

FE ILR Funding Compliance Advice for 2006/07

This booklet gives companion advice to *Funding Guidance for Further Education in 2006/07* and *Further Education Individualised Learner Record Funding Estimate/Claim 2006/07* for all Learning and Skills Council further education funding providers for 2006/07.

This booklet is of interest to principals and/or chief executives of colleges and other providers, heads of providers, finance directors and management information officers of providers delivering further education, and to learner existence and eligibility and funding auditors.

Supersedes

FE ILR Funding Compliance Advice for 2004 to 2006.

May 2006

This document is of interest to those in the FE sector in receipt of funding from the LSC

Further Information

For further information please contact:

Learning and Skills Council
National Office
Cheylesmore House
Quinton Road
Coventry CV1 2WT
T 024 7682 3827

For information

Audience

This document is of interest to those in the FE sector in receipt of funding from the LSC

Contents

	Paragraph numbers
Executive Summary	-
1: Format and Background	1
Introduction	1
Format	7
Background	10
Funding Claims, Manual Adjustments, Materiality and Data Self-assessment Tools	21
2: General Further Education Funding Compliance Advice for all Providers and for all Learners	25
Evidence of Learner Existence and Eligibility	25
Funding implications	34
Records of Learner Existence and Eligibility	35
Learning agreement	35
Enrolment form	38
Learner attendance	42
Register	44
Cease to attend, withdrawal from course and learning agreement amendment forms	47
Achievement	48
Documentation: all providers and partner providers	56
Funding implications: all providers	57
Providers outside plan-led funding	58
Additional learning support	59
3: Advice on Provision Delivered with a Partner Provider	61
Background	61
Classification of Partner Provider Delivery Arrangements for 2006/07	70
Differences in Delivery Methods	78
Partner Provider Provision and Control Criteria that Apply to all Providers	83
General advice on contracts for partner provider provision	83
Controls over learners, tutors and provision	89

Controls over qualifications and curriculum	94
Fee charging by partner providers	98
Other LSC-funded learners	99
In-company partnership arrangements to provide NVQs	103
Data returns in respect of partner provider provision	105
Monitoring (control) visits and "spot checks"	107
Partner providers with multiple provider contracts	113
Funding implications: all aspects of partner provider provision	115
Advice for accounting officers on all aspects of partner provider provision	116
4: Additional Learning Support	122
Detailed Advice for Providers	142
Standard Class Size for Small Class Additional Learning Support	163
5: Withdrawals	166
Questions and answers on withdrawals	179
6: Specific Guidance on Individual Qualifications and Delivery Methods	180
Curriculum Entitlement	180
Distance Learning, Open Learning and Online Learning	185
Distance learning	185
Open learning	190
Fee Remission	194
Full-cost Recovery	198
Loadbanded Provision	208
National Projects	211
Provision in the Workplace	212
Small Work Placements within a Programme	221
Work-based Learning	225

Executive Summary

May 2006

Further Education Individualised Learner Record funding

This booklet provides companion advice to *Funding Guidance for Further Education in 2006/07* for all Learning and Skills Council (LSC) further education (FE) funding providers for 2006/07.

For providers within plan-led funding, this document includes advice that assists FE colleges and other provider accounting officers in signing off their final funding claims (see *FE ILR Funding Estimate/Claim 2006/07*). The introduction section of this document explains the relevance of this document to providers within the framework of plan-led funding.

For providers not within plan-led funding for 2006/07, this document replaces the FE ILR Funding Compliance Advice for 2004 to 2006 previously published by the LSC.

Overview

The LSC is committed to simplifying the way it funds colleges and other providers, working in partnership to create a planning-led approach, and significantly reducing bureaucracy.

As stated last year in *FE ILR Funding Compliance Advice for 2004 to 2006*, while providers within plan-led funding do not face retrospective clawback for under-performance, they still need to ensure the FE funding being claimed from the LSC supports eligible learners whose existence can be evidenced. This booklet gives some simple evidential guidance to assist providers to meet audit and inspection requirements.

The LSC approach to compliance advice for FE funding starts from the funding principles set out in paragraphs 30-31 of *Funding Guidance for Further Education in 2006/07*. The LSC requires providers to consider and apply these principles before claiming funding from the

LSC. In many funding queries, some simple "reasonableness" tests often provide answers that should satisfy both providers and the LSC. Experience has shown it is not possible to write advice that exactly matches the wide variety of delivery arrangements in FE. If providers are unsure how to match their own individual delivery arrangements to either this document or the advice in *Funding Guidance for Further Education in 2006/07*, they should consult their local LSC, where staff will assist them in any necessary interpretation of the advice and guidance.

In their interpretation, help and advice, local LSCs are expected to continue to follow the advice in *FE ILR Funding Compliance Advice for 2004 to 2006* that the LSC should be selective in its interventions, so that these focus on areas of risk and poor performance, while offering maximum discretion to high-performing colleges. This principle is summed up as the "principle of intervention in inverse proportion to success". Providers are also expected to work within the spirit of this advice themselves in determining their own individual compliance safeguards.

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

Intended recipients

This booklet is of interest to principals and/or chief executives of colleges and other providers, heads of providers, finance directors and management information officers of providers delivering further education, and to learner existence and eligibility and funding auditors.

