

**learning
and skills
development
agency**

LSDA responds

**Through inclusion to excellence:
a summary and consultation
document from the
Learning and Skills Council**

This paper sets out LSDA's response to *Through inclusion to excellence: a summary and consultation document from the Learning and Skills Council*. The document is available on the internet at:
<http://readingroom.lsc.gov.uk/Lsc/2005/research/consultation/through-inclusion-to-excellence-summary.pdf>

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LSDA's mission is to improve the quality of post-16 education and training in England, Wales and Northern Ireland. We do this through research to inform policy and practice, through helping to shape and communicate education policy and through improvement and support programmes for organisations that deliver post-16 education and training.

Further information

LSDA's responses are coordinated by the Policy and Communications Unit in collaboration with relevant expert LSDA staff.

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Introduction

- 1 The Learning and Skills Development Agency (LSDA) welcomes the opportunity to respond to the Learning and Skills Council (LSC) consultation document, *Through inclusion to excellence*.¹ Ten years have passed since the seminal document, *Inclusive learning*,² which was published by the Learning and Skills Council's predecessor, the Further Education Funding Council (FEFC). During that time many changes have occurred. The Learning and Skills Council has a remit that covers a far wider range of post-school provision; new disability legislation has altered the legal framework; and the number and range of learners with learning difficulties and disabilities who wish to study post-school have increased.
- 2 LSDA has studied the summary and consultation document alongside the main text of the *Through inclusion to excellence* review. The recommendations put forward in the summary consultation document have been extracted from the original review.

Recommendation 1. Please provide any comments you may have on the key recommendations from the report.

- 3 To avoid the risk of giving only a piecemeal picture of the review report and avoid recommendations being carried through in isolation, it would be useful to add the 'bigger picture' – the overarching messages contained in the review.

- 4 There are some key points we would wish to make, in addition to the point about the bigger picture.
- 5 There is a growing body of evidence emerging from many of LSDA's current research projects³ that the targeting of resources on LSC's public-service agreement targets is having an adverse impact on provision for learners with learning difficulties and disabilities. For example, provision for learners with mental health difficulties in a college and for profound and complex learning difficulties in adult education has been cut. Providers have been told that their Skills for Life provision, currently mostly at entry level, has to be offered at higher levels.
- 6 A number of providers in our research projects have spoken of increased demand for additional learning support (ALS) while their allocations are reducing. Where provision is of poor quality we would not wish to see it retained but the reasons we have been given relate to budgets not quality. An unintended consequence of targeting of resources on LSC's priorities is that provision for some of the most disadvantaged learners with learning difficulties and disabilities is being lost.
- 7 We have also found among some LSC staff and providers that these priorities may be taking precedence over LSC's legal duties. LSC has legal duties under the Learning and Skills Act (2000) and the forthcoming duty to promote disability equality (DDA 2005), to promote provision for disabled learners. The failure to make this legal duty explicit in each and every planning and funding document, as recommended in the review, is contributing to this misunderstanding.

¹ *Through inclusion to excellence – the strategic review of the LSC's planning and funding of provision for learners with learning difficulties and/or disabilities across the post-16 sector.*

² *Inclusive learning* (Tomlinson, FEFC, 1996).
http://lsc.www.co.uk/documents/othercouncilpublications/other_pdf/IL-PR.pdf

³ *DDA taking the work forward – Phase 2 regional projects 2005/06; Assessing the inclusiveness of new measures of success 2005/06; DDA Disability Equality Duty 2005/06.* All in progress. For more information, contact Sally Faraday on sfaraday@lsda.org.uk

