As 3 above and the third party supplier also provides the initial IAG service to learners (again supplier is not a related business to the staffing agency)	Medium	Strongly advised
Provision delivered away from provider premises (either owned or fully controlled by provider) and not by their own staff should usually be classified in one of the categories below. See guidance on table in paragraph 80.			
5. Partner-assisted direct delivery by LSC-funded provider	The partner provider is actively engaged in the delivery of provision for the provider as a third party supplier with a contractual relationship that financially rewards both parties for learner uptake (this excludes contracts purely related to purchase of fixed cost learning materials which depend on learner uptake).	High	Yes
6. Partner-assisted direct delivery by LSC-funded provider	As 3 or 4 above, but the various third party organisations are financially related businesses, and in particular, where the staffing agency is a related business to that providing either learning materials and/or marketing service for learners and/or an IAG service for learners. If there is any evidence of any control over teaching by the partner provider then this must be classified in the row below.	High	Yes
7. Partner or sub-contracted or franchised delivery by a third party on behalf of LSC-funded provider	A third party supplier is actively engaged in the delivery and the control of teaching to learners. Regardless of the actual funding arrangements of this provision, LSC directly funded providers must exercise and be able to demonstrate full controls over all provision delivered on their behalf by any third parties.	Highest	Yes (in detail to meet risk level)

- 70 In Table 1, providers should note that if the last column advises that local LSC consent in advance of delivery is mandatory then the provision counts towards the 5 per cent steer set out in the fifth bullet point in paragraph 16 of *Funding Guidance for Further Education in 2004/05*.
- 71 The LSC's primary concern is that all partner provider delivery is properly monitored and controlled by all providers. Providers should apply this advice and guidance in the spirit in which it is written. The LSC does not expect any provider

to make artificial distinctions or distortions in describing delivery arrangements so as to avoid:

- effective controls over partner provider provision; and/or
 - prior disclosure of their partner provider arrangements with their local LSC; and/or
 - exclude partner provider provision and/or delivery from the 5 per cent steer set out in paragraph 16 of *Funding Guidance for Further Education in 2004/05*.
- 72 To keep bureaucracy at a minimum, the previous table on types of provision is now deleted. The determination as to the application of the one-third franchise discount should now be addressed as part of the provider's planning dialogue with their local LSC, and for new provision this issue should be resolved as part of the prior approval process with the local LSC. For provision that attracted the franchise discount in 2003/04 no change in the one-third discount arrangements can be agreed for the following funding years without the prior agreement of the local LSC.
- 73 In determining whether the discount is applicable, the local LSC will take full account of the fundamental funding principles set out in paragraphs 41 and 42 of the *Funding Guidance for Further Education in 2004/05*, and in particular, that funding being claimed is not excessive to the costs incurred.
- 74 In discussing partner provider arrangements with their local LSC, providers must declare the level of funding they are retaining for all partner provider provision. The LSC requires the majority of its funding to be used for the benefit of the learner on their education programme. The LSC requires the amount of funding retained by providers to be proportionate to the costs they incur in the delivery of the provision and to take account of the actual costs incurred by their partner providers in delivering any programmes to learners. A figure of 15 per cent was previously agreed between the LSC and Ufi as a recommended retention level for **learnirect** hubs sub-contracted provision where all the direct delivery costs were met by the sub-contractor.
- 75 Local LSCs will help any providers to interpret Table 1 if they are unsure into which category their provision falls. Providers are expected to understand and comply with both the spirit and letter of the table. If providers are unsure how to match their own individual delivery arrangements to either this booklet or the advice in *Funding Guidance for Further Education 2004/05* then they should consult their local LSC who will help them to interpret the advice and guidance. In giving their advice local LSCs will start from the funding principles set out in *Funding Guidance for Further Education 2004/05* paragraphs 41 and 42.
- 76 The table is silent on the application of the franchise one-third funding discount for providers to encourage full disclosure and discussion with the local LSC. Providers are reminded that the 5 per cent limit is a steer and not a fixed figure with an attached direct penalty.

Differences in delivery methods

(The following paragraphs give detailed advice on the application of Table 1.)

- 77 In Table 1 the first column summarises the type of delivery; the second column defines the principal features of each type of delivery; the third column indicates

the likely funding eligibility risk factor attached to delivery arrangements; and the fourth column indicates whether local LSC consent is required in advance of any programme delivery.

- 78 The third column is broadly similar to the risk factors attached to determining the volume of spot-check visits previously necessary under the funding audit. This also recognises the funding risk rating of learner eligibility to valid funding claims.
- 79 The fourth column, below the black line, confirms provision included in the 5 per cent steer. Providers delivering provision within the grey shaded area should ensure arrangements do not change during the year that moves the provision below the black line. Local LSCs are likely to want the delivery arrangements in the grey shaded area quantified where the volume of delivery in this area together with the partner provider delivery is significant.
- 80 Before considering the detailed advice below, providers are reminded that their local LSC can help providers with any individual or unusual delivery arrangements in determining how the delivery should be classified under the table. The local LSC will usually want to ensure that provision where the learning programme is being delivered by a partner provider is classified below the black line in Table 1, whilst learning programmes delivered directly by the staff of the provider is classified above the black line. Local LSCs will, however, use local flexibility and reasonableness in the interpretation of this advice to avoid the rigidity that was present in the previous guidance. The following detailed advice may help in using Table 1:
- Direct delivery provision by provider (outside the 5 per cent steer) (types 1 and 2 in Table 1).

This describes programmes delivered by providers using their own staff (or staff from a staffing agency used across main provider sites that has been subject to proper tendering procedures) in their own buildings. This includes buildings generally recognised as part of the provider's own infrastructure that may be rented or leased, usually on a long-term basis, but must be premises controlled by the provider (this would usually include community halls and meeting rooms for community-based provision using the provider's own staff). This excludes any premises owned or controlled by a partner organisation that is also contracted to deliver any teaching or supply education materials for any part of the provider's programme – this must be classified below the black line in the table.

- Direct delivery provision by provider but with partner organisation supplying educational materials and/or a marketing service to attract learners (types 3 and 4 and shaded grey in Table 1).

In order not to fall below the black line, any provision in these types must be delivered using the provider's own staff usually on the provider's own or own controlled premises (as described above under the first bullet point). If part of the provision is delivered in the workplace then this needs to be delivered by the provider's own staff to stay above the black line. Workplace delivery by partner provider staff should normally be classified below the black line.

These types (3 and 4) describe arrangements many providers have with other educational organisations. In type 3 the LSC should be advised about these

arrangements where the learning materials are comprehensive and are likely to lead to lower than usual guided learning hours (glh) for learners on these programmes. This type is more likely to apply to distance learning materials and in the past this has often changed into full partner provider arrangements during the year as partner providers have become more actively involved in the delivery of the provision in supporting the learners. If any such in-year changes are made to the delivery then the provision must be reclassified below the black line and the necessary local office approval must be obtained. The provider must also then apply the partner provider control advice to the delivery of the provision.

Type 4 is just outside the 5 per cent steer but these types of arrangements need to be discussed with local LSC prior to delivery and need even closer management monitoring than arrangements in category 3.

Obviously with types 3 and 4, if the partner organisation in these categories becomes involved in the education programme delivery then the provision must be reclassified and the appropriate additional approval sought from the local LSC.

