

Disabilities and Learning Difficulties

Equality and Diversity Guidance 04/2002

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	<i>Paragraph Number</i>
Executive Summary	
Definitions	6
Language	42
LSC's duties	52
Inclusive learning	55
Essential partnerships	65

Executive Summary

Equality and diversity guidance 04/2002

Date:

13 April 2002

Subject:

Guidance on meeting the Learning and Skills Council's duties in relation to disabilities and learning difficulties

Name of sender:

Lynn Macqueen

Name of intended recipient:

Local Learning and Skills Councils

Status of document:

for information and guidance

Summary content:

This document provides background information on disabilities and learning difficulties in the context of education and training. It addresses issues about the language used to describe disability.

It also refers the reader to further more detailed sources about the topic.

The document suggests ways in which local LSCs might work with partners to plan and deliver the highest quality provision for people with learning difficulties and disabilities.

EQUALITY AND DIVERSITY GUIDANCE 04/2002

Guidance on meeting the Learning and Skills Council's duties in relation to disabilities and learning difficulties

Linkages to:

The Learning and Skills Act 2000 (s13 and s14)

The Special Educational Needs and Disability Act 2001

Department of Health White Paper *Valuing People* 2001

The report of the Tomlinson committee: *Inclusive Learning*

Learning and Skills Council National Strategy on Equality and Diversity – Widening Participation and Promoting Inclusion, 2001 - 2004

Learning and Skills Council Guidance (01/2002) on Equality and Diversity Impact measures

Learning and Skills Council Guidance (02/2002) on the Special Educational Needs and Disability Act 2001

Purpose

1 The purpose of this document is to provide information on disability issues for those colleagues in the Learning and Skills Council (LSC) both nationally and locally who have little previous experience in this area. It sets out some of the current issues of relevance to post 16 education and training. The guidance will provide information and give details of recent developments and initiatives to look out for. It is designed to help the development and implementation of a coherent LSC strategy for meeting the needs of learners with learning difficulties and/or disabilities. It will also give a series of prompts, which will enable colleagues to consider an appropriate local response.

2 The paper is structured as follows:

- definitions
- language
- LSC's duties
- inclusive learning – a legacy and link to new legislation
- essential partnerships

3 The paper will also be of interest to colleagues whose role requires them to have specific involvement with learners with learning difficulties and disabilities. Its primary audience, however, is colleagues throughout the LSC who may be encountering disability issues for the

first time, as equality and diversity become mainstreamed throughout the organisation.

4 During 2002, the LSC plans to develop a national strategy on its work relating to learning difficulty and disability.

5 Enquiries on the content of this guidance should be sent to Lynn Macqueen, Equality and Diversity team – 02476 703285

Definitions

6 Throughout this document, the word disability is used to describe the effect caused by an organisation's failure to take a learner's impairment (whether cognitive, physical or sensory) into account.

7 *The Learning and Skills Act 2000* (LSA) defines a learning difficulty as: having a significantly greater difficulty in learning than the majority of people of that age, or having a disability which prevents the use of facilities generally provided by post 16 education and training.

8 *The Disability Discrimination Act* (DDA) defines disability as: 'having a physical or mental impairment which has a substantial and long term adverse effect on the ability to carry out normal day to day activities'

9 The LSC's objective is to ensure the participation, retention and achievement of all learners irrespective of disability, ethnicity, age and gender.

10 At national level, the LSC will ensure that its funding system, including arrangements for additional support, meets the needs of learners with learning difficulties and disabilities in each sector of post 16 provision.

11 At local level, the concept of disability needs to be closely considered in order to ensure that the very varied needs of this wide group of learners are addressed. No single programme or approach will meet the needs of all learners.

12 The text below begins to unpack some of the most common categories used to describe disabilities. The list is not exhaustive, nor is it possible, or desirable to think of the needs of learners only under such headings. They will also be older and younger learners, members of ethnic minorities, men and women.

People with learning disabilities

13 There are 1.2 million adults in the UK with learning disabilities. Their capacity to develop skills is affected by their levels of cognitive ability. Some adults will have additional disabilities, which may require non-standard means of communication such as Makaton (a communication system using visual symbols) or a voice synthesiser. For some students with profound and complex disabilities their needs will include the use, recognition and valuing of their own communication styles.

