

i For information



LSC Learner Eligibility Guidance 2007/08

Version 2

The learner eligibility policy set out in this document is DfES and LSC learner eligibility policy for 2007/08.

Revised 17 May 2007

The document has been revised on 17 May 2007 as detailed below.

- Revised to refer to the updated statutory instrument *The Education (Fees and Awards) (England) Regulations 2007* that replace the older 1997 Regulations from September 2007. This means some minor changes to paragraphs 14 and 19.
- Further guidance on eligibility of LSC co-financed European Social Fund (ESF) learners in a new paragraph 21 and all subsequent paragraphs are re-numbered accordingly.
- Paragraph 55 has also been amended to include a reference to include the new Annex 2 on Section 4 support.
- Paragraph 83 has also been updated regarding compliance evidence for claiming fee remission.

Contents

Paragraph number

Executive Summary	-
1: Introduction and Background	1
Introduction	1
2: Learner Eligibility for Funding	4
Duty	4
Determination of Learner Eligibility	5
Ordinary Residence Definition	13
Learners Eligible for Funding	14
European Social Funding	21
Parents-to-be	22
No Recourse to Public Funds	23
Learners not Eligible for LSC Funding	24
Learners from Wales and Scotland and Northern Ireland	27
Overseas learners	28
Study outside England	30
Learners in the Armed Forces, Ministry of Defence or Civil Service	30
Learners employed temporarily outside England	33
Periods of study outside England	34
Unforeseen events and special cases	35
Age	36
Learners of compulsory school age	37
Exceptional circumstances	39
Learners Enrolled in Schools	41
Groups of Learners	44
Higher education learners	44
Staff employed by a provider as learners	47
Enrolment at more than one LSC-funded provider	48

Provision by health authorities or social services.....	49
Provision for offenders.....	50
3: Evidence of Learner Existence and Eligibility.....	51
Evidence of Learner Existence and Eligibility.....	51
Compliance evidence for learner eligibility.....	52
Funding implications.....	60
Records of Learner Existence and Eligibility.....	61
Learning agreement.....	61
Enrolment form.....	64
Learner attendance.....	68
Register.....	70
Cease to attend, withdrawal from course and learning agreement amendment forms.....	73
Achievement.....	74
Fee Remission.....	82
Compliance evidence.....	82
Documentation: all providers and partner providers.....	86
Funding implications: all providers.....	87
4: Fee Remission in FE.....	88
Fee Remission (as per <i>Funding Guidance for Further Education 2007/08</i>).....	89

Annex 1: Defining EU, EEA and Eligible Overseas Dependant Territories.

Annex 2: Support under Section 4

Executive Summary

Date: March 2007

LSC Learner Eligibility Guidance for 2007/08

This document, LSC Learner Eligibility Guidance for 2007/08 (referred to here as 'the Guidance') sets out the Learning and Skills Council's approach to, and the authoritative guidance for learner eligibility across the LSC funding streams for 2007/08. It is a technical reference document, and should be used with the various LSC funding stream guidance booklets issued for 2007/08. All colleges, providers and other organisations that receive funding from the Learning and Skills Council (LSC) for the provision of further and adult education are required to comply with the Guidance.

This guidance applies to all LSC programme funding streams, including Further Education (FE), Work-based learning (WbL), Train to Gain, Personal Community and Development Learning (PCDL) and European Social Fund (ESF). Additional specific eligibility guidance on ESF is given in paragraph 21. This guidance should also be applied to any learners on other projects funded by the LSC unless specific alternative guidance is issued by the LSC.

It provides the LSC's consolidated learner eligibility funding guidance for 2007/08. This guidance should be read in conjunction with the following booklets:

- *Funding Guidance for Further Education in 2007/08*
- *FE ILR Funding Compliance Advice 2007/08*
- *Requirements for Funding Work-based learning for Young People 2007/08*
- *School Sixth Forms-Funding Guidance for 2006/07 and 2007/08*
- *For LSC ESF co-financed projects only their individual project specifications*

These booklets will be published later in 2007 and prior to their publication providers should refer to corresponding booklets issued for 2006/07. Where the Guidance refers to documents that are available on the LSC website, the appropriate address has been included. For the convenience of FE providers the LSC guidance on fee remission for the FE funding stream is included in Section 4 of this booklet in recognition of the fact that learner eligibility and fee remission eligibility in FE is often established at the same time.

This Guidance is set out as follows, which is similar in structure to that used in the LSC Funding Guidance booklets.

Section 1 provides an introduction to the document and a summary of changes for 2007/08.

Section 2 Provides the guidance on learner eligibility.

Section 3 Provides LSC guidance on compliance evidence of eligibility. This includes advice available in booklet FE ILR Funding Compliance Advice 2006/07 Section 2 Evidence of Learner Existence and Eligibility.

Section 4 Provides a copy of the guidance on fee remission for the FE funding stream. This guidance is taken from Section 4 of *Funding Guidance for Further Education in 2007/08*.

Annex 1 confirms those countries that are members of the EU, EEA and eligible dependant overseas territories.

Annex 2 gives some further guidance on Section 4 support for asylum seekers and provides references to the Home Office website for their full guidance

Intended recipients

Principals, chief executives, chief education officers, heads of providers, finance directors, heads of registry and management information officers of providers delivering further education.