- Partner provider arrangements (types 5 to 7 in Table 1).

These arrangements include all previous franchise arrangements and the LSC expects most (but not all) of the provision that has been claimed as direct with a partner in the last three years to be included in one of these three headings. This should also include any provision previously claimed as direct provision by providers under previous guidance that falls within the spirit of the arrangements described in these categories.

Provision delivered at premises owned or controlled by a partner organisation that also has contracts for the supply of educational materials and/or is involved in delivery of any learning should also be treated as falling under one of these categories. This includes community halls and meeting rooms for community-based provision using the partner provider's own staff or any staff belonging to a staffing agency that is related to the partner provider. As these classifications do not affect funding being claimed for the provision, the LSC assumption for any such arrangements is that the purchasing of learning materials is learner-dependant and therefore makes a relationship that rewards the third party organisation for learner uptake; and when this is coupled with ownership/control of the building these together increase the risk factor. Similarly, if the buildings are shared with any other providers to deliver education or training this may further increase the funding eligibility risk factor. This will apply regardless of the exact wordings in any contracts between the provider and partner provider.

The LSC is aware that for most providers any 'out-of-area' provision is likely to fall within these three categories. Local LSCs can give further advice to any provider with out-of-area provision that does not appear to fit within these three categories. 'Out-of-area' refers to learners or provision outside the local LSC view of the provider's natural recruitment area and not simply their own local LSC area.

Providers are reminded that this table is meant to assist them in deciding the appropriate level of management control and supervision of their different delivery and partnership provision together with an easier identification of provision within the 5 per cent steer. Providers are encouraged to enter early

consultations with their local LSC to agree the classification of their partner provider provision.

Partner provider provision and control criteria that applies to all providers

Detailed compliance evidence

General advice on contracts for partner provider provision

- 81 It is essential that providers should have a written contract governing their partner provider arrangements that clearly sets out the respective responsibilities of both the provider and the partner provider. This contract must entitle the provider to exercise the required control over the partner provider's activity including access by auditors appointed by either the provider or the LSC. Each provider will wish to take their own legal advice before entering into contracts.
- 82 Providers are reminded that those awarded a grade 4 or 5 in governance, management or quality assurance should not enter into any new partner provider contracts, or seek to extend or increase any contracts with existing partner providers, including any replacement of existing partner provision.
- 83 For colleges the control criteria require governing bodies to approve a generic contract for partner provider provision. They may then delegate to the principal the responsibility for ensuring that adequate scrutiny of individual contracts is undertaken.
- 84 The provider should have a written agreement, retained as compliance evidence, which confirms that the LSC's funding has not displaced other funds and that there is no duplication of funding from another source for the provision. This should also confirm that the partner arrangements have not been used to reduce the partner's contributions to the training and development of its staff and has not been used to reduce the partner's training budget or resources designated for training purposes.
- 85 The LSC requires providers to have statements signed by a senior member of the partner provider's staff that they have not reduced their actual or planned funding, except in cases where it is clear that no resources had been devoted to the relevant type of training in the past, and where no resources would have been devoted (but for the partner arrangement) in the future. Evidence to be sought to test this statement might include extended or new contracts for staff to work specifically with the identified learners on the particular qualification aim. The accreditation of pre-existing activity would not in itself constitute additionality, nor would the availability of additional resources, for example, the production of new training materials such as a video. The LSC would not expect to fund provision that is the responsibility of another publicly funded body. Providers should have consulted their local LSC if they wish to claim partner provision in social services day centres, residential homes or hospitals.
- 86 The contract should satisfy the following 'control test'. The key elements of the control test are:
 - a provider being able to enrol or reject learners as it would do if the learners were to be taught on its own site

- a learning agreement entered into at the time of enrolment which reflects the outcome of initial guidance and assessment for an individual learner
- a learning programme and its means of delivery which have been clearly specified by the provider
- the provider being in control of the delivery of the education
- arrangements for assessing the progress of individual learners
- a procedure for the provider to monitor regularly the delivery of programmes provided in its name.

Controls over learners, tutors and provision

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

Controls over qualifications and curriculum

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

- 93 Where the provider is making partner provision in curriculum areas not normally provided by the provider, it should be able to demonstrate that it can exercise effective control over the provision. In these circumstances the LSC requires the provider to employ an independent person with appropriate expertise in the curriculum area to give advice on partner arrangements and undertake the necessary checks on the operation of the arrangements, including monitoring of the quality of provision. This person should not have a financial relationship with the partner provider firm or organisation.
- 94 Where the provider has joint approved centre status with their partner provider, all aspects of learner assessment should be carried out in accordance with directions given by the provider.
- 95 Where the amount and nature of the partner provider provision represents a significant departure from a provider's strategic plans, the appropriate local LSC should have been consulted and the governing body should have approved the departure. Significant departures from the strategic plan are defined as those that may have significant implications for adequacy and sufficiency.

Fee charging by partner providers

- 96 Where the partner provider is providing courses that are part-funded by the LSC, the course fees charged to learners should reflect the contribution made by the LSC towards the cost of the courses. Where the course fee exceeds 100 per cent of the available LSC funding, provision should be classed as full-cost recovery. This limit is raised from the previous limit of 75 per cent to reflect the forthcoming changes to assumed fee income. Providers and partner providers are reminded that tuition fees must not be increased after the commencement of a learner's programme and that they must not charge learners higher retrospective tuition fees on the basis of this revised limit for 2004/05. Providers are also reminded of the need to record all learner tuition fee income in their ILR, including any tuition fee income collected from learners by partner providers.

Other LSC-funded learners

- 97 Providers are reminded that they may not transfer LSC funding amongst each other. *Funding Guidance for Further Education 2004/05* paragraph 387 confirms that providers should not claim any funding for inward franchising and this is now extended to all other partner provider activity.
- 98 Where the partner provider is a school and provision relates to 16- to 18-year-old learners in full-time education, in a school, provider or combination of the two, provision is only eligible for LSC funding if the guidance on the application of the control criteria in this booklet is satisfied.
- 99 Provision made on school premises or partly on school and partly on provider premises, where teaching is shared between school and provider staff, is only eligible for LSC funding where the provision is fully under the control of the provider and a substantial part (not less than half) is delivered by staff directly employed by the provider. Other criteria that should be taken into account when determining whether the provision is 'provider' provision are:
- provision is delivered in premises on the school site leased or rented by the provider and clearly identified as an outreach centre of the provider
 - the resources used for the provision are the property of the provider

- participants are learners of the provider rather than the school (for example there should be no requirement to wear school uniform)
- provision is not confined to former pupils of the school where the provision is located, so that learners from other schools may attend if they enrol with the provider.

100 Full-time provision made entirely on school premises by school staff is not eligible for LSC FE funding in 2004/05.

Data returns in respect of partner provider provision

- 101 Providers must be satisfied that data returns from partner providers are made in an accurate and timely manner, and that they are supported by appropriate compliance evidence.
- 102 All learners on partner provider provision should be recorded as such on the ILR return and identified in ILR field A22 (Franchise and partnership delivery provider number) by the code assigned by the provider to their partner provider.