Status

For information

Further information

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

Learning and Skills Council
Cheylesmore House
Quinton Road
Cheylesmore
Coventry
CV1 2WT

www.lsc.gov.uk

FE ILR Funding Compliance Advice for 2006/07

1: Format and Background

Introduction

1 This booklet gives advice on the provision funded by the Learning and Skills Council (LSC) for 2006/07 and should be read with *Funding Guidance for Further Education in 2006/07*, which provides the primary reference document to guidance for funding in 2006/07. This booklet contains all information, advice and guidance issued by the LSC since that publication and is intended to help all colleges and other providers in making funding claims to the LSC for 2006/07.

2 The information in this document supersedes booklet *FE ILR Funding Compliance Advice 2004 to 2006* and refers to further education (FE) funding claimed from the LSC in the teaching year 2006/07. This document is substantially the same as its predecessor booklet and is written to reflect the greater level of trust implied in plan-led funding. It addresses the ongoing requirement for providers to ensure that their funding claims meet minimum funding eligibility requirements.

3 This booklet does not make any major distinctions between plan-led and non-plan-led funding providers. This advice is written for the benefit of all FE providers, with the majority already inside plan-led funding for 2006/07. The LSC provider financial assurance team will issue separate guidance to funding auditors undertaking audit work in providers outside plan-led funding, including all independent providers funded by the LSC through a contract. Plan-led funding providers should be aware that the LSC still requires a funding audit for all independent training providers claiming FE funding from the LSC. For 2006/07, providers are reminded that the new LSC learner existence and eligibility (LEE) audit will also be particularly testing provider compliance with Sections 2 and 3 of this booklet. An early review of the 2005/06 LEE audits indicates that some providers are paying insufficient attention to evidencing learner eligibility and providers are reminded to pay particular attention to the advice in paragraph 38 on the need to

compile eligibility evidence in their enrolment forms in order to avoid unnecessary LEE audit difficulties.

4 For providers within plan-led funding who enter into partnership arrangements with private sector organisations to deliver provision on their behalf, the LSC requires them to put in place sufficient and reasonable control arrangements to assure the safety of any public funding transferred by them to the private sector. Sections 2 and 3 of this booklet set out the evidential and control requirements needed to meet the fundamental funding eligibility requirements. Providers are expected to take account of the eligibility risks to their funding in determining their own approach to compliance evidence over their FE provision. The LSC requires them to adopt a risk-based approach, with particular emphasis on partnership provision. The LSC will be addressing the issue of compliance with aspects of Sections 2 and 3 by providers within the new learner existence and eligibility audits. Compliance with Sections 4 to 6 will continue to be addressed by funding auditors.

5 The LSC is aware that directly funded LSC providers (and especially colleges) work with a variety of other education and training organisations and with a wide variety of contractual arrangements. These arrangements include provision that may previously have been regarded as franchised provision or delivery, partner-assisted delivery, sub-contracted provision or collaborative provision. In Section 3, particularly in paragraphs 61-77, this booklet sets out the approach and priorities of the LSC in assessing this type of provision and the importance of effectively controlling the provision, irrespective of the details of the partnership arrangements.

6 In this booklet, the term "partner provider" refers to all partners previously referred to as franchised, subcontracted and/or partner assisted providers, or any other terminology that describes provision not delivered by the LSC directly funded provider, that is, not delivered **both by** their own staff **and on** their own premises or premises under their own full control. Throughout this booklet, the simpler term "provider"

refers only to LSC directly funded providers. The application of the control advice and guidance by providers to any non-franchised provision should be seen as completely separate to the issue of when the franchise discount is applied; details are provided in Section 3. Any further assistance required by providers in interpreting this advice is available from their local LSC.

Format

7 This booklet is set out in the following way. Section 1 contains a general introduction and background for all providers. Section 2 gives advice on the main evidential requirements for all learners for all providers. Section 3 gives advice on franchising, partnership and sub-contracted provision, and particularly on the controls providers should have over their partner provider provision. This advice is designed to assist providers in ensuring their funding claims meet all the LSC eligibility requirements and avoid any risks of "ineligible activity". Sections 4 to 6 are intended to give advice to all providers in compiling their funding claims, and these sections impose some mandatory compliance evidential requirements on providers outside plan-led funding.

8 If any further advice is necessary, or a provider believes any particular circumstances are not covered by this guidance, the appropriate local LSC should be contacted in the first instance. This advice may assist provider accounting officers in making sure their college or institution is making valid funding claims and will also assist funding auditors for providers outside plan-led funding.

9 This booklet restates the current LSC approach to funding advice for areas of contention that have arisen in the past. This includes the current approach to partnership and franchise provision, where the emphasis is firmly on high-quality provision that meets local needs and with adequate funding levels paid to partner organisations. The distinctions between franchising and direct delivery in different delivery methods of provision are addressed in Section 3, paragraphs 61-77.

Background

10 Colleges and other providers are reminded that the LSC has set out in *Funding Guidance for Further Education in 2006/07* paragraphs 30-31 the fundamental principles for claiming FE funding for 2006/07. This includes references to prioritising funding for provision that meets local needs and targets set out in the local strategic plan. All providers are also reminded that funding guidance and compliance advice

on provision applies regardless of the mode of delivery, physical location of learner or location of provision. Specific advice on either provision, recruitment area or delivery method should be read as additional to, rather than as a replacement for, the general advice.

11 It is expected that providers will fully comply with the spirit and intention of the funding principles set out in paragraphs 30-31 of *Funding Guidance for Further Education in 2006/07* and consult their local LSC before undertaking any new or contentious provision. In consulting their local LSC, providers should be open and transparent in describing their arrangements.