- 8 We suggest that the LSC should take action to assess the impact of recent changes to priorities and funding policy and to halt and reverse the apparently disproportionate decline in provision for learners with learning difficulties and/or disabilities. This is particularly important since the successful implementation of this review is predicated on the maintenance and development of the existing infrastructure.
- 9 The review makes clear the huge difference that current ALS funding has made to the inclusion and success of disabled learners – a point forcefully brought out in the evidence presented to the Review committee by learners themselves. LSDA believes strongly that any new funding developments must build on the success of additional learner support in FE colleges.
- 10 While fully supporting the development of ‘a common funding approach across the whole of the learning and skills post-16 sector’, we believe that this must be implemented alongside a commitment that, as was stated in a recommendation in the review report’s funding section, any new funding approach should:
- retain ALS and identify a sum for ALS to be used flexibly by all providers within their allocation*
- explore the implications of holding a unified, regional budget, which would include exceptional costs (currently above £19,000) and the placement budget for learners with the most severe learning difficulties and/or disabilities.*
- 11 We support the recommendation that the Minister for Lifelong Learning, Further and Higher Education should seek to reach inter-departmental agreement on appropriate funding responsibilities and partnership working. However, we feel that this recommendation needs to include some safeguards.
- 12 The Review was very keen both that any new inter-departmental arrangements should not result in additional bureaucracy for practitioners and that the new arrangements should provide seamless support for learners. There have been many gestures towards the need for closer inter-agency collaboration (see *Improving life chances*⁴). What is needed now is a clear and workable structure that will enable inter-agency collaboration to happen effectively at operational and strategic levels.
- 13 The LSC needs to put in place a system to monitor how effectively the recommendations of the review are implemented. In addition, all staff in the LSC need to be fully briefed on the impact of the review on policies, practices, procedures and plans. The monitoring would in turn form part of the impact assessment, which is one of the requirements of the new Disability Equality Duty of the DDA (2005). To undertake the strategic review and re-profiling of provision recommended in the review, the LSC will also need sufficient staff with appropriate expertise at regional and local level.
- 14 The Department for Education and Skills (DfES) has provided considerable resources to support the implementation of the DDA Part 4 and the results have shown how effective this kind of investment can be. Disability Rights Commission (DRC) staff remarked at the LSC’s DDA steering group, that the education sector is ahead of public services in general in implementing DDA and that post-school education is the furthest ahead. However, ongoing support to ensure the implementation of new disability legislation is essential if the new additions to DDA legislation are to achieve the real and positive changes that this review proposes.

⁴ Cabinet Office (2005). *Improving the life chances of disabled people*. Prime Minister’s Strategy Unit. Available at: www.strategy.gov.uk/Publications/

- 15 There is no dedicated funding from the DfES to support the implementation of the Disability Equality Duty, which places direct duties on the LSC as well as on providers. The review recommended that: 'DfES should provide additional dedicated funds to the LSC to support the sector in meeting the statutory requirements of the DDA'. It will be for LSC to identify this funding.
- Recommendation 2. DfES and other Government departments to consider and propose appropriate transport legislation for those learners over the age of 19, with learning difficulties and/or disabilities.**
- 16 The DfES has made many attempts over the years to address the barriers presented by transport arrangements for disabled adult learners. However, learners tell us that their LEAs provide transport only to their local college, which restricts choice.
- 17 We recognise that the intransigent problems related to transport, its availability and accessibility, cannot be overcome by the DfES alone. We support the recommendation that the DfES and other departments consider and propose transport legislation for disabled learners aged over 19. Adult learners consistently report that lack of access to appropriate transport is a barrier to participation in learning. In particular, due to the inflexibility of current transport regulations, learners are often unable to attend extra-curricular activities such as sport or organised clubs. This has an impact on the holistic experience of being a learner. Transport arrangements vary enormously across the regions with rural areas being particularly disadvantaged.
- Recommendation 3. The DfES and LSC in collaboration with appropriate partners, and in consultation with the Disability Rights Commission, should agree to share common data sets based on common definitions and terminology to be used throughout compulsory education and into post-16 education and training.**
- 19 Common terminology and transferable data sets are fundamental to setting targets for improvement, monitoring and reviewing progress. Disability and learning difficulty is by definition relative rather than exact, yet without a clear understanding of who is affected by the barriers, it is impossible to plan for and demonstrate progress. Finding terminology that gives sufficient information about individuals' impairments and avoids a 'medical model', will be a challenge and can only be achieved through partnership with disabled people. The LSC will need to review the Individual Learner Record (ILR) and Staff Individualised Record (SIR) and bring them into alignment with the terminology that is eventually agreed. The MIAP (Managing Information Across Providers) development will also need to incorporate the same terminology.
- 20 The recommendation covered by question 3 is the only recommendation from the planning section of the review to reach the consultation document. Yet there is another 'key recommendation' on the need for regional directors to put in place consistent regional structures to develop provision. Both recommendations are equally important but need some augmentation to ensure an inter-agency planning structure, with a common approach to data and its collection. While supporting the development of regional structures we believe that a national steer will be required.

- 21 There needs to be an assurance that there will be an ongoing national LSC Policy Team who, with the development of a stronger regional structure, will focus on national policy developments and annual planning arrangements. We also feel that, for the picture to be complete, there needs to be an assurance that, at local level, work and resources related to provision for learners with learning difficulties and disabilities, will be fully integrated into the local LSC business plans.