1: Introduction and Background

Introduction

- 1 This document (the Guidance) sets out the Learning and Skills Council's (LSC) learner eligibility guidance for 2007/08. All colleges, providers and organisations that receive any programme funding from the Learning and Skills Council (LSC) for the provision of education and/or training are required to comply with this Guidance.
- 2 This document provides the detailed guidance on learner eligibility approach in 2007/08 together with guidance on compliance in evidencing learner eligibility. This document will be used by the LSC Learner Eligibility and Existence (LEE) auditors in their audit testing of colleges and other providers for the necessary evidence of compliance with the Guidance.
- 3 For providers claiming LSC funding for any particular LSC funding stream this Guidance should be read with the relevant LSC funding guidance booklet. The main funding booklets are:
 - *Funding Guidance for Further Education in 2007/08*
 - *FE ILR Funding Compliance Advice 2007/08*
 - *Requirements for Funding Work-based learning for Young People 2007/08*
 - *School Sixth Forms-Funding Guidance for 2006/07 and 2007/08*
 - *For LSC ESF co-financed projects only their individual project specifications*

2: Learner Eligibility for Funding

Duty

- 4 The LSC has a duty to secure, in relation to England only, the provision of:
 - proper facilities for education (other than HE), training and organised leisure-time occupation connected with such education and training suitable to the requirements of persons who are above compulsory school age but who have not attained the age of 19; and
 - reasonable facilities for education (other than HE), training and organised leisure-time occupation connected with such education and training suitable for the requirements of persons who have attained the age of 19.

Determination of Learner Eligibility

- 5 For funding purposes, the eligibility of the learner must be established at the start of his or her programme. In order for a learner to be eligible for LSC funding for their learning programme the learner must have the legal right to be resident in the United Kingdom at the start of their programme. Any person subject to a Home Office deportation order will ordinarily be ineligible for funding until their situation has been resolved to the satisfaction of the Home Office as LSC funding should only be claimed for learners who can complete their programmes. Learners who can evidence making legal applications and appeals against Home Office decisions may however be eligible under paragraph 18.
- 6 In determining learner eligibility, providers should also satisfy themselves that there is a reasonable likelihood that the learner will be able to complete their programme of study before seeking LSC funding for the learner. This should include the practicality of providing a place to a learner who may be unable to complete their programme if they are likely to permanently leave the country during their learning programme. Once a learner is enrolled by a college or provider, then colleges and providers are expected to take all reasonable steps to ensure the learner can complete their programme.
- 7 Learners **who are attending programmes of more than one term's duration and** eligible for LSC funding at the start of their programme will usually be eligible for LSC funding for the whole duration of their learning programme as well as any subsequent LSC-funded programmes studied immediately end-on to their initial LSC-funded programme. This includes learners studying consecutive programmes with no break in studies other than normal holiday periods. Similarly, learners who are not eligible for LSC funding at the start of their programme are very unlikely to become eligible for funding during the period of their learning programme.

- 8 The LSC expects all colleges and providers in determining their enrolment priorities to take account of the LSC's duties and responsibilities to their local population of learners.
- 9 The main basis for assessing learner eligibility is their ordinary residence and the following paragraphs set out the LSC funding eligibility criteria.
- 10 All eligibility references to a spouse should now be read to include a person who has participated in either a formal state-recognised marriage or a state-recognised civil partnership ceremony.
- 11 Colleges and providers are reminded that they should seek advice from their LSC partnership team in any case where they are having difficulty assessing learner eligibility.
- 12 In the learner eligibility paragraphs below, from 2007/08 the term "relevant date" refers to "the first day of the first academic year of the course" and this is defined as:
 - 1 September if the academic year starts 1 August to 31 December
 - 1 January if the academic year starts 1 January to 31 March
 - 1 April if the academic year starts 1 April to 30 June
 - 1 July if the academic year starts 1 July to 31 July.

Ordinary Residence Definition

- 13 For funding purposes, the LSC regards as ordinarily resident in a given country or region any person who habitually, normally and lawfully resides from choice and for a settled purpose in that country. Temporary absences from the relevant area should be ignored. Someone who has not been ordinarily resident because he or she or the person's parent or spouse or civil partner was working temporarily abroad will be treated as though the person had been ordinarily resident in the relevant area.

Learners Eligible for Funding

- 14 The following persons will be eligible for funding (these groups correspond to the groups listed in The Education (Fees and Awards) (England) Regulations 2007 ("the Regulations")):
 - a a person on the 'relevant date' who is "settled" in the UK, and who has been ordinarily resident in the UK and Islands (that is, including the Channel Islands and the Isle of Man) for the three years preceding the 'relevant date' (see paragraph 12 above), and whose main purpose for such residence was not to receive full-time education during any part of the three-year period. "Settled" means having either indefinite leave to enter or remain (ILE/R) or having the Right of Abode in the UK. British citizens and certain other people have the Right of Abode in the UK:
 - those with the European Community – United Kingdom of Great Britain and Northern Ireland passports