12 Where providers (or for those providers not within plan-led funding, funding auditors) refer to a local LSC for complex or contentious funding advice, the national funding rates and eligibility team will assist, where necessary, in answering any queries through the local LSC.

13 The advice and information in this booklet apply to FE sector colleges, as well as specialist designated institutions, higher education (HE) institutions that receive funding from the LSC, and former external institutions. For the purposes of simplicity, the term "provider(s)" is used throughout the booklet. Advice specific to particular types of provider is separately identified.

14 The Audit Code of Practice, issued in Circular 04/07 in December 2004, reminds colleges that the responsibilities set out in the financial memorandum with the LSC are with the governing body and the principal. The governing body of each college must ensure that there is a sound system of internal control within the college. The public nature of the governing body's role, its financial accountability through the LSC to Parliament, its stewardship of public funds, and not least the good name of the college and the interests of its students, all demand high standards of conduct in the exercise of its functions. The existence of a rigorous framework of compliance and internal controls can assist senior management and governors in this process.

15 The college principal is personally responsible for ensuring the proper and effective operation of these controls and may be required to appear before the Committee of Public Accounts (PAC) of the House of Commons alongside the chief executive of the LSC, on matters relating to the funds paid by the LSC to the college. The principal, or the equivalent post-holder for other providers, is responsible for signing off funding claims as eligible for LSC funding.

16 In former external institutions, there is no less a need for effective systems and controls to be in operation. The arrangements by which they are monitored will be dependent, for example, on whether there is an audit committee, whether the institution is local authority (LA) maintained, and if so, the LA's associated systems, and the proportion of an institution's functions supported by LSC funding.

17 There are similar arrangements for the accountability of senior post-holders and the governing body in HE institutions. These are set out in the Higher Education Funding Council for England (HEFCE) Audit Code of Practice, and its financial memorandum with HE institutions.

18 The LSC requires colleges (and all other providers) to adopt a rigorous approach to the use of public funds. The checks that should be undertaken prior to signing any funding claim or audit report, however, should be focused on the areas most at risk. It follows, therefore, that a provider with most of its provision in the higher-risk categories should undertake more rigorous checks.

19 Past experience indicates that the following are associated with higher levels of risk:

- significant levels of provision (more than 5 per cent of funding total) delivered with "partner providers", and/or that may be delivered through college companies or joint venture companies
- significant levels of provision (more than 5 per cent of funding total) delivered away from the provider main sites or outside the natural recruitment area of the provider (see paragraph 69)
- a shortfall in funding identified by the provider at the end of the first term or later in the year that leads to any late unplanned "partner provider" arrangements
- a significantly changed profile from year to year, for example, a move from full-time to part-time provision
- a history of late and/or inaccurate data returns
- key staff changes in an organisation, for example, a change in the management of data collection or management information systems or a change in management information software
- overseas ventures

- multiple income streams, such as European Social Fund
- multiple sites at a distance from the main site
- independent external institutions with different routes for LSC funding for different parts of the organisation; for example, an institution receiving direct funding that also has some centres with "partner provider" agreements with other FE providers.

20 Providers are reminded that the LSC can fund provision only for which it has been authorised by Parliament, and any ineligible provision must be excluded from all funding claims (for example, overseas students).

Funding Claims, Manual Adjustments, Materiality and Data Self-assessment Tools

21 Providers and funding auditors should refer to *Further Education ILR Funding Estimate/Claim 2006/07* for advice on completing funding claims and funding audit opinions for 2006/07. This circular includes the funding claim, the funding auditor opinions and in Annex H gives details of recognised manual adjustments for 2006/07 funding claims.

22 In order for a provider to make a manual adjustment to their final funding claim, they must agree this with their local LSC. For non-published manual adjustments, providers should also contact their local LSC for a manual adjustment number.

23 Providers and funding auditors are reminded that providers are now expected to run the data self-assessment tools (DSATs) software in-year and use this to clean their data prior to submission to the LSC. For providers outside plan-led funding, the LSC funding audit opinion continues to be based on the final funding claim and includes reference to claims being materially correct. The LSC acknowledges the difficulty for providers in trying to provide data with perfect precision. Where a provider can demonstrate that errors identified by DSATs are not material, the LSC does not expect them to suffer unnecessary bureaucratic burdens in clearing these through the funding claim. Providers should be able to claim reasonable funding for all eligible learners and under no circumstances be required to lose all the funding for a few learners in order to solve their data processing problems.

24 Similarly, the LSC is not expecting providers to make small overall manual adjustments to their funding claim, in accordance with the recommendations of the Bureaucracy Task Force. As explained in a note published in November 2002 on the LSC website, providers and funding auditors have the opportunity to adjust funding claims before submission to the LSC by a manual adjustment of up to 2 per cent of the funding total, rather than having to make time-consuming changes to the actual individualised learner record (ILR) data returns.

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

Evidence of Learner Existence and Eligibility

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

Compliance evidence for learner eligibility

26 Providers should not claim funding for learners who are not members of the “home” population of England, irrespective of their mode of attendance.

27 The LSC does not generally fund learners who are not UK or European Economic Area (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.

28 The regulations are complex and are summarised in Section 6 of *Funding Guidance for Further Education in 2006/07*.

29 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. Asylum seekers should be asked to provide evidence that they have a current application for asylum and that they are receiving assistance under the terms of the *Immigration and Asylum Act 1999*. This should include appropriate confirmation from the National Asylum Support Service, the local authority regarding such assistance, or the Benefits Agency regarding means-tested benefit. Good practice is for providers to retain documentation to prove eligibility. However, where this does not occur

and the documentation is recorded as having been seen, providers need to be fully aware of the implications of the documents they are approving.