Look out for

'Enhancing Quality of Life' is a project on the needs of learners with profound and complex learning difficulties, carried out by SKILL: the National Bureau for Students with Disabilities and the University of Cambridge School of Education. The report

was published in February 2002 and is available on the SKILL website. The final stage of the research involves 30 providers across the country developing the learner centred resources outlined in the report.

This group of learners was identified in the Tomlinson Committee report 'Inclusive Learning' as being under-represented in further education.

14 Many people with learning disabilities will have realistic expectations of achieving qualifications in a wide range of vocational areas. Many of them will have no chronic health problems, no mental ill health and no physical or sensory impairments. Lack of awareness or prejudiced assumptions on the part of providers can often lead to the exclusion of many potential learners.

Look out for

The Department of Health has produced as part of the Valuing People Initiative, an accessible publication setting out the process of person centred planning for adults with learning disabilities in clear text and illustrations. This enables people with learning disabilities to be full partners in the process of decision making about their lives. There are major changes taking place to the delivery of services for adults with learning disabilities. Education and training providers will need to consider what contribution they can make to the range of provision available. The LSC will examine and learn from the Department of Health practice in engaging learners.

15 The main additional barriers to learning for people with learning disabilities are transport, physical access, the need for flexible support and the complexities of inter agency funding. Adults with learning disabilities often have to fight for the right to be treated as independent adults.

16 Local LSCs should ensure that providers give careful thought to the

types of programmes required by this group of learners. Problems have arisen in the past because of inaccurate assumptions about the capability, commitment and aspirations of these learners. In addition to, or sometimes instead of, vocational qualifications, learners will look to the post 16 system for the development of skills in independent living, including self advocacy. While basic skills will form a part of independent living for some learners, it should not be assumed that this is central to everyone's needs and aspirations.

17 MENCAP, as well as being a provider of facilities for young people and adults with learning difficulties, is a useful source of information and resources. They can be contacted at information@mencap.org.uk

Physical disabilities

18 There are several million adults in the UK with physical disabilities. The incidence of physical and sensory impairment increases with age. Very few people with physical disabilities will be wheelchair users. Many will have no cognitive impairment. If they wish, and if provision is accessible these learners should be able to achieve on programmes which suit their needs and aspirations. As well as access, adaptations to technical equipment will be required, and there is significant scope for the use of technology as an aid to communication. Learners may need learning to be sufficiently flexible in pace to accommodate their needs. Some learners will tire easily and may require privacy for rest and personal care. Such support is likely to constitute a "reasonable adjustment" as defined in the SEND Act.

19 While many people with physical disabilities can and do undertake "physical" jobs, high-level qualifications and training in ICT may be of interest to learners with physical and/or sensory impairments.

Look out for

E-skills NTO is sponsoring a campaign to address skills shortages in the ICT industry through a recruitment drive amongst people with disabilities. The development of flexible working environments minimises physical barriers to employment. The LSC will consider how it might best respond to a demand for high-level ICT training from people with disabilities.

20 Learners with physical disabilities (as all other learners with disabilities) will expect that providers, under the requirements of the Special Educational Needs and Disability Act 2001 (SEND Act) will anticipate their need. Providers should be arranging for access audits to help them identify how their site can become welcoming to all learners. Audits will also recommend action to support access for those learners who have a combination of impairments.

Look out for

A major programme of provider staff training in support of the implementation of the Special Educational Needs and Disability Act will begin in autumn 2002. The contents of the programme will be determined following a scoping exercise currently being undertaken by consortium comprising SKILL, National Institute of Adult and Continuing Education (NIACE) and the Learning and Skills Development Agency (LSDA). The programme will be managed by the LSC.

21 SCOPE is the national charity which deals primarily with issues relating to physical disability. Contact them at www.scope.org.uk

Dyslexia

22 Dyslexia affects 10% of the general adult population with 4% severely affected. Learners with dyslexia are found across the whole ability range. As well as impeding the acquisition of reading, spelling and handwriting skills, dyslexia also affects organisational and planning skills.

23 The main barriers for learners often stem from their lack of success in previous learning experiences. For many, school education was humiliating and damaging. Lack of understanding, lack of specialist expertise, complex enrolment procedures, the limited availability of diagnostic assessment and the lack of funding for specialist teaching are all barriers to access.

24 Local LSCs should ensure that providers have assessment arrangements in place and all staff should be aware of the implications of dyslexia for materials and delivery style.