Recommendation 4. Providers should consider the quality improvement needs of their provision for learners with learning difficulties and/or disabilities during their self-assessment and development planning processes.

- 22 LSDA supports the recommendation covered in question 4, which is drawn from the quality section of the review. The areas omitted in the summary consultation relate specifically to the quality of provision for learners with learning difficulties who may be working below Level 2. For these learners it is essential that the curriculum is designed to meet their individual aspirations and learning needs, and is not distorted by inappropriate qualifications or accreditation requirements.
- 23 We would wish to see the following recommendations included in the summary consultation document to ensure quality across the full range of provision:

LSC consider how it might work with the Valuing People Support Team in its partnership working to ensure person-centred planning.

QCA and LSC are urged to accelerate work to ensure fit for purpose and appropriate units and qualifications at Pre-Entry Level within the Foundation Learning Tier.

- 24 The LSC needs to work with the Quality Improvement Agency (QIA) and the Office for Standards in Education (Ofsted) and the Adult Learning Inspectorate (ALI) to agree a common framework for identifying good practice, and ways in which poor provision can be improved through appropriate support.
- 25 One crucial feature of LSC and provider organisations' quality assurance arrangements that needs to be retained and developed is the active involvement of learners with learning difficulties and/ or disabilities in the design, review and evaluation of the curriculum. This is also a requirement of the Disability Equality Duty and LSC and providers will need to involve their disabled staff actively in decisions about all aspects of their organisations.
- 26 We are particularly concerned that disabled learners should receive the same level of support whether they stay on at their school sixth-form, or attend a sixth-form college or an FE college.

Recommendation 5. LSC in conjunction with other key agencies such as the Quality Improvement Agency should develop a culture of self-improvement and peer referencing and actively support provider networks as ways of developing and improving quality of provision.

- 27 There is an opportunity, with the current changes to the sector, to bring about a consistent and coherent approach to self-improvement and peer referencing led by the QIA and adopted by the LSC and the inspectorates. The LSC should find proactive ways of working with the Association of Colleges, the Association of College Management and the Association of Learning Providers to build provider networks for quality development and make links with schools.

Recommendation 6. LSC to collaborate with LLUK, CEL and other agencies in the development of occupational standards and appropriate qualifications for all staff working with learners with learning difficulties and/or disabilities.

- 28 It is vital to have high-quality staff development, good terms and conditions for staff, and inclusive occupational standards to implement the recommendation of the review for 'investment for change'. This will make certain that all staff have the knowledge and skills to ensure that learners with a full range of learning difficulties and disabilities are fully supported and included in provision. Part-time staff, in particular, are often neglected in terms of pay and regular quality training opportunities, and this issue needs to be addressed. There should be sufficient resources to ensure regular quality training opportunities for all staff across an institution.

Recommendation 7. LSC to develop and propose to the DfES appropriate performance indicators with regard to participation and achievement for learners with learning difficulties and/or disabilities.

- 29 We agree with the inclusion of the above recommendation. Performance indicators should reflect the quality of the learning experience as well as the rates of participation and subsequent gaps for learners with different disabilities and ways of learning. It is important to have indicators that show where learners with learning difficulties and/or disabilities are successfully participating in provision. It is also important to have indicators that identify barriers to participation, for example, learners living in rural areas or from different cultural backgrounds. Robust, shared data sets and common definitions across all relevant agencies will enable mapping to be more accurately achieved.

- 30 The RARPA (Recognising and Recording Progress and Achievement) process has been found to provide an effective way of assuring the quality of provision for all learners, including those with learning difficulties and disabilities. RARPA should be implemented across all provision and all sectors, including school sixth forms.⁵

Recommendation 8. LSC to develop inclusive measures of success, to be used by providers, and to be used by LSC in agreeing, monitoring and reviewing provider plans.

- 31 The new measures of success currently being developed by the LSC will be the cornerstone for ensuring that success is recognised for all learners. The LSC is to be commended for its work in assessing the inclusiveness of its new measures of success. However, there is still much to be done to ensure that all the measures are fully accessible and inclusive in practice. For example, the LSC and individual providers should analyse qualification and success rates by impairment type.

⁵ See <http://www.niace.org.uk/projects/RARPA/Default.htm>

Recommendation 9. In line with the requirements under the Disability Equality Duty, providers should introduce more effective means of capturing and taking account of the views and experiences of people with learning difficulties and/or disabilities.