30 Provider management should check enrolment forms to see if evidence has been gathered on the residency status and eligibility of the learner.

31 Learners from overseas, whose main reason for residence in England has been attendance at a fee-paying school, will not be considered eligible for funding.

32 Learners of compulsory school age are 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.

33 Providers should not claim LSC funding for provision delivered outside England. This restriction applies to provision delivered in Wales and Scotland as well as in other countries.

Funding implications

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

35 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.

36 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.

37 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

38 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 281-282 of *Funding Guidance for Further Education in 2006/07*. 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.

39 Providers will wish to give particular attention to ensuring that there is appropriate evidence of assessment and guidance for short courses. Providers may wish to consider including information on their assessment and guidance procedures in their prospectus, so that learners could be made aware of the matters to be considered when they enrol at the provider.

40 LSC providers must make sure that they and all of their partner providers fully understand the rules on learner eligibility. Enrolment forms completed by partner providers must fully address the issue of 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.

41 The enrolment form and the learning agreement may be combined to form one document, which should contain all the relevant information.

Learner attendance

42 There should be evidence that individual students were undertaking the specified learning programme during the learning period in which funding is being claimed.

43 For most learners this will take the form of registers of attendance. Experience has shown these 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

44 All providers should consider the benefits of a good register system to help them monitor learner attendance and progress. This will also support materially accurate ILR returns and funding claims. Register systems need to be proportionate in delivering benefits to providers that offset the costs involved in running 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.

45 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.

46 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

47 Where a student withdraws, transfers to another programme or changes one of their learning aims or their mode of study, this should be indicated on an appropriate pro forma used by the provider. This should be signed by the tutor, and used to ensure that the information on the ILR is correct, and that the learning agreement is amended correctly. Providers should consider whether learners should 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

48 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.

49 Achievement should be accurately recorded and substantiated by appropriate compliance evidence. The outcome field of the ILR includes values that distinguish between achievement for which achievement funding can be claimed, and achievement for which no achievement funding can be claimed. Providers should check whether a learning aim is eligible for achievement funding, in addition to whether the learning aim was achieved. 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.

50 The LSC requires evidence that supports claims for achievement of non-accredited learning aims to be as robust as that for nationally recognised and approved qualifications on the National Qualifications Framework.

51 Where achievement funding is to be claimed, providers should retain learning outcomes records with the associated initial assessment records or learning agreements, showing that the learner has met the agreed learning aims and achieved the appropriate objective.

52 A learning aim may be recorded as partially achieved only where the student has achieved at least one of the credits or modules towards the final award.

53 Evidence should exist to show that claims for achievement were supported by the attainment of approved qualifications for the first time at the provider by students.

54 Achievements may not be claimed where the student is merely seeking an improved grade and the provider has previously claimed achievement(s) for the student.

55 Providers are reminded that achievement may not be claimed for a learner where there is no corresponding claim for on-programme funding.

Documentation: all providers and partner providers

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

Funding implications: all providers

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

Providers outside plan-led funding

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

Additional learning support

59 For providers where additional support funding is being claimed, reasonable documentary evidence should be available for the following:

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

60 Plan-led funding providers should consider the most effective and efficient way this information is collected for learners whose costs are below the £4,500 threshold. This may involve using group or global cost forms, and prior discussion with the provider's local LSC may be helpful in agreeing procedures that remove unnecessary bureaucracy. Evidence of the provision of the additional learning support being claimed should be available. Providers outside plan-led funding are reminded that the above-mentioned documentation will be reviewed by their funding auditor as part of their work in signing off their funding claim. Please see Section 4 below for further advice on claiming additional support.

3: Advice on Provision Delivered with a Partner Provider

Background

61 This section explains partner provider provision as previously described in *FE ILR Funding Compliance Advice for 2004 to 2006* and includes reference to provision previously called franchising or direct with a partner or sub-contracted provision. All providers are reminded that the LSC has a duty to prevent uncontrolled and undesirable franchising and partnership activity, but at the same time much of this activity meets the needs of learners that might not otherwise engage in education or training. It also provides industry-focused courses for employers who are not LSC providers.

62 This booklet sets out LSC current approach and priorities for all types of partner-assisted provision. It is particularly important for providers to describe delivery arrangements in an open and transparent manner and in accordance with Trust in FE when seeking advice on how partnership arrangements should be classified for funding purposes from their local LSC. The LSC is concerned that providers do not put Trust in FE at risk by avoiding the application of FE funding guidance and compliance advice regarding proper controls over partner provider delivery and/or provision.

63 As stated in paragraph 6, whenever the term "partner provider" is used, this will refer to all partners that in the past were referred to as franchised, sub-contracted and/or partner-assisted providers, or any other terminology that describes provision not delivered directly by the LSC directly funded provider; that is, not delivered by **both** their own staff and on their own premises or premises under their own full control (excluding any learner placements away from the provider's own premises as a part of their programme). Throughout this booklet, the simpler term "provider" refers only to LSC directly funded providers.

64 This guidance makes clear that the application of the control advice and guidance by providers on any partner provider delivery and/or provision is currently seen by the LSC as completely separate to the issue of when the franchise discount is applied. In accordance with plan-led funding, the application of the discount should be addressed as part of the planning process with the provider's local LSC, and this should be based primarily on the costs involved in the delivery of the partnership provision. These discussions and approval must take place prior to delivery of the provision.