25 The Dyslexia Institute is one of several organisations which advise on the needs of learners with dyslexia. Contact them on www.dyslexia-inst.org.uk

Deaf or hard of hearing

26 There are 8 million people in the UK with some sort of hearing loss. Deafness in birth or in childhood has significant effect on the acquisition of spoken language and subsequently on learning. Around 180,000 people in the UK are thought to be pre-lingually deaf. A further 500,000 people become severely or profoundly deaf later in life. There are two important sub groups of deaf learners: those who use British Sign Language (BSL) as their preferred language and those who use speech and lip reading.

27 The main barrier to learning for deaf people who have BSL as a first language is that their school education was often not conducted in that language. BSL grammar differs from English grammar and deaf BSL users may require support with literacy.

Look out for

NATED (National Association for Tertiary Education for Deaf people) has recently completed a survey of support provision for deaf people in further education. The pattern of demand for high-level quality

support is patchy, so local LSCs may need to consider how the need can best be met. The association has also developed ideas about appropriate levels of training necessary for staff working with deaf students. NATED can be contacted at nated@btopenworld.com

28 The Royal National Institute for the Deaf (RNID) advocates and provides services on behalf of deaf people. Contact them on www.rnid.org.uk

People with mental ill health

29 About one in five people will have mental health difficulties at some stage in their lives. People at all levels of educational ability are affected. Learners may need flexible forms of provision which reflect the episodic nature of mental ill health. They may need breaks from learning during periods of ill health, which will affect the continuity of learning and the degree to which material is retained. Medication may interfere with learning and memory function. Some people may have a history of institutionalisation which makes it a struggle for them to deal with everyday tasks. Confidence and communication skills are often adversely affected. Some people with learning disabilities have additional mental health problems.

30 Young people with emotional and behavioural difficulties are under-represented in further education. Appropriate support often relies on an inter-agency approach.

31 The main barrier to learning for people with mental ill health is the widespread ignorance and prejudice about mental health. Local LSCs should ensure that providers offer training for all staff which includes an awareness-raising element on mental health.

32 The Mental Health Foundation provides useful information. Contact them at www.mentalhealth.org.uk

Look out for

The attendance of people with mental health difficulties can be sporadic and a standard pattern of course delivery may be insufficient to meet their needs. The LSC is working with the National Institute for Adult and Continuing Education (NIACE) and the Sainsbury Centre for mental health to ensure that learners with mental health difficulties are not excluded from learning and training by the inflexibility of funding and support arrangements. The focus group, chaired by Kathryn James of NIACE is also developing an information pack on mental health for staff in LSC. Kathryn can be contacted at kathryn.james@niace.org.uk

Medical problems/chronic ill health

33 Many learners experience chronic ill health which may impact on their capacity to access learning. Conditions such as ME, epilepsy, diabetes may (or may not) affect the capacity to learn. The impact of medication can act to reduce concentration, affect short-term memory and diminish energy levels. Providers will need to consider the need for flexibility and the pace of work. Some learners may also require facilities for medical interventions. This group of learners (in common with many others) may benefit from flexible and distance learning opportunities or online tuition.

Look out for

NIACE is currently funding a project entitled Prescribing Learning which looks at the mutually beneficial effects of learning and health. The project report gives examples of partnerships between health and education practitioners. Contact Kathryn James at NIACE for information.

Visual impairment

34 There are approximately 1,670,000 people in the UK with a visual impairment. There are three important sub groups of learners:

- those with early onset of a visual impairment where learning will involve alternative literacy formats
- literate adults who have lost sight and need to learn alternative formats
- those with additional disabilities.

35 There are significant issues for the use of technology for all these learners. Local LSCs should consider ways in which advice and access by providers to specialist equipment might be secured within their areas.

36 The main additional barriers for visually impaired people include inadequate access to information and inadequate physical access.

37 The Royal National Institute for the Blind (RNIB) has extensive services in support of blind and visually impaired people. A small but significant aspect of their work is advice on designing accessible websites. Contact the RNIB at www.rnib.org.uk

Autism

38 The increased incidence of a diagnosis of children with autistic spectrum disorders has been well documented. Autism is a lifelong developmental disorder that affects communication and how a person relates to people around them. People with autism can have accompanying learning difficulties. Asperger's Syndrome is a form of autism used to describe people at the higher functioning end of the spectrum.