- British Dependent Territory Citizens (now known as British Overseas Territory Citizens)
 - those whose passports have been endorsed to show they have Right of Abode in the UK
 - those who have a certificate of naturalisation or registration as a British Citizen
- b a national of any European Union (EU) country or spouse or civil partner or the child of an EU national who has been ordinarily resident in the European Economic Area (EEA) for the three years preceding the “relevant date”.
- c an EEA migrant worker or the spouse or civil partner or child of an EEA migrant worker who has been ordinarily resident in the EEA for the three years preceding the “relevant date”
- d anyone who is recognised as a refugee by the UK Government (granted Refugee Status) who has remained ordinarily resident in the UK and Islands since so recognised, or the spouse or civil partner or child of such a refugee
- e anyone refused refugee status but who has been granted leave to stay by the Secretary of State, granted Humanitarian Protection (HP) or Discretionary Leave (DL), or was granted exceptional leave to enter or remain (ELE/ELR) by the UK Government, and who has remained ordinarily resident in the UK and Islands since so recognised, or the spouse or civil partner or child of such a person
- f learners studying under reciprocal exchange agreements
- g learners who are children of Turkish workers and who have been resident in the EEA and Turkey for the full three year period prior to commencement of their programme.
- 15 For funding eligibility purposes, the EEA is defined as all members of the EU and Iceland, Liechtenstein, Switzerland and Norway. The fees and award regulations now confer extended eligibility on EEA citizens and their extended family members (such as grandchildren and grandparents). Providers should consult their LSC partnership team before refusing eligibility to any EEA citizens or family members with more than three years’ residency in the EEA area. From 2007/08 learners from certain British Overseas Territories and learners from equivalent European Overseas Territories will also be eligible for funding, subject to the usual three year rule on residency and the qualifying territories are listed in Annex 1.
- 16 Learners who are nationals of either of the 2 countries that joined the EU on 1 January 2007 (Bulgaria or Romania) will be eligible for funding at the “home” rate from 1 January 2007, subject to the learner meeting the normal three-year residency requirements in the new enlarged EEA, for programmes that start on or after that date. Learners already on a programme of study will be treated as “home” learners from the next teaching year that starts after 1 January 2007 (the LSC teaching year starting on 1 August 2007).

- 17 In addition to considering the groups outlined above, the LSC will also consider the following groups of learners to be eligible for LSC funding:
- a persons who have legally been living in England for the three years immediately preceding the start of the programme, ignoring temporary absences (this does not include persons with time-limited leave to remain as a student whose leave to remain does not extend to the expected end date of the proposed learning aim of study)
 - b persons with humanitarian protection (HP) or discretionary leave (DL) or exceptional leave to enter or remain (ELE/ELR), their spouses, civil partners and children
 - c persons with recently settled status (this means those having been granted indefinite leave to enter or remain, Right of Abode or British Citizenship within the three years immediately preceding the start of the course)
 - d the spouse or civil partner of a person with settled status, who has been both married (or has undertaken a recognised civil partnership ceremony), and resident in the UK, for one year.
- 18 The LSC will also consider the following groups of learners to be eligible for LSC funding:
- a asylum seekers who have legally been in UK pending consideration of their claim by the Home Office for longer than six months
 - b asylum seekers refused asylum but eligible and granted support under Section 4 of the Immigration and Asylum Act 1999
 - c all learners accepted as eligible under this paragraph must be re-assessed for eligibility at the start of each and every programme they undertake. The concession available to learners under paragraph 7 is not available to this group of learners as it is expected their circumstances will be confirmed before they undertake subsequent programmes
- 19 In addition to the groups above, the LSC will also consider the following groups of 16–18-year-old learners as eligible for funding:
- a 16–18 year olds who are accompanying parents who have the Right of Abode or leave to enter or remain in the UK, or 16–18 year olds who are children of diplomats
 - b 16–18-year-old dependants of teachers coming to the UK on a teacher-exchange scheme
 - c 16–18 year olds entering the UK (where not accompanied by their parents) who are British Citizens (but not holders of British Overseas passports), or 16–18 year olds whose passports have been endorsed to show they have the Right of Abode in this country (holders of passports describing them as British Overseas Citizens have no automatic right of abode in the UK, nor do other non-EEA nationals)
 - d all 16-18 asylum seekers

- e any unaccompanied asylum seekers aged 16–18 who are placed in the care of social services
- 20 In addition to considering learners in the categories listed in paragraphs 14-19 above, the LSC will consider other exceptional circumstances. Where a provider believes that a learner should be considered for funding under exceptional circumstances, it should contact its LSC partnership team.

European Social Fund

- 21 This paragraph solely applies to LSC co-financed European Social Fund (ESF) learners to take account of ESF rules and regulations. These require learners to be ordinarily resident and able to work in the UK to be eligible for ESF assistance. The guidance in the paragraphs above on LSC learner eligibility is amended to take account of the separate ESF guidance as follows:
- a **additional learner eligibility entitlement:** workers who have come to the UK with valid work permits are usually eligible for ESF co-financing assistance without the normal three year waiting period;
 - b **reduced learner eligibility entitlement:** learners eligible under paragraph 18 will not usually be eligible for ESF co-financing funding as they will not have the right to work in the UK.;
 - c **individual co-financed ESF project guidance:** providers will also need to check their specific individual project guidance for any additional learner eligibility guidance contained within their individual project specifications as this may extend learner eligibility guidance for a small number of projects each year.

Parents-to-be

- 22 Learners who are expecting to be unavoidably absent from learning for a period of time, such as for maternity or paternity leave, should not be discouraged from entering into a learning agreement. Providers should ensure that the planned start and end dates for the learner's programme, as **agreed at the commencement** of the programme, reflect the overall planned duration of study.

No Recourse to Public Funds

- 23 Someone who has "no recourse to public funds" included in their passport stamp would not be in breach of their immigration conditions if they had access to education in the UK. "Public funds" are defined in the Immigration Rules, and the benefits and services listed do not include education or any education funding. This condition in a passport therefore makes no difference to a learner eligibility which must be determined under the normal eligibility criteria described in paragraphs 14-20 above.

Learners not Eligible for LSC Funding

- 24 Learners undertaking full-time programmes fully funded either by the Higher Education Funding Council (HEFCE) or from other LSC funding

streams such as work-based learning or school sixth forms are usually ineligible for LSC FE funding as the funding provided is intended to cover the whole of their learning programmes.