65 Providers are assured that the LSC is constantly seeking efficiently delivered provision that is of good quality and contributes to national targets or local skills priorities. The LSC also requires partnership provision to be delivered locally to local people. A provider's local LSC may continue to support partner provider activities where they directly contribute to the priorities of the 16–18-year-old age group, adult basic skills qualifications, full Level 2 and employer engagement. The LSC is committed to not unreasonably reducing any partner provider activity of this nature. Partner providers are crucial if we are to meet the needs of employers.

66 Recent advice to local LSCs confirmed that partner providers have been built into FE providers' three-year development plans, where the aim is to develop long-term stable relationships between providers and their partner providers. The provider has a duty to build capacity within its partners by supporting professional and organisational development with them.

67 The LSC remains concerned, however, about the very small number of providers, and colleges in particular, that have continued to contract with either very poor-quality providers and/or with providers for whom significant problems have arisen in evidencing real learner contact that reasonably matches the funding being claimed from the LSC through the provider. For non-existent or ineligible funding activity claimed by providers, the LSC will seek recovery of funds paid for the ineligible activity or learners. This will be on a costs basis for plan-led funding providers and on an activity basis for providers outside plan-led funding. Reductions in funding for LSC providers will usually be made only where funding claims have material and/or significant amounts of ineligible activity and/or learners. The LSC requires all its providers to avoid this risk and this advice sets out clearly the LSC's continuing priorities for all providers delivering provision with partner providers in their widest sense.

68 From 2005/06, it was a requirement in the FE funding agreement that providers provide an annual self-declaration of the partners with whom they are or will be working. This is in addition to the normal data on partnership provision that providers already provide within the ILR and the partner register. A standard form for this information (together with the funding claim and timetable for 2006/07) is published in the *FE ILR Funding Estimate/Claim 2006/07* (see paragraph 28 of that document). This includes details of:

- who the partners are
- what provision the partners are providing, and how it fits into priorities

- the levels of funding the providers are retaining and the services provided to the partners for this funding (see the guidelines on this matter in paragraph 75 below)
- out of normal recruitment area provision and confirmation of agreement from all the local LSCs involved
- any lead provider arrangements.

69 The LSC has also indicated that there should be no growth in out-of-area partner provider activity. Providers are reminded that to operate outside their own area, but within another provider's normal recruitment area, they should have prior written consent from both their local LSC and the other provider. A local LSC will usually regard activity delivered outside its own area, or an adjacent local LSC area, as out-of area activity. This definition may be varied more tightly or loosely by local LSCs, depending on the provider location, and each local LSC can help providers to agree a reasonable definition of their normal recruitment area. It is the responsibility of providers to check with their own local LSC that it is content to fund any activity delivered outside that local LSC area. These definitions apply to all modes of delivery, including e-learning and distance learning. Provision that is offered more widely than the local area must fit into one of the following categories:

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

Classification of Partner Provider Delivery Arrangements for 2006/07

70 To help providers in determining how partner provision should be assessed in accordance with this booklet and *Funding Guidance for Further Education in 2006/07*, Table 1 includes a column identifying provision that requires local LSC consent in advance of any actual delivery arrangements. **Providers are reminded that the local LSC is more likely to agree partner-assisted delivery arrangements for high-quality provision that assists providers in meeting their local priorities and targets.**

71 In Table 1, providers should note that if the last column advises that local LSC consent in advance of delivery is mandatory, the provision will count towards the provider learner existence and eligibility (LEE) risk assessment as part of the determination of the provider's LEE audit cycle. Local LSCs may also decide to include in this assessment provision classified above the black line by the provider if the local LSC is concerned about their classification.

72 The LSC's primary concern is that all partner provider delivery is properly monitored and controlled by all providers. Providers should apply this advice and guidance in the spirit in which it is written, and the LSC is disappointed by the approach taken by a small number of colleges in classifying their delivery arrangements in 2004/05 and 2005/06, in which they appear to have ignored the rest of this paragraph. The LSC does not expect any provider to make artificial distinctions or distortions in describing delivery arrangements in order to avoid:

- effective controls over partner provider provision
- prior disclosure of their partner provider arrangements with their local LSC
- wrongly classifying their partner provider provision and/or delivery above the black line in Table 1.

73 To keep bureaucracy at a minimum, the current table on types of provision is continued for 2006/07. The determination of the application of the one-third franchise discount should be addressed as part of the provider's planning dialogue with their local LSC, and for new provision this issue should be resolved as part of the prior approval process with the local LSC. For provision that attracted the franchise discount in 2005/06, no change in the one-third discount arrangements can be agreed for following funding years without the prior agreement of the local LSC.

74 In determining whether the discount is applicable, the local LSC will take full account of the fundamental funding principles set out in paragraphs 30-31 of *Funding Guidance for Further Education in 2006/07*, and in particular, that funding being claimed is not excessive to the costs incurred.

75 In discussing partner provider arrangements with their local LSC, providers must declare the level of funding they are retaining for all partner provider provision. The LSC requires the majority of its funding to be used for the benefit of the learner on their learning programme. The LSC requires the amount of funding retained by providers to be proportionate to

the costs they incur in the delivery of the provision and to take account of the actual costs incurred by their partner providers in delivering any programmes to learners. A figure of 15 per cent was previously agreed between the LSC and Ufi as a recommended retention level for learndirect hubs sub-contracted provision, where all the direct delivery costs were met by the sub-contractor.