39 There is a triad of impairment:

- social interaction
- social communication
- imagination

Repetitive behaviour patterns are a notable feature and also a resistance to change in routine.

40 Transition from one phase of provision to another will be stressful for people with autism. Providers need to work closely with those already involved with learners with autism to understand the processes necessary to ensure a smooth transition.

41 The National Autistic Society aims to improve the lives of people with autism through public education, support and training. Contact them at www.nas.org.uk

Questions for local LSCs

How sharply focused is the needs analysis on issues relating to disability?

Is the analysis sufficiently detailed to distinguish different issues for different disabilities?

How adequate is existing provision both in terms of quantity and quality?

What does local data on participation, retention and achievement of learners with disabilities reveal?

How well established are the mechanisms for consultation with people with disabilities?

What are the training needs of LSC staff in relation to disability?

How might the local LSC take advantage of the range of existing expertise in the voluntary sector?

Language

42 The language used to discuss this area of work can be contentious, unhelpful and hurtful. This is partly because of the sensitivity around labelling people by a particular physical attribute or condition and because language use as in many other aspects of modern life, undergoes style changes. Words like handicapped, sub normal, spastic and

mental were once commonplace but are now unacceptable. Phrases such as 'special needs' are also criticised and a term like 'learning disability' is interpreted differently by different groups.

43 Avoid using acronyms at all costs. Within the Further Education Funding Council (FEFC), the acronym SLDD was frequently used. This stood for "students with learning difficulties and/or disabilities". LLDD – learners with learning difficulties and/or disabilities has started to be used by LSC colleagues. It is offensive to reduce someone to a set of initials and colleagues should avoid both these acronyms.

44 In the past, some schools classified provision as SLD (severe learning difficulty), MLD (moderate learning difficulty) and PMLD (profound and multiple learning difficulty). These terms should also be avoided since their generality does nothing to identify the abilities, needs and aspirations of the individuals concerned.

45 Classification however, can sometimes be helpful in activities such as mapping, or the targeting of resources and provision. However such classification should be avoided when referring to individual learners as it can be seen as derogatory and fails to address individual needs.

46 The disability lobby rejects all definitions which are based on a deficit model – i.e. an assumption is made about a "normal" person – where someone is defined as disabled if they do not achieve this standard of normality. The medical model of disability sees it as an illness, and puts emphasis on the condition rather than the person. Some people would criticise the definition in the Learning and Skills Act on these grounds.

47 The same people would argue that disability is a social construct – because the environment has for so long

discriminated against those who are in some way different, then they are “disabled” by the environment. In an environment that acknowledges a person’s ability and his/her preferred method of communication, he/she is not excluded.

48 The LSC does not endorse the medical “deficit” model of disability. This model sets learners apart and sees them as a problem to be managed and their special needs something to be addressed. This way of thinking leads to a system that is forever adapting and fitting people into arrangements never designed with them in mind.

49 The LSC recognises that systems themselves can be disabling and require radical changes. The concept of inclusive learning provides a way forward.

50 Not all people with disabilities hold identical views on the issue of language; some will accept labels if it is a means to secure the resources and changes needed.

51 LSC staff will bear the following in mind:

- people first, rather than labels
- impairments do not uniformly have the same impact on capacity to learn
- providers’ assessments should be based on working with, and listening to, the learner
- consultation with relevant groups of learners is essential

Questions for local LSCs

How comfortable are staff with language and issues relating to disability?

How are providers made aware of the LSC’s position on disability?

How are inappropriate attitudes and language challenged?

How does the LSC access advice from people with disabilities?

LSC’s Duties

Information

52 The LSC is charged by the Learning and Skills Act 2000 with “having regard” to the needs of people with learning difficulties and/or disabilities as it carries out its main functions relating to post 16 education and training.

53 Specifically, the LSC:

- Must secure proper facilities for learners between the ages of 16 – 19 (s2)
- Must secure reasonable facilities for learners over 19 (s3)
- May secure work experience facilities (s8)
- Must consider the provision of boarding accommodation (s13(2))
- Must promote equality of opportunity between people who are disabled and those who are not (s14)
- Must report on the arrangements made to promote equality of opportunity, their effectiveness and on arrangements planned for the following year (s14).
- Must have regard to the outcome of an assessment by the Connexions service (s140)

What does this mean for local LSCs?