- 25 Learners from overseas (outside the EU and EEA) whose main reason for residence in England or the EU has been attendance at a fee-paying school or non-maintained school will not be eligible for funding.
- 26 Those with British national (overseas) passports or similar and Hong Kong nationals are ineligible for LSC funding until they have been resident in the UK for three years or unless they fit into one of the provisions in paragraphs 14-20 above.

Learners from Wales and Scotland and Northern Ireland

- 27 Colleges and providers are reminded that Wales, Scotland and Northern Ireland have their own funding arrangements. There may be exceptional circumstances where, on occasion, individual Scottish or Welsh learners may wish to travel to or reside in England to study when specialist provision is not offered locally. The LSC has reciprocal arrangements with the funding councils for Wales and Scotland for colleges and providers close to the borders. However, it is not expected that colleges and providers in England will recruit entire groups of learners from outside their local area. Such learners should be referred to the possibility of a distance-learning or Ufi programme delivered by their local provider or hub in Wales or Scotland. If the learning programme is not available through this route, permission to enrol the learners must be sought from the provider's LSC partnership team.

Overseas learners

- 28 For funding purposes, an "overseas" learner will be defined as one who does not meet the criteria defining a "home" learner as set out in paragraphs 14-19 above. Overseas learners are not eligible for LSC funding, and the provider may wish to charge full-cost fees.
- 29 Colleges and providers should ensure that they have at least one member of staff who is familiar with and able to advise the provider on the funding of learners from abroad. Where a learner is eligible for LSC funding, the appropriate level of fees should be charged. To avoid any inconsistency of approach, full-cost fees cannot be charged to a learner for whom LSC funding is also being claimed.

Study outside England

Learners in the Armed Forces, Ministry of Defence or Civil Service

- 30 The LSC recognises that British Armed Forces (Armed Forces) personnel may wish to continue in education and training whilst serving their country. The LSC will fund eligible programmes of study for service personnel, Ministry of Defence (MoD) personnel or civil servants, their spouses and dependants via a sector provider in the following circumstances:

- where the individual normally resides in other parts of the UK but is on a posting in England
 - where an individual normally resides in England but is posted outside England as part of his or her work with the Armed Forces. This includes both cases where the individual begins a programme in England and is posted elsewhere while enrolled on this programme, and cases where the individual commences a programme while posted outside England. In both cases, the LSC will fund the programme to completion. It is expected that such provision will be made via distance learning or through learndirect, other than in exceptional circumstances. Franchised delivery to members of the Armed Forces overseas will not be eligible for funding.
- 31 Expectation that the study will be distance learning or Ufi will not apply to basic skills provision, where learners are studying towards the nationally approved qualifications. These learners may be taught directly in an arrangement that has been agreed with the MoD. The arrangement applies to Armed Forces personnel, MoD personnel or civil servants, their spouses and dependants via a sector provider using direct provision.
- 32 Learners of other nationalities serving as members of the Armed Forces should be considered eligible for funding throughout their period of service on the same basis as their British national counterparts. This includes the funding eligibility provided under the conditions described in the paragraph above and extends to their spouses and dependants on accompanied postings. This does not apply to spouses and families who do not join members of the Armed Forces and instead remain in their own country.

Learners employed temporarily outside England

- 33 Where, as part of the requirements of employment, a person who is ordinarily resident in England is required to work outside England for short periods, that person, his or her spouse and dependants will be considered eligible for LSC funding, provided that the person continues to pay taxation in England. It is expected that such provision will be made via distance learning or through Ufi, other than in exceptional circumstances.

Periods of study outside England

- 34 The LSC recognises that learners who are eligible for funding as ordinary residents and are undertaking a substantial LSC-funded programme in England may, as part of this programme, spend a short period of time outside England. The LSC will consider such provision eligible for funding where this provides a minor but essential part of a qualification, which cannot be provided in England. Colleges and providers seeking to make such provision should seek advice from their LSC partnership team before entering into arrangements. An exception to this guidance will be made for learners serving in the Armed Forces (see paragraphs 30-32).

Unforeseen events and special cases

- 35 The LSC will issue guidance in-year in response to directives from the DfES that identify exceptional circumstances that may result in additional groups of learners becoming eligible for funding. Any such guidance will be issued to LSC partnership teams for forward transmission to providers and posted on the LSC's website (www.lsc.gov.uk).

Age

- 36 As stated in the Learning and Skills Act 2000, the LSC has a duty for the provision of proper and reasonable facilities for education (other than HE), training and organised leisure-time occupation connected with such education suitable to the requirements of persons who are above compulsory school age.

Learners of compulsory school age

- 37 There is a single date when young people can legally leave school, which is the last Friday in June for those people who have completed Year 11. For the purposes of funding, "under 16" means "of compulsory school age".
- 38 Where parents seek to enrol a young person of compulsory school age on a full-time programme, colleges and providers are advised to involve the school and local authority (LA) in discussions as appropriate. Colleges and providers are reminded that the education standard spending-assessment settlement calculated for each LA contains funds for each learner of compulsory school age in a maintained school, excluded from school, or educated "otherwise". In most cases, a provider wishing to enrol a learner of compulsory school age should seek funding from the LA or school if appropriate. Where an LA declines to provide funds for a young person of compulsory school age at a provider, and the LSC determines that the circumstances are not exceptional, and the provider wishes to enrol the young person, the provider may charge a fee.