Monitoring (control) visits and spot checks

- 103 The LSC funding audit approach continues to address the issue of provider controls over partner provider provision. Providers should continue to address these issues for themselves from 2004/05 onwards and the following paragraphs give some advice on the content of the controls expected from LSC-funded providers on their partner provider delivery arrangements.
- 104 The spot-check visits should be carried out regularly where the provision runs throughout the year. In other cases, the scheduled spot-check visits should take account of the pattern of provision so that they are applied to a significant proportion of learners. Systematic spot-check visits should involve the provider making unannounced visits in-year to each partner provider. A sample of sites should be included for provision being delivered by each partner provider, rather than simply re-visiting the same site. The checks should be proportionate to the risk and volume of the provision/contract. They should also be undertaken during the year at times that are proportionate to the periods in which funding is being claimed.
- 105 Some providers have requested further clarification of this requirement. This means visiting without notice. It is suggested that at least some of these visits are unannounced to the partner provider. If there are sensitivities, for instance to observe work-based training in a care home, then perhaps a courtesy telephone call just before arrival would be helpful. Partner providers should be informed of the necessity of this type of visit before the contract is signed. The times should vary, for instance, when monitoring one-day provision or short courses unannounced visits should be undertaken at the expected start of the programme and during 'twilight' time. Providers should ensure that they meet and interview a sample of learners and, where appropriate, staff. Learners should be asked to name the provider they are enrolled at, and should also be asked if they are at the same time, or have been recently, a learner at another LSC-funded provider. Other evidence sought should include marketing material, copies of registers, learning agreements, registration documents for awarding bodies, visit notes from external moderators, and evidence of certification.

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

Partner providers with multiple provider contracts

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

- ensuring that these checks are also applied to provision delivered by related partner provider organisations.

Funding implications: all aspects of partner provider provision

- 111 As stated in paragraphs 13 to 17 the LSC reminds providers of the risks they cause to themselves, the sector and the LSC if good controls and evidence of actual provision are not maintained for partner-assisted provision. All LSC directly funded providers continue to run the risk of a clawback of their funding if they cannot provide evidence of good controls and regularity in their partnership provision, including plan-led funding providers who no longer face retrospective clawback for underperformance.

Advice for accounting officers on all aspects of partner provider provision

- 112 The LSC is making the previous advice on the checks expected by funding auditors over partner provider delivery arrangements available to FE accounting officers in the following paragraphs. This previous advice should be particularly helpful to accounting officers of plan-led funding providers that have significant volumes of partner provider provision.
- 113 Separate funding audit programmes and guidance will be issued in due course to the LSC-contracted funding auditors for 2004/05 and 2005/06 by the LSC Provider Financial Assurance team.
- 114 The LSC has identified the growth in partner provider provision in a small number of colleges and the difficulties this has caused in providing evidence of control of their partnership provision. The LSC see the delivery postcode as a key field on the ILR (field A23) that will identify to local LSCs (and funding auditors) the higher risk elements of a provider's provision. A CAAT is provided to identify provision by postcode delivery, and providers are required to cross-reference this field to their declarations of partner provider arrangements. The management teams of plan-led funding providers must ensure this is appropriately monitored within their own internal organisations.
- 115 The LSC requires provider management to undertake systematic in-year checks on partner provider provision where it is delivered away from the provider's main premises, and delivered wholly or in part by people who are not members of the teaching staff of the provider. These checks should, therefore, have been completed whilst the provision was taking place.
- 116 Provider management are required to satisfy themselves that:
- a the controls set out above were in place and operating for all of their provider's partner arrangements
 - b their management was making appropriate systematic checks to ensure that learners enrolled by partner providers on their behalf and recorded in the partner provider's records were correctly described in their learner record system and were actually receiving the scheduled provision described
 - c no LSC funding was transferred from them to employers, including via third parties, as part of a partner provider arrangement to make available education and training to their employees. Payments to employers, for example for the use of premises and equipment, would be appropriate

- d where secondment arrangements had been made, appropriate legal advice had been obtained and sufficient evidence was available that a proper contract was not required and that the provision was fully under their control
 - e the glh recorded for loadbanded provision had been correctly calculated in accordance with paragraphs 163 to 170 of the LSC's guidance contained in *Funding Guidance for Further Education 2004/05*. This is especially important in the case of work-based provision, particularly where the qualification aim is an NVQ. Guidance on the calculation of glh is contained in paragraph 111 of *Funding Guidance for Further Education 2004/05*.
- 117 Providers are also reminded of the following examples of controls required from them for their partner provider delivery arrangements:
- original enrolment forms – these may be completed either:
 - i at the provider by the learner and signed in person; or:
 - ii completed on-line by the learner – in all cases the enrolment form/learning agreement should be printed out by the learning centre and posted to the learner's home address. It should then be signed and returned by the learner
 - original registers – registers may be electronic
 - in-year checks to establish the quality of delivery together with checks on the accuracy of the data and actual existence of learners
 - systems for ensuring the control criteria for any partner provider provision are met with regular meetings to discuss progress and any emerging issues.

Section 4: Additional Learning Support

Compliance evidence for additional learning support

- 118 The following section gives advice for all providers (but plan-led funding providers only please especially note paragraph 120).
- 119 In planning its provision for 2004/05, a provider will have prepared an estimate of the funding for additional learning support (ALS) required for the year. The estimate of additional funding will draw on information derived from strategic planning activities, including multi-agency collaboration, school links, careers information and other activities.
- 120 Providers within plan-led funding need to follow the guidance for all learners where individual costs above £4,500 are being claimed. Plan-led funding providers may find some of the guidance below helpful in discussing their additional support allocations with their local LSC. Plan-led funding providers should assess for themselves how they treat their partner provider additional support claims. They have the discretion to advise any of their partner providers to apply (either fully or partially) this advice to any additional support being claimed from them.
- 121 The guidance below must be fully applied by all providers outside plan-led funding.
- 122 Where the provider wishes to claim additional support funding, the learner's learning agreement should give a summary of the additional support to be provided to the learner and a copy of the additional support costs form should be retained with the learning agreement.
- 123 The additional learning support costs form gives information on the costs of providing additional learning support. It will form part of the compliance evidence to be retained by the provider in support of its claim for additional learning support funds. Care should be taken to ensure that planned expenditure does not make disproportionate use of public funds. The claim made should reflect the actual costs incurred and providers should retain evidence of the costings used.
- 124 Once the learners are engaged on their learning programmes, the provider should also be able to make available to its funding auditors sufficient evidence to show that the additional support or any extra funds allocated by the LSC for which additional support funding is being claimed has been made available to the learner.
- 125 Where a learner incurs additional expenditure over and above £19,000 the college may approach the local LSC for additional funds. The college should retain the letter from the local LSC agreeing the claim and authorising the additional payment.
- 126 Additional support funding, or, where applicable, extra funds allocated by the LSC in addition to the maximum rate of additional support, must relate to specific individuals.
- 127 The process of initial assessment for learning support should be integrated into the other processes carried out during the entry phase of the learning

programme, and evidence should be available of the assessments that were carried out.