76 Local LSCs will help any providers to interpret Table 1 if they are unsure into which category their provision falls. Providers are expected to understand and comply with both the spirit and letter of Table 1. If providers are unsure how to match their own individual delivery arrangements to either this booklet or the advice in *Funding Guidance for Further Education in 2006/07*, they should consult their local LSC staff, who will assist them in any necessary interpretation of the advice and guidance. In giving their advice, local LSCs will start from the funding principles set out in *Funding Guidance for Further Education in 2006/07* paragraphs 30-31.

77 Table 1 is silent on the application of the franchise one-third funding discount for providers to encourage full disclosure and discussion with the local LSC.

Table 1: Classification of different partnership and delivery methods

Type of delivery	Features of actual delivery of provision	Funding eligibility risk rating	Local LSC consent required in advance
1. Direct delivery by LSC-funded provider	The provider delivers provision on only its own, long-term rented or leased building (see paragraph 82), using only its own staff to deliver the actual provision. No funding paid to any partner organisation (apart from awarding bodies and any third party teaching materials).	Low	No
2. Direct delivery by LSC-funded provider (and also using a staffing agency for teaching delivery)	The provider delivers provision on only its own, long-term rented or leased building, using only its own staff (or a recognised staffing agency contracted for supply of temporary teaching staff across the provider's provision) to deliver the actual provision. No funding paid to any partner organisation (apart from awarding bodies and/or a staffing agency and/or provider paid a fixed fee for recognised educational material from a third party supplier).	Low	Consider
3. Direct delivery by LSC-funded provider (as 2 and marketing service provided)	As 2 above but also uses a third party supplier of marketing service to encourage take-up of learners, and not a related business to the staffing agency business.	Low	Advised
4. Direct delivery by LSC-funded provider (as 3 and IAG provided)	As 3 above and the third party supplier also provides the information, advice and guidance (IAG) service to learners (supplier not a related business to the staffing agency).	Medium	Strongly advised
Provision delivered away from provider premises (either owned or fully controlled by provider) and not by their own staff should usually be classified in one of the categories below. See guidance on this table in paragraphs 79–82 below.			
5. Partner-assisted direct delivery by LSC-funded provider	The partner provider is actively engaged in the delivery of provision for the provider as a third party supplier with a contractual relationship that financially rewards both parties for learner uptake (this excludes contracts purely related to purchase of fixed-cost learning materials that depend on learner uptake).	High	Yes
6. Partner-assisted direct delivery by LSC-funded provider	As 3 or 4 above, but the various third party organisations are financially related businesses, and in particular, where the staffing agency is a related business to that providing either learning materials and/or marketing service for learners and/or an IAG service for learners. If there is any evidence of any control over teaching by the partner provider, then this must be classified in the row below.	High	Yes
7. Partner or sub-contracted or franchised delivery by a third party on behalf of LSC-funded provider	A third party supplier is actively engaged in the delivery and the control of teaching to learners. Regardless of the actual funding arrangements of this provision, LSC directly funded providers must exercise and be able to evidence full controls over all provision delivered on their behalf by any third parties.	Highest	Yes (in detail to meet risk level)

Differences in Delivery Methods

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

79 In Table 1, the first column summarises the type of delivery, the second column defines the principal features of each type of delivery, the third column indicates the likely funding eligibility risk factor attached to delivery arrangements, and the fourth column states whether local LSC consent is required in advance of any programme delivery.

80 The third column is broadly similar to the risk factors attached to determining the volume of spot check visits previously necessary under the funding audit and now under the LEE audit. This also recognises the funding risk rating of learner eligibility to valid funding claims.

81 Below the black line, the fourth column confirms LSC advice that the provision is partner provider provision and providers will need to be able to demonstrate full controls over the delivery of the provision. Providers delivering provision within the grey shaded area should ensure that arrangements do not change during the year to move the provision below the black line. Local LSCs are likely to want the delivery arrangements in the grey shaded area quantified where the volume of delivery in this area together with the partner provider delivery is significant; that is, over 5 per cent of total provision.

82 Before considering the detailed advice below, providers are reminded that their local LSC can assist providers with any individual or unusual delivery arrangements in determining how the delivery should be classified according to Table 1. The local LSC will usually be looking to ensure that provision where the learning programme is being delivered by a partner provider is classified below the black line in Table 1, while learning programmes delivered directly by the staff of the provider are classified above the black line. The local LSC will, however, use local flexibility and reasonableness in the interpretation of this advice to avoid the rigidity that was present in the previous guidance. To take account of the very small number of providers who have failed to see the importance of the spirit and intention of LSC advice in 2004/05 and 2005/06, the following is added to the 2006/07 advice: **The local LSC will, however, be the final arbiter in determining the classification of a provider's delivery arrangements.** This also explains the need for the additional advice added to this paragraph for 2006/07. The following detailed advice may help in using Table 1.