Exceptional circumstances

- 39 The LSC may fund provision for learners of compulsory school age. The Secretary of State would expect the LSC to exercise its power to secure provision for such learners only in exceptional circumstances. The learner numbers underlying the proposed grant to the LSC do not allow for any general expansion in the number of learners under 16. For the purposes of the funding agreement, the term "under 16" means "of compulsory school age".
- 40 In exceptional circumstances, the LSC will consider provision for learners of compulsory school age as eligible for LSC funding, subject to the following.
- The provision must meet an individual learner's needs, bearing in mind the learner's aptitude and ability, and the provision must be included on the Section 96 list as suitable for pre-16 as well as post-16 learners.

- It is not envisaged that groups of learners would be eligible for funding, since by inference such circumstances are unlikely to be exceptional.
- Where learners of compulsory school age enrol on basic skills summer-schools programmes, the provider must obtain prior agreement from its LSC partnership team.

Learners Enrolled in Schools

- 41 A learner who is enrolled in a school but who wishes to undertake a part-time learning aim outside school hours that is not connected with the learner's full-time programme at school, for example by enrolling on an evening class, will be eligible for LSC funding provided he or she is over compulsory school age. The LSC will not fund evening re-sit GCSE programmes at an FE provider for such learners.
- 42 The LSC will not fund learners who are enrolled full time in a school and who wish to follow part of their programme at an FE provider during school hours. In such circumstances, whatever the age of the learner, this provision should be treated as link provision, and the school is expected to meet the costs of this provision.
- 43 The LSC will separately fund a small number of special projects for 14–18 year olds.

Groups of Learners

Higher education learners

- 44 The LSC does not expect to fund FE qualifications or other programmes for groups of HE learners. The funding provided by the HEFCE for HE learners is intended to fund all of the learners' programmes. If, in order to gain their HE qualifications, a group of learners requires, for example, key skills, additional tuition in mathematics or sports coaching awards, the LSC would normally expect this to be funded out of the resources provided by the HEFCE for the HE programme.
- 45 Responsibility for the funding of all prescribed HE and Higher National Certificates (HNCs) and Higher National Diplomas (HNDs) transferred to the HEFCE from August 1999.
- 46 The LSC has the power to fund non-prescribed HE learning aims in LSC-funded colleges and providers. Non-prescribed learning aims are those that fall outside the schedule of prescribed learning aims of HE as defined in the Education (Prescribed Learning Aims of Higher Education) (Wales) (Amendment) Regulations 1998. These higher-level vocational learning aims are generally professional learning aims leading to accreditation by a professional body, and do not include, for example, part-time certificates in HE. Changes in the volume and type of this provision should be considered by the LSC partnership team in the context of local needs analyses.

Staff employed by a provider as learners

47 Staff employed by an institution may be funded on eligible programmes, provided that attendance is normally outside their contracted working hours, or that they are released for training and make up the time, or are replaced. The exceptions are basic skills learning aims and teaching qualifications, as described below.

- Basic skills learning aims are available to all staff during working hours. Teachers and support staff are both eligible for LSC funding.
- Teaching qualifications are available to staff employed as teachers or trainers during working hours. Only staff employed as teachers or trainers are eligible for LSC funding where the teaching qualification is studied during working hours.
- All other types of learning aims must be studied in the staff's own time for them to be eligible for LSC funding. This applies to all staff; teachers and support staff are eligible for LSC funding only if they make up the time, that is, they follow the course in their own time.

Enrolment at more than one LSC-funded provider

48 Whilst the LSC recognises that learners may occasionally enrol at more than one provider, groups of learners enrolled on a full-time programme at one provider should not be enrolled on part-time programmes with other providers, especially through franchised provision. For example, it would not be appropriate for several learners enrolled on a full-time sports and leisure programme to be enrolled at another provider to undertake a first-aid or sports-coaching qualification, especially through franchised provision. This could lead to an over-claim of funding.

Provision by health authorities or social services

49 The LSC's remit does not extend to funding types of provision for people with learning difficulties and/or disabilities that are the responsibility of other agencies such as health authorities or social services. Joint funding of integrated packages of learning and care, however, will continue to be appropriate in some circumstances. The LSC will encourage agencies to work together at local level to develop joint packages of funding for programmes and activities for individuals. Colleges and providers should consult their LSC partnership team when planning such provision.

Provision for offenders

50 Offenders' learning and skills is now one of the LSC's key priorities. To assist in delivering this priority and reduce bureaucracy any provider delivering agreed LSC funded programmes to learners detained in English prisons may treat detainees as learners eligible for LSC funding without the usual evidence required under paragraphs 14 – 19. This concession only applies to learners detained in prison and not to either learners serving community sentences, or those under supervision in the community or those detained in immigration centres.

3: Evidence of Learner Existence and Eligibility

This guidance is reproduced from booklet FE ILR Funding Compliance Advice 2006/07 Section 2 General Funding Compliance Advice for all LSC Providers and for all Learners. Parts of this guidance are reproduced here for ease of reference for providers including the LSC advice on evidencing existence of learners.