- 128 Providers should consider how the various documents and auditable evidence required are co-ordinated, and the system for calculating additional support costs, and ascribing these costs to the appropriate support band, should be reviewed for compliance with current guidance.
- 129 The LSC is concerned to ensure the eligibility of claims for additional support and would not normally expect providers to:
- have large numbers of students just triggering cost thresholds for each support band
 - significantly increase from year to year the proportion of additional support funding in the total
 - systematically extend the provider week or year for discrete groups of students with learning difficulties and/ or disabilities
 - claim additional support funding where the majority of students in a group, studying, for example, a vocational A-level, appear to require additional help in order for them to succeed on their learning programme. This would not apply to discrete groups of students with learning difficulties and/ or disabilities
 - claim additional support funding for students enrolled on partner provider provision where the appropriate proportion of funding received is not then passed on to partner providers
 - systematically claim for literacy or English for speakers of other languages qualifications in addition to the primary learning goal of a student.
- 130 A copy of the additional support form should be retained with the learning agreement and should be signed by the student/parent/advocate. An integral part of the establishment of the learning support plan is the scheduling of regular reviews. These reviews may result in a reassessment of the support programme. This may lead to changes in the cost. Providers will find it helpful to ensure that this is systematically recorded.
- 131 Generally providers should complete an additional support form when a student's additional support needs are first identified, and may initially have to base them on estimated costs.
- 132 For the final funding claim the form must be completed to show actual additional expenditure incurred by the provider.
- 133 Where additional support funding is claimed for programmes in numeracy, literacy or ESOL, it should be in accordance with one of the three options set out in paragraphs 483 to 485 of Section 9 of *Funding Guidance for Further Education in 2004/05*.
- 134 When checking the withdrawal mechanism, providers should have robust systems in place to ensure that students with erratic attendance due to illness or other legitimate circumstances are identified. In the case of students with mental ill-health or other legitimate reasons for erratic attendance, the providers should retain evidence of assessment and/or a notification from the student/parent/advocate/medical adviser that there is a strong intention to return.

In these exceptional cases, the student need not be entered as withdrawn within the usual timescales. If the learner fails to return, the withdrawal date should be the last date of attendance.

- 135 Where additional support funds are claimed for counselling this should be in cases where it is necessary to enable students to achieve their primary learning goal. In these cases, additional support may be claimed even where the provision made is confidential. In order to claim, the provider will need to make a 'manual adjustment' to the final funding claim. Where confidentiality is an issue anonymised additional support forms can be prepared. These will need to justify the costs claimed.
- 136 Whilst the actual equipment costs cannot be included as additional support, a depreciation charge for equipment may be included. It should be calculated by dividing the actual cost of equipment used by the student in accordance with the college's depreciation policy. Capital building works are not eligible for funding under the additional support mechanism.
- 137 Depreciation costs must be claimed in line with the provider's depreciation policy and should be calculated by a provider's finance department, as it must be shown in the provider accounts. The same procedure applies to equipment that is leased rather than purchased.

Detailed advice for providers

- 138 Providers are reminded that only costs allowed under the LSC guidance on additional support can be included in their claim. The LSC guidance, for example, does not allow providers to include in their claims or block allocations any overhead or absorption costs they decide to allocate to their additional support department that are not allowed as valid expenditure under the LSC guidance. This booklet rightly gives no advice on the internal budgeting arrangements of providers for additional learning support. Providers, for example, who set up a separate department for additional learning support that is then budgeted for a share of college general overheads (such as, senior management costs, general building costs or finance and management information system overheads, and so on) should be aware that the LSC would see this as costs funded from the base unit of resource.
- 139 Only costs which are wholly exclusively additional should be charged, which means that posts that would exist without additional support cannot be charged as additional support (for example Principal, Finance Director or MIS Officer).
- 140 Overhead costs such as central services or premises costs already met from the base unit of resource in recurrent funding may not be charged to reflect the costs of additional support.
- 141 Overhead costs directly attributable to the provision of additional learning support and as such not funded from the base unit of resource in recurrent funding may be claimed where the college can clearly demonstrate that the extra costs have been incurred solely for the provision of additional learning support.
- 142 Lecturer cost should be calculated using total teaching staff salaries for the year divided by total teaching hours for the year. Additional teaching costs could alternatively be calculated based on the actual costs of those involved.

- 143 Teaching support staff salaries should be based on staff salaries plus on-costs and contracted hours.
- 144 Additional hours added to a qualification cannot be reflected in additional support costs. These should be reflected in the loadband for the qualification.
- 145 The costs of administration that are directly linked to the delivery of additional support for individual students may be calculated and claimed. General costs need to be supportable (that is, £100 added to each claim for administration and tests is not acceptable). Administration staff costs should not be charged per student hour, but should be based on costs incurred.
- 146 Where specific administration is dedicated to just additional support then the costs could be spread evenly over all students dealt with within the additional support department after excluding those costs allocated based on time records.
- 147 It is not acceptable to inflate the costs artificially by including management and administration that are not directly related to the delivery of additional support for students.
- 148 Cost of initial review is claimable by all where needs are assessed.
- 149 Costs relating to a specific group of additional support students, for example, travel on a minibus, should be apportioned to these additional support students only and not to all additional support students.
- 150 Where extra information technology (IT) technicians are employed to provide support to all students this should be allowable against students identified with needs.
- 151 Costings should be reasonable in relation to expected costs. For example where averages, such as average teaching costs, are used in this calculation, the provider should have retained evidence that demonstrates that the values used are reasonable.
- 152 Cost per hour of teaching staff should not normally exceed £43 (London would be higher) without extra work (in addition to those in the audit programme) to ensure the cost is appropriate. Costs must be supported and compared with actual costs of the provider. Standard rates are not to be applied.
- 153 Staff teaching for a proportion of their time at the provider should ensure that only the proportion of their salary related to teaching is included in any calculation of hourly rate.
- 154 Additional support costs should not be claimed where a student requires support in the subject area of their qualification, for example, additional support should not be claimed for a student studying Maths GCSE and receiving extra support in Maths.
- 155 A reasonableness check of actual costs incurred against the funding claimed may be used as an ultimate check on any claim.
- 156 Where additional support is given off-site as part of a business decision (for example, care homes) the small class size calculation should take account of the student needs, and the level of students available to be taught. As there may only be three students on site, the reduced class size may not be appropriate as

it is the college's decision to provide the education. Reduced class sizes will need to be justified by the college.

- 157 The additional cost of a small or discrete group of students with learning difficulties should be calculated by subtracting the average teaching cost per student on a standard programme from the cost per student on a discrete programme.
- 158 The programme weighting for basic skills reflects delivery in small groups. If basic skills is taught in groups smaller than normal because of students' additional support needs then funding may be claimed using the small group formula (the average group size for the college should relate to basic skills in this calculation)

Standard class size for small class additional learning support

- 159 Where additional support students are taught in small groups the provider should ensure that the proportion of costs met from the mainstream funding methodology has been removed before costs are charged to additional support (see calculation in Figure 1).

Figure 1. Example small group size calculation.

Cost per lecturer hour	–	Cost per lecturer hour	=	Cost per learner hour
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Specific small group size*		Average group size for college	

* This figure will vary depending on the number of students in the group. This calculation will need to be calculated for each small group size, see following paragraphs.

- 160 The calculations are based on the 'ideal' or 'target' group size, based on the needs of the student. It is therefore inappropriate to recalculate the claim according to the size of the group when, for instance, one or two students drop out.
- 161 The LSC confirms that the standard class size should be calculated using the following method:
- An average class size is found from the register or other data based on the number of fundable learners attending. This is intended to exclude learners who withdraw before the first census and other learners who do not qualify for LSC funding.
 - The classes considered should exclude basic skills in literacy and numeracy and in ESOL as the funding rates for these learning aims effectively include an ALS element for small class delivery.
 - If the average class size cannot be found by this method, then a value of 14 should be used, as this is the average for all FE providers.