- a Direct delivery provision by provider (types 1–2 in Table 1)
 - This describes programmes delivered by providers using their own staff (or staff from a staffing agency used across main provider sites that has been subject to proper tendering procedures) in their own buildings. This includes buildings generally recognised as part of the provider's own infrastructure that may be rented or leased, usually on a long-term basis. This would usually include community halls and meeting rooms for community-based provision using the provider's own staff. If, however, the provider uses either agency staff or its own staff who have other relationships with other users of the community premises these facts should be disclosed to the local LSC to determine whether the provision still falls within this category. This excludes any premises owned or controlled by a partner organisation that is also contracted to deliver any teaching or supply education materials for any part of the provider's programme – this must be classified below the black line in Table 1. For 2006/07, providers with significant community-based programmes using community facilities are expected to consult their local LSC to determine whether the actual detailed delivery arrangements warrant a different classification in Table 1. The LSC is concerned that when reviewing some (but not all) of these types of programmes and delivery arrangements, the provider is not in sufficient control of the provision to allow the lower risk ratings in Table 1. To remove unnecessary bureaucracy, providers may find a meeting with the local LSC to discuss these types of arrangements more helpful than starting by an exchange of any detailed written information or data and so on.
- b Direct delivery provision by provider but with partner organisation supplying educational materials and/or a marketing service to attract learners (types 3–4, shaded grey in Table 1)
 - In order not to fall below the black line, any provision in these types must be delivered using the provider's own staff, usually on the provider's own, long-term rented or leased building (as described above under the first bullet point). If part of the provision is delivered in the workplace, then this needs to be delivered by the provider's own staff to stay above the black line. Workplace delivery by partner provider staff should normally be classified below the black line.

These types (3 and 4) describe arrangements many providers have with other educational organisations. In type 3, the LSC should be advised about these arrangements where the learning materials are comprehensive and are likely to lead to lower than usual guided learning hours for learners on these programmes. This type is more likely to apply to distance-learning materials, and in the past this has often changed into full partner provider arrangements during the year as partner providers have become more actively involved in the delivery of the provision in supporting the learners. If any such in-year changes are made to the delivery, the provision must be reclassified below the black line and the necessary local LSC approval must be obtained. The provider must also then apply the partner provider control advice to the delivery of the provision.

- Type 4 should be discussed with the local LSC prior to delivery and needs even closer management monitoring than arrangements in type 3.
 - With types 3 and 4, if the partner organisation in these categories becomes involved in the education programme delivery, the provision must be reclassified and the appropriate additional approval sought from the local LSC.
- c Partner provider arrangements (types 5–7 in Table 1)
- These arrangements include all previous franchise arrangements, and the LSC expects most (but not all) of the provision that has been claimed as direct with a partner in the past to be included in one of these three headings. This should also include any provision previously claimed as direct provision by providers under previous guidance that falls within the spirit of the arrangements described in these categories.
 - Provision delivered at premises owned or controlled by a partner organisation that also has contracts for the supply of educational materials and/or is involved in delivery of any learning should also be treated as falling into one of these categories. This includes community halls and meeting rooms for community-based provision using the partner provider's own staff or any staff belonging to a staffing agency that is related to the partner

provider. As these classifications do not affect funding being claimed for the provision, the LSC assumption for any such arrangements is that the purchasing of learning materials is learner-dependent and therefore makes a relationship that rewards the third party organisation for learner uptake, and when this is coupled with ownership or control of the building these together increase the risk factor. Similarly, if the buildings are shared with any other providers to deliver education or training, this may further increase the funding eligibility risk factor. This will apply regardless of the exact wordings in any contracts between the provider and partner provider.

- The LSC is aware that for most providers any out-of-area provision is likely to fall within these three categories. The local LSC can provide further advice to any provider with out-of-area provision that does not appear to fit within these three categories. "Out of area" refers to learners or provision outside what the local LSC deems the provider's natural recruitment area and not simply the provider's own local LSC area.
- Providers are reminded that Table 1 is meant to assist them in deciding the appropriate level of management control and supervision of their different delivery and partnership provision together with an easier identification of provision that the LSC will assess as higher risk for the LEE audits. Providers are encouraged to enter early consultations with their local LSC to agree the classification of their partner provider provision.

Partner Provider Provision and Control Criteria that Apply to all Providers

General advice on contracts for partner provider provision

83 It is essential that providers should have a written contract governing their partner provider arrangements that clearly sets out the respective responsibilities of both the provider and the "partner provider". This contract must entitle the provider to exercise the required control over the partner provider's activity, including access by auditors appointed by either the provider or the LSC. Each provider will wish to take their own legal advice before entering into contracts.

84 Providers are reminded that those awarded a grade 4 or 5 in governance, management or quality assurance should not enter into any new partner provider contracts, or seek to extend or increase any contracts with existing partner providers, including any replacement of existing partner provision.

85 For colleges, the control criteria require that governing bodies will approve a generic contract for partner provider provision. They may then delegate to the principal the responsibility for ensuring that adequate scrutiny of individual contracts is undertaken.

86 The provider should have a written agreement, retained as compliance evidence, which confirms that the LSC's funding has not displaced other funds and that there is no duplication of funding from another source for the provision. This should also confirm that the partner arrangements have not been used to reduce the partner's contributions to the training and development of its staff and has not been used to reduce the partner's training budget or resources designated for training purposes.

87 The LSC requires that providers will have statements signed by a senior member of the partner provider's staff that they have not reduced their actual or planned funding, except in cases where it is clear that no resources had been devoted to the relevant type of training in the past, and where no resources would have been devoted (but for the partner arrangement) in the future. Evidence to be sought to test this statement might include extended or new contracts for staff to work specifically with the identified learners on the particular qualification aim. The accreditation of pre-existing activity would not in itself constitute additionality, nor would the availability of additional resources, for example, the production of new training materials such as a video. The LSC would not expect to fund provision that is the responsibility of another publicly funded body. Providers should have consulted their local LSC if they wish to claim partner provision in social services day centres, residential homes or hospitals.