32 The new Duty will require the LSC to actively involve people with disabilities in all aspects of their work on two levels, as an employer and as a public body with responsibilities for planning and funding vocational education and training. The strategies to be adopted in accessing the views and engaging the involvement of both learners and staff with disabilities should be made explicit in the LSC's Disability Equality Scheme. The LSC may wish to consider research into consulting learners, analysing and using the data, providing feedback and implementing findings.

33 **Recommendation 10. The LSC and DfES to clarify planning arrangements for schools to enable a single planning process for providers delivering to post-16 learners.**

34 The process of transition from schools to post-16 learning providers is crucial to the success of young people, yet their experience can be extremely variable within and between providers. Transition needs to be effectively resourced for all learners both with and without statements. We believe that the LSC should re-emphasise the imperative for inter-agency collaboration and planning based on sharing common data sets. Also, the lessons learned by the FE sector after the publication of *Inclusive learning* (1996) need to be extended to the schools sector.

Recommendation 11. DfES, with appropriate input from the LSC, should undertake a review of statements of Special Educational Needs (SEN) in relation to post-16 learners.

35 We would wish to see the schools sector moving away from a special educational needs (SEN) mindset and towards an inclusive learning approach. The SEN approach identifies individuals and creates statements of educational need for them, while inclusive learning requires the whole organisation to change its practices to include all learners. Any review of statements of special educational needs for post-16 learners in schools should be done in the context of inclusive learning.

Recommendation 12. The LSC explores the possibility of allowing 'not for profit' providers to opt for 'grant in aid' status, or, if this is not feasible, the LSC, to ensure parity, should explore a new contracting system.

36 LSDA welcomes the flexibility that is currently being developed in the LSC's funding methodology. This should enable the LSC to remove some of the current anomalies where providers in different sectors are funded differently for similar learners and learning. Our principal concern here is for funding to be equitable and to follow the learner.

Recommendation 13. LSC, the inspectorates and the Quality Improvement Agency and other funding partners should investigate, as appropriate, the benefits to the learner and any financial benefits associated with provider co-location.

37 The learners' needs are paramount. Care needs to be taken that financial benefits to various partners do not over-ride learner interests. Therefore, consideration should be given to the use of learner advocates, where appropriate.

Recommendation 14. LSC to ensure that employment-related provision is accessible, and actively encourages participation of those with learning difficulties and/or disabilities.

Recommendation 15. LSC to consider how the reformed planning and funding arrangements can safeguard and strengthen access to Level 2 achievements and employment outcomes for these learners.

- 38 LSDA's research shows that learners with learning difficulties and/or disabilities share the career aspirations of their non-disabled peers.⁶ Our research also shows that disabled people, especially those with physical and sensory impairments, are seriously under-represented in work-based learning and employment. Our findings demonstrate the need for LSC to improve capacity in the work-based learning sector and to work with employers to improve employment opportunities. Progression routes through the qualifications framework need to be better attuned to learners' needs. For example, steps should be taken towards removing the barriers that currently exist between Entry level, NVQ Level 1 and NVQ Level 2.⁷
- 39 The design of Entry to Employment (E2E) has always been inclusive. However, to help achieve the Level 2 target, E2E is increasingly used for learners just below a full Level 2. In practice, many learners with learning difficulties and/or disabilities are effectively excluded from E2E programmes because they are working at Entry level and the early stages of Level 1. There is an urgent need to address the gap in provision that has been created.
- 40 While LSDA supports the above recommendation, we believe it is also important that learners should be able to access NVQ Level 1, where appropriate, and increase the range of their skills at this level, as well as progressing to elements of Level 2 qualifications, as appropriate. For learners for whom Level 2 might be unattainable but employment would be realistic, alternative means of access to employment are needed, for example, through supported employment schemes in each locality. This has implications for a more flexible approach to funding.
- 41 We feel that by including more than the single recommendation under Question 15 of the consultation document, the LSC could maximise this opportunity to use the results and recommendations of the review. This would ensure that disabled people do not just succeed in learning but are able to use the results of this learning and to progress.

⁶ DDA project 2 – see footnote 3. Research report projects 13, 14 and 15 on the DDA website. Also DDA and work-based learning (in progress). *Count me in FE*, Vicky Anderson *et al.*
<https://www.lsd.org.uk/cims/order.aspx?code=031476&src=XOWEB>

⁷ The main barriers are: the jump in demands required between each level; the need to complete whole qualifications rather than parts, as appropriate; and the lack of recognition of learning by an individual at different levels in different parts of the curriculum (the so-called 'spiky profile').