Section 5: Withdrawals

Compliance evidence for withdrawals

- 162 General guidance on withdrawals is available in paragraphs 221 to 228 of *Funding Guidance for Further Education 2004/05*.
- 163 Table 2 gives advice on the funding position depending on whether or not the course crosses a census date.
- 164 A learner should be considered to have withdrawn from a programme of study where he or she is known to have made a decision to withdraw from the programme of study, or to transfer from a full-time to a part-time programme of study or from a part-time to a full-time programme of study. Either the learner or the learner's tutor should have confirmed this in writing.
- 165 In addition, for full-time programmes and part-time programmes of 12 weeks or more in duration, which are not distance learning programmes, a learner should be considered to have withdrawn where they have not attended classes for at least four continuous weeks, excluding holidays. This is unless there is auditable evidence of an intention to return. Compliance evidence includes a learner's or employer's letter or formal internal notes such as tutorial reports, 'contracts of behaviour' or 'personal action plans'. If a learner then returns before the census date they should be counted as enrolled.
- 166 Providers should ensure that learners are withdrawn from a programme where they have not attended classes for four continuous weeks, excluding holidays. Withdrawals should be actioned in a timely manner and where a learner has not been withdrawn, but has been absent for more than four weeks, there should be auditable evidence of an intention to return.
- 167 Where a learner has not been in attendance during a programme, and is deemed to have withdrawn, the funding associated with the learner should be adjusted from the relevant census date, to reflect that the learner has withdrawn.
- 168 Additional guidance on withdrawals is provided below. This is in response to a number of questions on this issue from providers and funding auditors.
- 169 Learner withdrawal dates should be promptly and accurately recorded in order to reflect the last date of actual recorded attendance. All learner withdrawals must be recorded in the ILR.
- 170 Withdrawn learners should generally not be recorded as completed. Learners should also be correctly recorded as having transferred to another qualification, or withdrawn without transferring.
- 171 The date of a learner's withdrawal should be recorded in all circumstances as the last date of their actual attendance, not the date on which the learner's record was flagged as withdrawn. While learners may not be classified as withdrawn until four weeks have elapsed since their last attendance, or for open and distance learning since the missed contact, the date of withdrawal should still be recorded as the date of last actual participation.
- 172 When checking the withdrawal mechanism, providers should have robust systems in place to ensure that learners with erratic attendance due to illness or other legitimate circumstances are identified. In the case of learners with mental

ill-health or other legitimate reasons for erratic attendance, the providers should retain evidence of assessment and/or a notification from the learner, parent, advocate or medical adviser that there is a strong intention to return. In these exceptional cases, the learner need not be entered as withdrawn within the usual timescales. If the learner fails to return, the last date of participation should be used to record withdrawal.

- 173 Learner withdrawals are not expected to occur in a systematic pattern. Where the number of learners shown as withdrawing from courses shortly after a census date appears to be disproportionate, providers may wish to pay particular attention to the attendance records and associated management controls for such courses.
- 174 A college should also always take active measures to ensure that the learner is continuing on the programme and has not withdrawn. This should be done, for example, by providing a planned timetable for the receipt of assignments and then checking with learners who have not provided an assignment on the due date. Good practice suggests that learners should be contacted at regular intervals to check that they are still following the programme. It is not acceptable to assume that silence means a learner is 'continuing'. Colleges need to check that partner providers are implementing the guidance. In all cases the learner should be counted as withdrawn from the last date of actual attendance. In the case of distance learning programmes, this is the date of the actual participation missed by the learner.

Withdrawals: frequently asked questions

Q. If a learner is studying four AS learning aims over one year starting in September and withdraws from one of them at Christmas, may funding be claimed all year for the withdrawn learning aim?

A. No. Despite the implication of paragraph 227 in *Funding Guidance for Further Education 2004/05*, which refers to a 'programme', funding may not be claimed for the withdrawn parts of programmes. This is the way the Learner Information Suite calculates the funding and has been the accepted practice. So in this question funding may be claimed only for the first period for the withdrawn qualification.

Q. When a full-time learner reduces their programme at what point do they become a part-time learner?

A. If a learner is a full-time learner at the first census date they remain a full-time learner for statistical purposes for the whole year. For funding purposes they would cease to be a full-time learner when their programme drops below 450 glh in the year.

Q. If a learner stops attending class with no notification to the provider when is the date of withdrawal?

A. The date of the last attendance on the learning aim is the date of withdrawal. This should be found from the class register.

Q. If a learner stops attending classes and a member of college staff telephones the learner to discuss his/her learning progress, can this be counted as guided learning and be deemed the date of withdrawal?

A. No. Guided learning must be specific to the course being studied. The telephone call described here is assistance of a general nature and is not guided learning.

Q. If a learner stops attending classes and some time later the learner is persuaded to attend the provider to discuss his/her learning progress, can this be counted as guided learning and be deemed the date of withdrawal?

A. No. As in the previous answer, guided learning must be specific to the course being studied. The meeting described here is assistance of a general nature and is not guided learning.

Q. A learner on a one-year learning aim stops attending at Easter to revise at home yet turns up and sits the examination in early June. When is the date of withdrawal?

A. Early June. Sitting the examination is assessment of the learner's achievement and may count as guided learning.

Q. Is the date of withdrawal for open learning provision worked out in the same way as for traditional provision?

A. Yes. It is the date of the last participation.

Q. Is the date of withdrawal for distance learning provision worked out in the same way as for traditional provision?

A. Yes. It is the date of the last participation.

Table 2: Funding dependent on whether courses cross census dates (and effect on funding by learner withdrawal).

	Course length	Completion/withdrawal	Funding
Short courses	Course is not planned to cross a census date	Student completes	Full core funding
	Course is planned to last up to one week	Enrolment and at least one course activity	Full core funding
	Course is planned to last up to one week	Enrolment and no course activity	No core funding
	Course is planned to last up to 12 weeks (and longer courses that do not cross a census date)	Enrolment and attendance after the mid-point as defined by actual start and planned end dates	Full core funding
	Course is planned to last up to 12 weeks (and longer courses that do not cross a census date)	Enrolment and final attendance before the mid-point of the course	No core funding
Longer courses	Course is planned to cross one census date	Student completes	Full core funding
	Course is planned to cross one census date	Student withdraws before census date	No core funding
	Course is planned to cross one census date	Student withdraws after census date	Full core funding
	Course is planned to cross two census dates	Student completes	Full core funding
	Course is planned to cross two census dates	Student withdraws before first census date	No core funding
	Course is planned to cross two census dates	Students withdraws between first and second census dates	Half core funding
	Course is planned to cross two census dates	Student withdraws after second census date	Full core funding