Evidence of Learner Existence and Eligibility

- 51 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

- 52 Providers should not claim funding for learners who are not members of the “home” population of England, irrespective of their mode of attendance.
- 53 The LSC does not generally fund learners who are not UK or European Economic Area (EEA) nationals living in England (“from overseas”), unless they meet the residency requirements specified in the Education (Fees and Awards) Regulations 1997, published by The Stationery Office.
- 54 The regulations are complex and are summarised in Section 2 of this booklet.
- 55 Providers are required to scrutinise applications for study by learners to ensure that they are eligible for LSC funding and to 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. Further information on eligibility and documentation on Section 4 support under the Immigration and Asylum Act 1999 is provided in Annex 2. **Providers are reminded that adult asylum seekers are only eligible for funding from 1 August 2007 if they meet the conditions set out in paragraph 18.** Good practice is for providers to retain documentation to prove eligibility, including any relevant documentary evidence to support any individual learner eligibility granted under paragraph 18. 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.
- 56 Provider management should check enrolment forms to see if evidence has been gathered on the residency status and eligibility of the learner.
- 57 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.

- 58 Learners of compulsory school age are eligible for LSC funding only 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.
- 59 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

- 60 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 among 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

- 61 The LSC considers it 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. While 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.
- 62 A provider should retain as compliance evidence to support its funding claim a learning agreement signed on behalf of the provider and by the learner. While 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 triannual 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.
- 63 Providers should be able to evidence 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 and have led to good progression opportunities for the learners. For learners receiving IAG directly from partner providers, LSC providers should make sure that IAG of an equivalent quality 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

- 64 Each student should have completed and signed an enrolment form relating to the learning programme for which LSC funding is being claimed (this may for some providers or learners 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 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 evidence alternative learner eligibility as set out in paragraphs 14-20 above. The provider may wish to use the enrolment form to collect other information as necessary for their learner record and monitoring purposes. Enrolment forms completed online by the learner should be printed out at the provider (or learning) centre and

posted to the learner's home address. It should then be signed and returned in the post by the learner.

- 65 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.
- 66 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 evidencing 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.
- 67 The enrolment form and the learning agreement may be combined to form one document, which should contain all the relevant information.

Learner attendance

- 68 There should be evidence that individual students were undertaking the specified learning programme during the learning period in which funding is being claimed.
- 69 For most learners this will take the form of registers of attendance. Experience has shown these to be 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 to the LSC.

Register

- 70 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 these systems. The LSC offers no advice or preference on types of systems, which may be either paper-based or electronic, or a mixture of such systems.
- 71 It is very important that all LSC providers ensure any partner providers can evidence claimed learner contact time with tutors to avoid any eligibility issues over their partner provider provision.
- 72 The following advice on registers is compulsory for providers outside plan-led funding. Accounting officers for providers within plan-led funding may find this 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 and 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.
- It 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 or provision.

Cease to attend, withdrawal from course and learning agreement amendment forms

73 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 sign as well to confirm their consent to the change in their programme. Further advice on withdrawals is given in Section 5 of this document.

Achievement

74 The funding arrangements from 2006/07 continue the current process of claiming achievement funding using a historical achievement factor. The final ILRF05 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 or 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 learner's learning programme.

75 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. It is important that the achievement funding field is fully completed each year so that the provider's achievement factor is properly calculated for the following year.

- 76 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 Qualifications Framework.
- 77 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.
- 78 A learning aim may be recorded as partially achieved only where the student has achieved at least one of the credits or modules towards the final award.
- 79 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.
- 80 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.
- 81 Providers are reminded that achievement may not be claimed for a learner where there is no corresponding claim for on-programme funding.

Fee Remission

Compliance evidence

- 82 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
 - 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 paragraph 94.
 - for fee remission being claimed on the basis that the learner is attending their first full Level 2 programme (see paragraph 83 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.
- 83 Acceptable evidence of unemployment benefit or a means-tested state benefit would be official documentary evidence of the relevant means-tested state benefit. Providers are reminded that evidence of low income, such as pay slips is insufficient to claim LSC fee remission funding and such learners should be referred to other government agencies for determination of means-tested state benefits.

- 84 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.
- 85 The LSC has included guidance on the definition of a full level 2 and 3 in the ILR specification and this is reproduced as Table 1 at the end of this section.

Documentation: all providers and partner providers

- 86 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

- 87 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 *FE ILR Funding Compliance Advice 2006/07* paragraph 24 for advice on materiality).

Table 1 Prior attainment levels (see Annex G of 2007/08 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 or 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-level passes 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 HE courses ESOL and foreign languages Advanced awards	03
Level 4	Teaching qualifications (including PGCE) First degree	BEC National HNC/HND BTEC National HNC/HND HE certificate HE diploma LCCI Advanced Level NVQ Level 4 Nursing (SRN) RSA Advanced Certificate RSA Higher Diploma	04

4: Fee Remission in FE

This guidance is reproduced from booklet *Funding Guidance for Further Education in 2007/08* Section 4 Calculating Funding and Associated Rates. The part of this section relevant to FE fee remission is reproduced here for ease of reference for providers.

Fee Remission (as per *Funding Guidance for Further Education 2007/08*)