Question 16. Please provide any comments on the findings of the report and any recommendations that are not outlined above.

Transition to work

- 42 We believe that the summary and consultation document would be further strengthened by the addition of recommendations from the section of the original review entitled *Working with partners*. This dealt with the vital issue of ensuring that disabled learners were best supported to make successful transitions into work. As the original review makes clear, the numbers of disabled people gaining employment has not matched the substantial increase in the numbers of disabled people doing learning programmes. Many disabled learners state their long-term aim is to obtain a job.
- 43 The review is very clear that the LSC needs to carry out a thorough monitoring of its Apprenticeship Programme to ascertain how well people with the full range of disabilities are being included. It also felt that the LSC should introduce appropriate performance indicators for participation and achievement of disabled learners engaged in Apprenticeships and the National Employer Training Programme. We believe that both of these steps are needed to ensure that disabled people get equal access to Apprenticeship programmes.
- 44 The consultation document recognises that many people, who may never achieve a Level 2 qualification, are still able to progress to work. However, as we have already indicated above, we are concerned about the omission in the consultation recommendations of transition to employment for learners working below Level 2.⁸ To help resolve this issue, there needs to be a recommendation that the LSC ensure that appropriate work-related learning is available for learners unlikely to progress to Level 2.
- 45 We agree about the importance of ongoing liaison between the LSC, the DfES and the Department for Work and Pensions (DWP) to ensure that employment becomes a reality for disabled people. For example, Access to Work funding is available for disabled employees but there are few guidelines as to how those working on Apprenticeship programmes might ensure their learners access it. Also, DWP is currently drawing up plans to enhance support into employment for disabled people on incapacity benefit. If these programmes are to be effective they will need to liaise closely with those in the pre-16 education sector. This will have implications for the LSC's funding priorities as the kinds of learning programmes⁹ that are required to encourage people back into learning to progress to employment are currently described as 'other provision' and consequently are a low priority for funding.

⁸ The review team were also concerned that, despite assurances to the contrary, young people were being turned away from E2E programmes because it was assumed they would not be able to progress to a Level 2 programme.

⁹ Learning programmes referred to here emphasise personal development and developing self-confidence and self-esteem as a pre-requisite to further learning.

Funding

- 46 We agree with the recommendations put forward in the consultation document about funding. However, we feel that some of the most urgent and underpinning recommendations made in the original report should also be included. We have already mentioned the importance of ensuring that the successful ALS funding structure should be retained. In addition, the following recommendation from the original review should be included:

The LSC should ensure that the impact of the proposed changes on learners with learning difficulties and/or disabilities is considered during further development of the new funding model and its potential implementation.

- 47 The LSC will, from December 2006, have a duty under the Disability Equality Duty legislation, to carry out an impact assessment on how any changes it makes to policies and procedures may affect disabled people. It is therefore essential that in any current discussions about funding changes the effect these changes may have on disabled learners is carefully analysed and steps are taken to avoid any negative outcomes.
- 48 There are two other important recommendations which we feel need emphasising. The first is that the DfES and Treasury ensure that the LSC, through the next spending review, is able to meet the capital needs of the whole learning and skills sector provider network to improve the quality of provision available. Work-based learning providers have not received additional capital funds that would resolve issues about accessibility of their premises. Also, the review recommends making more provision available locally, especially for people with severe learning difficulties and disabilities, many of whom currently attend specialist colleges.

- 49 To implement this recommendation, learning and training providers will need to develop specialist courses locally, which will entail capital and revenue expenditure for premises and staff development. Allocations of money over the past few years have led to huge improvements in the accessibility of colleges. However, as learners pointed out in their response to the review, there is still more to be done particularly in relation to smaller adult and community learning (ACL) and work-based learning (WBL) sites.
- 50 The other recommendation concerns funding to support offenders with disabilities and learning difficulties. Recent reports (for example, the Select Committee report on offender learning¹⁰) have emphasised the large numbers of offenders who have learning difficulties or disabilities. With LSC in the process of taking over the management of offender education it is an ideal time to ensure that Additional Support Funding, which has been so successful in furthering inclusive learning in further education, is extended to offender education.

¹⁰ House of Commons Education and Skills Select Committee.