Section 6: Specific Guidance on Individual Qualifications and Delivery Methods

Curriculum entitlement

Compliance evidence

- 175 Evidence should show that the learner is receiving a substantial full-time programme of qualifications approved by the Secretary of State under Section 96 of the Learning and Skills Act 2000. In addition to this, there should be documentary evidence of the delivery of appropriate key skills, tutorial and enrichment activity. Providers should be able to demonstrate that learning took place over a period of four to five hours a week and retain timetables, registers and recorded outcomes of planned enrichment activities.
- 176 To be eligible for entitlement funding the student must be full time as defined by 450 glh. This includes glh spent on the curriculum entitlement.
- 177 Where the entitlement is being claimed for a learner aged between 16 and 18 no further funding will be available if they are enrolled on a learning aim which the LSC considers similar in content to the key skills of communication, application of number, or information technology (see Circular 05/01 *Further Education ILR Funding Estimate/Claim 2004/05* Annex H and manual adjustment 2005–18). Examples of ‘look-alike’ qualifications are published on the LSC website under the Documents section (www.lsc.gov.uk).
- 178 To claim the entitlement for full-time 16- to 18-year-olds, providers should retain compliance evidence that:
- as part of their planned delivery of the curriculum entitlement, providers have made learners aware of their entitlement to the development of key skills, tutorial and enrichment studies
 - the learner’s current learning agreement includes the delivery of relevant key skills
 - the learner’s current programme includes tutorial and enrichment activities delivered in glh that are over and above those glh delivered as part of the other learning aims in the learner’s programme
 - the learner started the programme while under 19 according to the definition as set out in paragraph 88 of Section 4 of *Funding Guidance for Further Education 2004/05*, and is on a full-time course.
- 179 For learners with learning difficulties and/or disabilities, the provider should include as compliance evidence on the learner’s learning agreement assessment, evidence detailing why key skills qualifications are inappropriate and what alternative activity will be provided.

Distance learning, open learning and online learning

Compliance evidence

- 180 The LSC introduced new arrangements for claiming funding for distance learning delivery in 2003/04. The arrangements for 2004/05 are described in Section 10 of *Funding Guidance for Further Education in 2004/05*. Claims for funding will fall into the two categories set out below.
- 181 First, any listed provision delivered as distance learning in 2004/05 can be claimed and audited as listed provision. This approach should also be applied where the recommended or average glh for qualifications have been chosen as the basis of any loadbanded claim. Providers who consider the listed funded rate does not adequately reflect their costs of delivery may choose one of the other options for funding, subject to the agreement of their local LSC.
- 182 Secondly, providers will have agreed with their local LSC a funding claim for loadbanded distance learning in 2004/05. Local LSCs, in reviewing claims in this category for providers, should concentrate on simple overall reconciliation of costs rather than the bureaucratic reconciliation of any individual learning logs. In many cases the funding agreed for 2004/05 will have been based on the providers' previous experiences and costs.
- 183 Providers will still need to show evidence that their learners have received guided learning support, but will no longer need to provide detailed time reconciliation of individual support. The LSC is reducing the definition of higher risk distance and open learning to include only:
- learners enrolled outside the providers' usual recruitment area; and
 - partner provider assisted provision.
- 184 The LSC has provided some guidance on completing the distance learning costs form, and this guidance is available on the LSC website with the form. It is also printed in Circular 04/03 *FE ILR Funding Claims 2003/04* as Annex K.

Distance learning: frequently asked questions

Q. Should the costs incurred in delivering programmes of distance learning be broadly similar to the funding the LSC provides and the tuition fees charged to learners studying these programmes?

A. Yes. The LSC may investigate cases where the costs incurred appear to be substantially less than the funding claimed and may recover funds if appropriate.

Q. Should the log of tutor/learner contact correlate with the claim for tutor costs?

A. Yes. Where the total costs claimed for tutor contact time exceed the total of tutor/learner contact logged then providers may have difficulty providing evidence of their distance learning funding claim. Providers may decide to supply evidence of this by relating the total of the resources made available by the provider (for example, tutor-timetabled availability) to the resources claimed, and not by any attempted bureaucratic reconciliation of individual logs for learners and tutors.

Q. Does the provider need to keep records of contact with the learner, whether by telephone, e-mail, face-to-face or other means?

A. Yes, but only as needed for good educational practice. Evidence, as with all listed provision, will be needed of some actual tutor support for every learner for whom funding is being claimed.

Q. Does the general guidance on out-of-area provision apply to distance learning?

A. Yes. The LSC gives a budget to local offices primarily for the education of learners in their own area. The LSC is not concerned about very small numbers of out-of-area learners, but all significant or material provision delivered out of area should be discussed and agreed with the local LSC as part of the planning dialogue. The LSC regards provision as higher risk where it is delivered outside either your own or a neighbouring local LSC area.

Q. Why have some NVQs still not been given a listed rate?

A. The LSC is committed to listing as many qualifications as possible but some qualifications have such a wide variety of delivered glh that an agreed listed value cannot be calculated.

Q. When assessing the 'reasonableness' of funding claims, will funding auditors take details of the costing pro-forma individually to compare with actual costs, or will they look at the overall figures?

A. The LSC is interested in the overall funding position first and the detail second. If the overall distance learning costs are reasonable there should be no need to go down to any detail in audit or to look to change the funding being claimed.

Open learning

185 A helpful definition of open learning may be found in *Funding Guidance for Further Education 2004/05* Section 10 paragraph 529.

186 Providers should be realistic in the length of time assigned to a particular learning aim delivered by open learning. For example, for a learning aim which is normally delivered in 120 glh in a traditional setting, the provider should not seek to require learners to adopt an unreasonable attendance pattern which they are unlikely to achieve, and which does not necessarily meet their individual needs. It would be inappropriate for the provider to assign a notional study pattern of, say, 6 hours a week for 20 weeks and then to claim 120 glh regardless of the learner's actual attendance.

187 Providers should give particular attention to retention and achievement in this type of provision.

188 Providers should claim the national rates for listed or loadbanded learning aims, as shown in *Funding Guidance for Further Education in 2004/05*, for provision delivered using open learning methods.

Open learning: frequently asked questions

Q. What is a glh in an open learning context?

A. The definition is the same as for other modes of delivery. The learner will be in the presence of a member of staff who gives specific guidance towards the learning aim being studied. This does not include administrative and support staff that may also be present.

Q. How much funding may be claimed?

A. For listed learning aims, the normal rates as shown in the funding guidance for the appropriate year that is stored in the learning aim database.

For loadbanded learning aims the rate appropriate to the number of planned glh may be claimed.

Q. How are the planned glh determined, as learners will make progress at different rates?

A. The provider should make an estimate of the planned glh, and this should be reviewed each year.

Hence, the provider should specify the standard glh value for a particular learning aim to be studied by open learning. This should then be used to claim the funding for all the learners studying this learning aim irrespective of the variation in glh that each learner may receive. However, if there is a significant variation (of more than 20 per cent) between the planned and actual glh, the funding claim should be revised to reflect actual costs incurred.

The provider should monitor the actual glh for each successful learner and then use these to determine the planned glh for the following year.