- 88 Fee remission is applicable to all 16–18-year-old learners, including those on part-time programmes, and continues to be available for adult learners who meet specified criteria (see paragraph 94). Where fees are remitted for learners who meet these criteria, the provider should not charge the learners tuition fees. In these cases, the full national base rate will be payable, with the achievement element dependent on whether or not the learner achieves.
- 89 Where a learner's learning aim is a basic skills qualification that is not English for Speakers of Other Languages (ESOL), this automatically attracts full tuition fee remission. In addition, the learner should not be charged for any other aspect directly relating to his or her basic skills learning aim. If the learner wishes to undertake an additional learning aim that is not basic skills, fee remission may not be claimed for the additional learning aim unless the learner is otherwise eligible for fee remission (see paragraph 94).
- 90 A learner in receipt of an eligible benefit on enrolment shall be eligible for fee remission for the whole of the academic year. If a learner becomes eligible for tuition fee remission during the academic year, the provider can claim tuition fee remission from the next census date until the end of the academic year, and the ILR should be amended accordingly.
- 91 It remains the responsibility of the provider to establish eligibility for tuition fee remission at the start of each academic year, both for learners who are starting and for those who are continuing their studies.
- 92 Providers are reminded of the need to ensure that recruitment of learners is undertaken in a fair and non discriminatory manner and the question of eligibility for fee remission should not be used to give preferential enrolment treatment to particular groups of learners on any LSC funded programmes.
- 93 Providers are also encouraged to ensure that they offer support to all learners in considering their eligibility for fee remission. This is particularly important for learners unable to prove eligibility for fee remission because of language difficulties, cultural or other reasons. Many providers exercise discretion by enrolling such learners and then working with them to gather the evidence required to claim fee remission prior to the commencement of the learner programme. In some cases, this may require providers to seek evidence of learners financial circumstances (such as pay slips, P60s and other tax forms) in order to assist learners to obtain the necessary evidence of means tested state support. Providers are encouraged to work locally with other government

agencies to ensure all eligible learners can evidence their entitlement to fee remission.

- 94 The categories of learners who are entitled to fee remission are (learners only need to be eligible under any single entitlement category):
- 16–18 year olds (the Secretary of State does not expect tuition fees to be charged to full-time or part-time 16–18 year olds)
 - learners studying their first full Level 2 qualification. Full Level 2 qualifications are identified on the Learning Aims Database (LAD) (available at <http://providers.lsc.gov.uk/lad>)
 - 19-25-year old learners studying their first full Level 3 qualification. Further guidance on the introduction of the Level 3 entitlement is available at Annex M of *Funding Guidance for Further Education in 2007/08*
 - those in receipt of income-based benefits, formerly known as means-tested benefits, that is:
 - a) unemployed people in receipt of income-based Jobseeker's Allowance
 - b) those in receipt of Council Tax Benefit,
 - c) those in receipt of Housing Benefit
 - d) those in receipt of Income Support
 - e) those in receipt of Working Tax Credit with a household income of less than £15,050
 - f) those in receipt of Pension Credits (Guarantee Credit only)
 - unemployed people in receipt of contribution-based Jobseeker's Allowance
 - the unwaged dependants (as defined by Jobcentre Plus) of those listed above
 - offenders who are serving their sentence in the community
 - those taking learning aims that are funded as basic skills as defined in Section 3 of *Funding Guidance for Further Education in 2007/08*, excluding English for Speakers of Other Languages (ESOL)
 - asylum seekers eligible for LSC FE funding according to paragraph 18 of this booklet and in receipt of the equivalent of income-based benefit (assistance under the terms of the *Immigration and Asylum Act 1999*) and their dependants
 - certain learners participating in LSC-funded projects where identified in the project specification

Annex 1: Defining EU, EEA and Eligible Overseas Dependant Territories.

This annex lists the qualifying countries and/or areas that establish learner eligibility for LSC programme funding.

Member states of the European Union (EU):

- Austria
- Belgium
- Bulgaria
- Cyprus
- Czech Republic
- Denmark
- Estonia
- Finland
- France
- Germany
- Greece
- Hungary
- Ireland
- Italy
- Latvia
- Lithuania
- Luxembourg
- Malta
- Netherlands
- Poland
- Portugal
- Romania
- Slovak Republic
- Slovenia
- Spain
- Sweden
- United Kingdom

Notes on certain territories that fall within the EU

The following notes help further define those territories which should be regarded as part of the European Union (EU) for the purposes of the fees regulations.

Finland: Includes Aland Islands

Germany: Includes territory of the former German Democratic Republic prior to German unification. The tax-free port of Heligoland is included within the EU.

Spain: The Balearic Islands, the Canaries, Ceuta and Melilla are part of the EU.

France: The French Overseas Department (DOMS) (Guadeloupe, Martinique, French Guyana, Reunion and Saint-Pierre et Miquelon) are part of metropolitan France and are part of the EU.

Portugal: Madeira and the Azores are part of the EU. Macao is not

UK: Gibraltar is part of the territory of the EU. The Channel Islands and Isle of Man are not part of the EU nor are the Sovereign Bases on Cyprus.

Other territories: Andorra, Monaco, San Marino and The Vatican are not part of the EU.

Member states of the European Economic Area (EEA)

This includes all the EU countries and territories listed above together with the following countries:

Iceland

Liechtenstein

Norway

* Switzerland

** For simplicity for providers that have to assess learners for eligibility for LSC funding, Switzerland is treated as within the EEA area. In law, Switzerland is not part of the formally recognised EEA area but its national are similarly eligible under various international treaties signed by the UK and Swiss governments.*

LSC Eligible Overseas Territories (these will either be UK or EU overseas territories for which the LSC will allow providers to claim funding (please refer to paragraph 15))

Eligible British Overseas Territories

Anguilla	British Virgin Islands	South Georgia & the South Sandwich Isles
Bermuda	Cayman Islands	
British Antarctic Territory	Falkland Islands	St Helena & its Dependencies
	Montserrat	
British Indian Ocean Territory	Pitcairn Islands	Turks & Caicos Islands

Eligible Overseas Territories of other EU member states

Greenland & Faroe Isles (Denmark)

Netherlands Antilles (Bonaire, Curacao, Saba, St Eustatius and St Maarten) and Aruba (Netherlands)

French possessions:-

New Caledonia

French Polynesia

Wallis and Fortuna

Mayotte

St Pierre et Miquelon

French Southern and Antarctic Territories

Annex 2: Support under Section 4

This annex provides some eligibility compliance advice to LSC providers for learners claiming eligibility as asylum seekers and refugees. This annex is principally about support provided under Section 4 of the Immigration and Asylum Act 1999 (and any subsequent amendments)

In addition to the advice below, providers may also find the following websites helpful:

General Home Office Border and Immigration Agency website at:

<http://www.ind.homeoffice.gov.uk/applying/asylum/applyingforasylum>

and also the particular advice regarding Section 4 support available at:

<http://www.bia.homeoffice.gov.uk/applying/asylumsupport/section4support>

1 The advice below is included for 2007/08 to respond to a number of questions raised by providers for this new area of eligibility for 2007/08.