- Each local LSC has a responsibility to be aware of the pattern of the provision in its area for learners of all ages and for all types of provision. The Connexions service has a responsibility to report gaps in provision to the LSC

- Each local LSC should consult appropriately to determine the needs in relation to the education and training of people with disabilities in their area
- Each local LSC should identify any barriers to access in local providers
- While there need to be staff who specialise and/or co-ordinate this area of work, all staff need to understand the LSC's duties and how they affect their area of work. This area of work should be mainstreamed within the local LSC's activities
- Each local LSC needs to have in place suitable arrangements with local authorities to identify where residential placements are required for young people aged 16 – 25
- The LSC should be aware of the implications of the LEA's Adult Learning Plan for adults with disabilities
- Each local LSC needs to include learners with disabilities in its data collection activities. The LSC is developing impact measures to achieve equality in participation, retention and achievement of learners with disabilities
- developing work experience opportunities
- a national system of data collection and benchmarking
- flexible funding
- residential placements
- transport

Questions for local LSCs

How is responsibility for meeting the LSC's statutory duties mainstreamed throughout the organisation?

How is the LSC identifying levels of current provision as well as gaps?

What is the local strategy for this aspect of the LSC's work?

How is this area of work dealt with in the strategic plan?

What reporting arrangements are in place for local Council members?

Inclusive learning - a legacy and link to new legislation

Information

55 The meaning of inclusion in a further education context has taken on additional associations since the publication of the Tomlinson report *Inclusive Learning* in 1997. The Further Education Funding Council (FEFC) commissioned the report to advise on how it might meet its statutory duties towards learners with disabilities. These duties have been passed to the LSC.

56 In the report, "inclusive" has a meaning close to appropriate or relevant. Tomlinson defined Inclusive Learning as:

'the greatest degree of match or fit between the individual learner's requirements and the provision that is made for them'

54 In April 2001, the department of education and employment (DfEE) provided guidance for the LSC on *Meeting the Needs of Learners with Learning Difficulties and Disabilities*. The full text of the guidance can be found on the LSC intranet. The guidance refers to:

- the development of a common system of funding additional support
- encouraging good practice in providers

57 The Tomlinson report suggests that the needs of all learners (not just those with disabilities) will be met if providers see themselves as having a fundamental duty to meet the needs of their learners, rather than expect learners to fit into the pattern and style of provision on offer.

58 Within statutory education, the government has made clear its commitment to inclusion and integration for pupils with "special educational needs". This refers mainly to a reduction in the numbers of young people in separate or special education.

59 The word integration has been associated in schools with enabling pupils with disabilities to attend mainstream provision, sometimes, it is argued, without adequate thought for resource implications. In the worst cases, pupils can be isolated from the full life of the school and make less progress than they might have done in a more segregated, yet specialised, context. The sections in the SEND Act which apply to schools are designed to strengthen the rights of children and parents in pursuit of the best possible education.

60 The LSC funds learners with disabilities predominantly in "mainstream" providers, on courses of their choice. In addition, it funds courses specifically designed to meet a need related to a disability, e.g. life skills courses for young people with learning difficulties.

61 The LSC also funds individual residential places at independent specialist colleges, where this is demonstrated to be necessary. Local LSCs work closely with LEAs to assess the needs of young people and to identify an appropriate placement for them. Specialist providers can often be located far from the student's home, and there is sometimes a challenge for local providers to pick up the educational and training

needs when the learner returns from a residential placement.

62 Local LSCs will be aware of any specialist providers within their locality, and should develop close links apart from the placement process. Specialist providers and other local providers should be encouraged to consider how collaboration might enhance the quality of each other's provision.

63 NATSPEC (the association of national specialist colleges) is a helpful contact on the issue of provision for learners requiring specialist placements. Visit their website at www.natspec.org.uk

64 The LSC has continued FEFC's commitment to continue to implement the principles set out in *Inclusive Learning*. An understanding of the concepts contained in this report is essential to an understanding of the Council's approach to disability.

Questions for local LSCs

How widespread is the understanding of the concept of inclusive learning within the LSC?

How widespread is the practice within providers?

What is the process for ensuring that providers become more learner centred?

How are specialist providers involved in local activities?