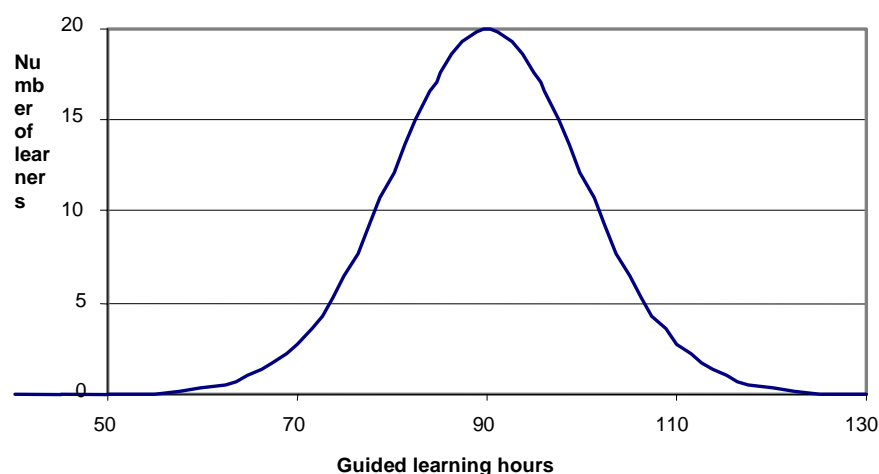
Example

An open learning course is set up with a learning aim that is loadbanded. As an example the learners are expected to each receive 90 glh.

The provider should record the actual glh received by each learner. The distribution of glh might be represented in the graph in Figure 2.

In this case, the mean is 90 glh and the funding claim is valid.

Figure 2. Actual guided learning hours on an open learning course.



If the mean is below 90 glh, the funding based on 90 glh may be claimed for that funding year. But for the following year, funding should be claimed according to the mean value.

However, if the mean is significantly below 72 glh or above 108 glh, then the funding claim for the current year should be amended to reflect actual delivery.

Q. If the provider requires learners to book open learning sessions in advance, how should missed attendances be handled?

A. Learners who make a booking and then fail to attend should be recorded as absent as in normal classroom provision. However, providers should be careful in claiming funding where there are significant or systematic absence patterns.

Q. Is the date of withdrawal for open learning provision worked out in the same way as for traditional provision?

A Yes. It is the date of the last attendance.

Fee remission

Compliance evidence

189 It is the responsibility of the provider to establish eligibility for tuition fee remission at the start of each academic year for both learners who are starting and those who are continuing their programmes. Evidence should be available to show that:

- checks are carried out to ensure learners' eligibility for fee remission
- the fee remission status of the learner is accurately recorded at the start of their programme and each subsequent academic year as appropriate
- claims for fee remission funding are justified under the LSC's policy, as set out in paragraphs 171 to 175 of *Funding Guidance for Further Education 2004/05*.
- in 2005/06 only, for fee remission being claimed on the basis that the learner is attending their first full level 2 programme (see paragraph 192 below) the learner needs to either sign a self-declaration that they have not already achieved this level or the provider will need to keep documentary evidence that supports their fee remission claim.

190 Acceptable evidence of unemployment benefit or a means-tested state benefit would be official documentary evidence of the relevant means-tested state benefit.

191 At colleges (usually sixth form colleges) where all learners are aged between 16 and 19, thereby qualifying automatically for fee remission, providers should ensure that the age of learners is correctly recorded.

192 The LSC has included some guidance on the definition of a full level 2 in the ILR specification for 2004/05 in Annex G under the heading 'Prior attainment levels'. This guidance on qualifications up to level 4 is reproduced below in Table 3.

Table 3: Prior attainment levels.

(see Annex G of 2004/05 ILR Specification for the full table)

NVQ level	Academic qualification equivalent	Vocational qualification equivalent	Code number for L35
Level 0	Word Power/Number Power		07, 09
Level 1	GCSE/O Level Grades D–G (or fewer than 5 at grades A–C) CSE below grade 1 1 AS level	BEC General certificate BEC Diploma BTEC first certificate City & Guilds Operative Awards CPVE Year 1 (Technician) GNVQ Foundation LCCI Elementary/first level NVQ Level 1 PEI Elementary/first level RSA Elementary/first level RSA Vocational certificate	01
Level 2	GCSE/O Level (5 or more at grades A–C) CSE Grade 1 (5 or more) 1 A level 2/3 AS levels	BEC General certificate with credit BEC diploma with credit BTEC First diploma City Guilds Higher Operative/Craft GNVQ Intermediate LCCI Certificate (second level) NVQ level 2 PEI stage 2 Pitmans Intermediate level 2 Diploma certificate RSA Diploma	02
Level 3	2 or more A levels 4 or more AS levels	BEC National ONC/OND BTEC National ONC/OND City & Guilds advanced craft GNVQ advanced LCCI diploma (third level) NVQ level 3 Pitmans level 3 advanced higher certificate RSA stage 3 advanced diploma TEC certificate/diploma Access to Higher Education Courses ESOL & Foreign languages Advanced awards	03
Level 4	Teaching qualifications (including PGCE) First degree	BEC National HNC/HND BTEC National HNC/HND Higher education certificate Higher education diploma LCCI advanced level NVQ level 4 Nursing (SRN) RSA advanced certificate RSA higher diploma	04

Full cost recovery

Compliance evidence

- 193 Paragraph 377 of *Funding Guidance for Further Education 2004/05* lists the provision not eligible for LSC funding and includes full cost recovery programmes. Paragraphs 117 to 121 set out the level of tuition fees expected from learners/employers by providers in delivering LSC-funded programmes. A number of providers have had difficulty in trying to determine the funding eligibility of some provision and where the line is crossed into full cost recovery programmes.
- 194 The Department for Education and Skills has set the LSC challenging fee targets. These include contributions from both learners and employers. The LSC is well aware that many FE providers already contribute towards these targets by running full cost recovery courses and see no need to seek LSC funding for these learners. The LSC is also aware that some provision can be very expensive to run, and that providers need to charge fees in excess of the usual 25 per cent fee element. This means it is often very difficult to determine the precise boundary between full cost recovery and LSC-funded provision.
- 195 In general, the LSC requires providers to see their provision as full cost recovery provision where the tuition fee charged to the learner approaches 100 per cent of the national rate available for the programme of study. This limit is raised from the previous limit of 75 per cent to reflect the forthcoming changes to assumed fee income. Providers may not charge learners higher retrospective tuition fees on the basis of this revised limit for 2004/05. Providers are also reminded of the need to record all learner tuition fee income in their ILR, including any tuition fee income collected from learners by partner providers.
- 196 Providers charging learners a high fee that incorporates a number of factors will need to distinguish between the tuition fee charge and any other charges before seeking LSC funding for these learners.
- 197 The LSC has been presented with questions from providers where the fee charged to the learner include the following items:
- residential costs for course placements
 - costs for books and other similar learning materials
 - expenses for specialised equipment and/or related consumables
 - fees for non-LSC-funded courses
 - registration fees with relevant professional societies; and
 - fees for specialised services not related to the learner's LSC-funded programmes.
- 198 Providers wishing to claim LSC funding for learners being charged high fees that include any of the above are asked to ensure that they give their learners a detailed breakdown of the fee, so that only the real tuition fee charge is used in determining whether LSC funding is appropriate. Providers are expected to consult their local LSC where the tuition fee approaches (or in a few rare cases exceeds) the 100 per cent limit to avoid unnecessary difficulties at audit.

- 199 If the provider charges a fee that exceeds the total available LSC funding, then the LSC would regard the provision as full cost recovery provision and ineligible for LSC funding.
- 200 For 2004/05 no LSC funding should be claimed for any full cost provision. Providers should consult their local LSC where they are uncertain as to whether any provision they proposed to offer would incur learners in a fee approaching the 100 per cent contribution.