LSC advice on evidencing eligibility

2 Learners who are successful in their asylum applications and/or appeals will usually be eligible and able to produce the necessary documentary evidence (such as Home Office letters/documents) under one of the following paragraphs:

- a. 14 (d): If granted full refugee status
- b. 14 (e) or 17(b): If granted humanitarian protection or discretionary leave to remain

3 Learners who are unsuccessful in their asylum applications and/or appeals may be eligible under paragraph 18:

- a. If they can provide documentary evidence that the Home Office has taken more than six months to decide on their application. (see paragraph 4 below)
- b. Produce evidence of Section 4 support – it is likely that some asylum seekers whose application and/or appeal is refused may be eligible under this paragraph.

4 To gain eligibility for LSC funding under paragraph 18 (a) of this guidance all asylum seekers awaiting decisions for more than six months will need to produce documentary evidence of:

- a. the date that they have registered for asylum (usually within a short period of time of arrival in UK as required by the Home Office regulations)
- b. that their case is still under review by the Home Office after the LSC six month qualifying period and that no decision has been made. In many cases the Home Office may have been in correspondence seeking further information or documentation from the applicant.

Home Office advice on Section 4 support

5 All asylum seekers whose applications have been refused and whose appeal rights are exhausted are required to leave the UK. It is accepted that there will be some failed asylum seekers who are destitute and unable to leave the UK immediately due to circumstances beyond their control. In these circumstances the failed asylum seeker can request the provision of support under section 4 of the Immigration and Asylum Act 1999 (IAA 1999).

6 Families with minor dependants under 18, who were in receipt of asylum support under section 95 of the IAA 1999 at the time appeal rights were exhausted, continue to receive support in accordance with section 94(5) of the IAA 1999. Where a minor dependant is born or added within the prescribed period (21 days if the decision is served in person; 23 days if served by post) following a negative outcome on the asylum application section 95 support will continue. If the only minor dependant is born or becomes part of the household outside of the prescribed period, the family will not be eligible for section 95 support. Support may be provided to the family under section 4, provided the eligibility criterion is met.

7 Section 4 support is intended as a limited and temporary form of support for people who are expected to leave the UK.

8 The Secretary of State may make support to failed asylum seekers and their dependants subject to one or more of the conditions set out in regulation 6(2) of the 2005 Regulations, provided that they are set out in a notice to the person in writing.

This support is detailed in the section 4 grant letter in which providers should retain documentation to prove eligibility.

9 To date there are 11 grant letters:

Grant Letters	
Grounds for grant	Letters
The applicant is taking steps to leave the UK	Grant Letter – VARRP (Voluntary Assisted Return and Reintegration Programme)
	Grant Letter – Taking steps to leave
The applicant is unable to leave the UK	Grant letter – No Viable Route of Return
	Grant letter – Pregnancy
	Grant letter – Medical
Judicial Review, or grant of interim support by Court order	Grant Letter – Judicial Review
	Grant Letter – Court Order
Human rights grounds	Grant Letter – Human Rights (other)
	Grant Letter – Human Rights (fresh claim)
	Grant Letter – Human Rights (late appeal)
The applicant has applied for bail	Grant Letter – Bail

10 Section 4 support is subject to a review process to ensure that only those applicants who remain eligible are supported. This review is carried out by EO Caseworkers on a regular basis, including normally:

- After two weeks, where the applicant has yet to register for Assisted Voluntary Return (AVR) and is supported on the basis that they are taking all reasonable steps to leave the UK.
- Six weeks after the applicant has registered for AVR, and again after a further six weeks. (Support would not normally be discontinued until three months have elapsed, as normally a person remains approved for AVR for three months and applicants can normally leave the UK within this time if they co-operate fully with the International Organisation for Migration (IOM)).
- Six weeks from the Expected Date of Delivery (EDD) (or birth where we have been notified of the date) in the case of pregnant mothers.
- As advised by the Asylum Support Medical Adviser or on medical evidence presented with the application, where the applicant is unable to leave the UK by reason of a physical impediment to travel or for some other medical reason.

11 A person whose application for support under section 4 is rejected, or whose support under section 4 is discontinued for a reason other than their departure from the UK, has a right of appeal to the Asylum Support Tribunal

(AST) if the decision to refuse or discontinue support was taken on or after 31 March 2005.

If the appeal is dismissed, the applicant will not be able to remain in accommodation provided by the Border and Immigration Agency and will be required to support themselves until they leave or are removed from the UK, unless they subsequently become entitled to section 4 support because of a material change in circumstances.

© LSC March 2007

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This publication is available in an electronic form on the LSC's website (www.lsc.gov.uk).

Publication enquiries: 0870 900 6800

Publication reference: LSC-P-NAT 070030