Essential partnerships

65 In carrying out its statutory duties, and in implementing the recommendations from *Inclusive Learning*, the LSC recognises that it must engage in and promote partnerships at all levels of its activities. This will acknowledge the responsibilities of other statutory bodies, and recognise the expertise of voluntary organisations.

Working with other agencies – in support of the learner

66 Tomlinson identified the process of transition as an area for development. Organisations need to give careful attention to the needs of all learners as they pass from one phase of education to another.

67 This is particularly true of learners with disabilities because:

- they are often subjected to assessment procedures in order to identify and trigger resources – these differ from phase to phase
- they are often involved with a range of different agencies
- the nature of some disabilities requires periods of adjustment (e.g. autism) before learning and training can proceed

68 The LSC can play a part in bringing together partners in the transition process and in encouraging providers to review entry procedures. This is true of several transition phases:

- from school to post 16
- from education to training
- from training to employment
- from supported to independent living
- from residential provision to home
- from child to adult
- from patient to citizen
- from helped to helper

69 Part of the Tomlinson committee's work included the publication of *Student Voices* – which recorded the views of learners themselves. The LSC will develop its capacity to consult directly with learners with disabilities, and will consider how best to communicate with people

with learning disabilities. It will develop a partnership with learners.

70 The agencies listed below (the list is not exhaustive) all share responsibility for the provision of services to people with disabilities:

- local authorities, particularly the provision of statutory education, adult and community services and social services
- the employment service, including disability employment advisers. The new *Job Centre Plus* initiative will specifically focus on helping people off benefits and into employment
- the department of health, including the provision of care and day services
- the Connexions and Careers services
- LSC funded providers
- the voluntary sector

71 All the above work directly with learners. The LSC will ensure that the providers it funds:

- take account of assessment procedures carried out by other agencies
- tell other agencies of their procedures
- share information (within the scope of confidentiality agreements)
- have a contact point both for learners and other agencies
- have a disability statement for learners which sets out support arrangements (separate guidance is available on this)

- have appropriate entry and exit procedures to support learners in transition
- belong to networks involving key organisations

72 Local LSCs should facilitate a coherent approach to service delivery by convening (if one does not already exist) a multi disciplinary group which focuses on the needs of learners. There will be other reasons for agencies to work together, but an over-riding priority should be the development of a co-ordinated approach in a locality, consistent with the duties of different bodies, which supports learners through periods of transition.

73 Local LSCs should, as part of their consultation exercise, seek to establish links with any Black and Minority Ethnic disability groups in the area.

Working with other agencies – in the development of strategy and policy

74 Both locally and nationally, the LSC will share its emerging policies in this area of work, while taking note of corresponding policies of other agencies.

75 Staff within the LSC should be aware of the work of national bodies such as:

- Disability Rights Commission (DRC) where currently the main focus of work is the implementation of the SEND Act. The DRC will shortly launch a campaign to promote access to education amongst people with disabilities
- Skill: the National Bureau for Students with Disabilities
- NIACE: representing the educational agenda for adults

76 Local LSCs and providers need to be appropriately linked with the Connexions/Careers service. As well as working directly with learners, Connexions

has a responsibility to highlight for the LSC where gaps in provision exist.

77 The Learning Disabilities Partnership Boards have been set up in each local authority to drive forward the *Valuing People* initiative. The boards will plan local facilities (including further education and vocational training) for people with learning disabilities. The remit for the group anticipates a close working relationship with local providers and the LSC.

78 The local education authority must plan for the special educational needs of its pupils. Coherence between policies relating to statutory and post 16 provision will provide a better service for learners.

79 In its final year of operation, the Further Education Funding Council (FEFC) set up a national forum on learning difficulty and disability, with a remit to advise the LSC on how to carry forward best practice from the past and how to spread that best practice across all sectors. This forum had wide representation from relevant organisations and providers. The forum report was published in autumn 2001.

80 The LSC's response to the report has been to set up a forum to continue to advise on this aspect of the LSC's work. The new forum will meet for the first time in 2002. It will report to the national LSC equality and diversity strategy group. Contact Kit Roberts for details of the forum and its work - 02476 703421

Questions for local LSCs

What mechanisms are in place to provide continuity for learners in transition?

What forums exist locally for discussion on policy developments?

Is the LSC involved with the Learning Disability Partnership Boards in its area?

Notes

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