Funding implications

- 201 Providers are reminded of the need to comply with the spirit and intention as well as the letter of funding guidance. Where fees are charged that approach 100 per cent of the funding available, the provision needs to be reviewed to assess the actual contribution of LSC funding to the overall cost of the programme. In particular, where the fee falls very close to the upper threshold, providers will expect to have written consent by the local LSC to fund the programme.
- 202 Where provision is deemed by the LSC to be full cost, this may result in all funding associated with this provision being removed from the claim.

Loadbanded provision

- 203 Providers should ensure that the glh for loadbanded provision are accurately assessed in order to place the provision in the correct loadband. All loadbanded provision should be reviewed to ensure that the planned glh agree with those actually delivered. Where it differs significantly, an in-year adjustment should be made.
- 204 Where glh have been incorrectly calculated and learners' programmes consequently assigned to incorrect loadbands. The provider would be expected to revise their ILR return to show the correct loadbands where the variance in glh between actual and planned is more than 20 per cent.
- 205 The examples set out for adjusting loadband claims for open provision where the delivered glh varies significantly from the planned glh may give providers a reasonable methodology to apply in deciding whether or not to adjust their wider loadbanded provision claims, either up or down as appropriate. These examples are given after paragraph 188 and the open learning 'frequently asked questions'.

National projects

Compliance evidence

- 206 The LSC has set up a small number of national projects with providers that have completed a Project Agreement form. The amount of funding to be claimed and/or the method of claiming may differ from that laid out in *Funding Guidance for Further Education 2004/05* and will be detailed in the individual project specification as agreed with their local LSC. For providers outside plan-led funding they should ensure that their funding auditors are aware that the provider is included in those projects and that the provision is sampled as part of any funding audit arrangements.

Provision in the workplace

Compliance evidence

- 207 If provision in the workplace is being delivered with a partner provider then the advice in Section 3 of this booklet must also be applied to this provision. As stated in Section 3, local LSCs will advise on the classification of workplace provision delivery arrangements where providers are unsure of its classification under Table 1 in this booklet. If the college is relying on the partner provider to deliver the workplace provision and some (or all) of the class-based provision then the local LSC will expect to see the provision classified below the black line in Table 1.
- 208 Provision in the workplace is not expected to exceed 329 glh a year. For employed learners, providers will need to check that the hours claimed for guidance and supervision in the workplace are distinct from those previously forming part of the learner's normal employment. Providers should retain compliance evidence that the hours claimed are additional to those the employer previously provided, or would normally expect to provide, as an integral part of the learner's employment. Equally, the fact that the guidance and supervision by an employer of a learner can now lead to the achievement of a qualification, whereas previously it was directed to the achievement of the skills necessary to accomplish the task, does not justify the classification of such hours, which are not additional to existing activity, as LSC-funded glh.
- 209 Where a supervisor is delivering provision to a group of learners, the LSC requires such provision to be scheduled, and the attendance of learners on each occasion that the provision is delivered to be recorded. Otherwise, it is expected that the supervisor is delivering glh to learners on a one-to-one basis. Funding auditors should satisfy themselves that the number of glh recorded is reasonable, bearing in mind how the supervisor's time is divided between:
- supervision or assistance specific to the study of each learner they are responsible for supervising
 - general supervision or assistance of these learners carrying out their normal work activities
 - tasks other than the supervision of individual learners.
- 210 The following hypothetical examples of activities that are not eligible for inclusion as glh may be of assistance to providers and auditors:
- training in the use of a till provided to checkout operators by a supermarket
 - on-the-job supervision of employees by their supervisor other than where the hours involved are additional to the supervisor's previous oversight.
- 211 Where a provider is engaged in partner provider arrangements for the delivery of work-based programmes, the basis for the number of glh claimed for non-individually listed qualifications is of particular concern. This is so especially for those involving the delivery of programmes to an employer on the employer's premises, typically for learners pursuing programmes leading to national vocational qualifications (NVQs).
- 212 In the case of work-based NVQs, the delivery of the learning programme should be sufficiently specified in the learning agreement to make clear the balance of work-based activity and training activity, and the planned number of glh to be delivered to achieve the qualification aim.

- 213 There is no provision in the LSC's funding methodology for a notional calculation of the number of glh. The partner provider should have identified in its learning agreements the number of glh to be delivered.
- 214 This guidance also relates to provision made in other situations such as residential homes or social services day-care provision. It is expected that, because of the possibility of double-funding with other statutory agencies, such provision is made in exceptional cases only. It is recommended that it is discussed in detail with the local LSC before the delivery starts. Robust evidence that the provision is additional to that normally provided to the individual, and that it extends the education and training available to the individual, should be sought.

Funding implications

- 215 Where insufficient evidence exists to substantiate the number of glh claimed, providers should identify the actual glh and revise the funding claim to a more realistic level.

Small work placements within a programme

- 216 The approach set out below for small work placements is purely an optional approach for providers in considering their loadbanded claims for these placements.
- 217 During the course of submitting previous funding claims, a small number of providers experienced difficulties in providing the necessary compliance evidence to support their glh claims for work-based experience. This was resolved in the past by agreeing a glh figure based on the glh that would have been claimed had the learners been attending their normal classes. This was agreed on the basis that the lecturers concerned were spending the same amount of time supporting learners at their placements in the workplace as they would have spent in delivering normal classes. As the placements were only a small part of the overall loadband claim, the LSC view was that it seemed reasonable to allow the loadband claim to stand.
- 218 In one example, the provider was sending all the learners out on four-week block placements and the tutor was then supporting the learners by travelling round to see all his individual learners in their workplaces. The tutors had difficulties providing evidence of the actual amount of glh and argued that much of their support was on a one-to-one model. As the time the tutors were spending supporting their learners matched their normal classroom delivery time, the LSC was content for them to claim equivalent glh to the figure generated during their class-based weeks of attendance.
- 219 As the LSC has discontinued the 14 multiplier from 2003/04, providers may see this type of approach as a fair means of claiming funding that reduces the bureaucracy in trying to give evidence of work-placement guided learning. Providers wishing to consider this should consult their local LSC. For those providers where the lecturers are travelling around providing support to their individual class learners for short block placements, this approach at least recognises that the costs to the provider are no less than those incurred by normal classroom delivery.

Work-based learning

Compliance evidence

- 220 The LSC does not expect providers to claim funding for provision funded under the following schemes, which are funded separately:
- Foundation and Advanced Apprenticeships (FMAs and AMAs)
 - life skills funded through work-based learning
 - the Learning Gateway and all other training under the New Deal options
 - NVQ training funded through work-based learning
 - key skills or technical skills associated with an Apprenticeship programme that is funded through work-based learning.
- 221 Where a learner on any of the above schemes seeks to follow an additional qualification or programme not funded under work-based learning funding, this qualification or programme may be funded under the arrangements outlined in *Funding Guidance for Further Education in 2004/05*.
- 222 Providers wishing to claim additional funding should obtain written notification from the local LSC for each learner that the additional programme or qualification claimed is not already funded as work-based training under the work-based learning funding arrangements. For providers outside plan-led funding their funding auditors will require this notification in order to confirm eligibility for funding.

Funding implications

- 223 Where the provider is claiming funding for provision which would normally be funded under work-based learning, this provision should be considered to have already been fully funded by the LSC and should be removed from the claim.
- 224 Where additional programmes have been delivered but approval has not been sought and approved by the local LSC, this funding should be removed from the claim.

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