88 The contract should satisfy the following "control test". The key elements of the control test are:

- a provider being able to enrol or reject learners as it would do if the learners were to be taught on its own site
- a learning agreement entered into at the time of enrolment that reflects the outcome of initial guidance and assessment for an individual learner

- a learning programme and its means of delivery that have been clearly specified by the provider
- the provider being in control of the delivery of the education
- arrangements for assessing the progress of individual learners
- procedure for the provider to regularly monitor the delivery of programmes provided in its name.

Controls over learners, tutors and provision

89 Each learner should have a learning agreement, signed by the learner and the (partner) provider, which accords with the LSC guidance on initial guidance and counselling and with the terms of the partner provider contract.

90 Partner providers should not sub-contract the delivery of LSC-funded provision to other organisations or self-employed individuals without the express and written approval of the local LSC.

91 The delivery of provision should be by the partner provider's directly employed staff. In the case of volunteers, the control must be "as if they were employed".

92 The LSC's view is that it is not acceptable for any control activities to be undertaken by any provider staff with a financial interest in their partner providers. This includes signing of time sheets or invoices as well as organising and/or performing any monitoring visits on the partner provider delivery. Providers must be in control of any timetabling of tutor activity.

93 The provider should be able to demonstrate complete control of the provision if it is to be considered eligible for funding. If the trainers normally sell their services as self-employed contractors, the partner provider organisation must create an employment relationship with them. Evidence of such an employment relationship would include a statement of terms of employment and evidence of taxation under PAYE. This does not include members of a national body who are licensed to carry out training, unless they are directly employed by the partner provider organisation.

Controls over qualifications and curriculum

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

95 Where the provider is making partner provision in curriculum areas not normally provided by the provider, it should be able to demonstrate that it can exercise effective control over the provision. The LSC requires that in these circumstances the provider would employ an independent person with appropriate expertise in the curriculum area to provide advice on partner arrangements and undertake the necessary checks on the operation of the arrangements, including monitoring of the quality of provision. This person should not have a financial relationship with the partner provider firm or organisation.

96 Where the provider has joint approved centre status with their partner provider, all aspects of learner assessment should be carried out in accordance with directions given by the provider.

97 Where the amount and nature of the partner provider provision represents a significant departure from a provider's strategic plans, the appropriate local LSC should have been consulted and the governing body should have approved the departure. Significant departures from the strategic plan are defined as those that may have significant implications for adequacy and sufficiency.

Fee charging by partner providers

98 Where the partner provider is providing courses that are part-funded by the LSC, the course fees charged to learners should reflect the contribution made by the LSC towards the cost of the courses.

Where the course fee exceeds 100 per cent of the available LSC funding, provision should be classed as full-cost recovery. Providers and partner providers are reminded that tuition fees must not be increased after the commencement of a learner's programme. Providers are also reminded of the need to record all learner tuition fee income in their ILR, including any tuition fee income collected from learners by partner providers.

Other LSC-funded learners

99 Providers are reminded that they may not transfer LSC funding among each other. *Funding Guidance for Further Education in 2006/07* paragraph 353 confirms that providers should not claim any funding for inward franchising, and this is now extended to all other partner provider activity.

100 Where the partner provider is a school and provision relates to 16–18-year-old learners in full-time education in a school, provider, or combination of the two, provision is eligible for LSC funding only if the guidance on the application of the control criteria in this document is satisfied. Providers must also ensure that before any FE funding is claimed for such learners that no "double funding" is being claimed for them; (see *Funding Guidance for Further Education in 2006/07* paragraph 31).

101 Provision made on school premises or partly on school and partly on provider premises, where teaching is shared between school and provider staff, is only eligible for LSC funding where the provision is fully under the control of the provider and a substantial part (not less than half) is delivered by staff directly employed by the provider. Other criteria that should be taken into account when determining whether the provision is "provider" provision are:

- provision is delivered in premises on the school site leased or rented by the provider and clearly identified as an outreach centre of the provider
- the resources used for the provision are the property of the provider
- participants are learners of the provider rather than the school (for example, there should be no requirement to wear school uniform)
- provision is not confined to former pupils of the school in which the provision is located, so that learners from other schools may attend if they enrol with the provider.

102 Full-time provision made entirely on school premises by school staff is not eligible for LSC FE funding in 2006/07.

In-company partnership arrangements to provide NVQs

103 Particular attention is drawn to that in-company work carried out by colleges and other providers in which NVQ programmes for trainees are accredited using assessments carried out by unqualified or only part-qualified company employees. Whilst the involvement of a company's own staff may be desirable for the sustainable development of the company's whole workforce, and is encouraged by the LSC, the use of unqualified or part-qualified assessors may not only invalidate the whole accreditation process, rendering the programme ineligible for LSC funding, but also put at risk the trainees and the company's customers. This model has been particularly associated with the provision of NVQs for staff in care homes, where the risk to LSC funds is eclipsed by the risk to the health and safety of patients because trainees have not been trained and assessed to the correct national standards.

104 In all circumstances, including those in which the college's own staff are receiving training in assessment and verification, colleges should be able to confirm that only fully qualified assessors and verifiers, who also have the relevant occupational knowledge and expertise, have assessed the NVQ candidates. Assessors and verifiers who are working towards their qualifications should not be permitted to practise such activities without the direct supervision of a relevantly qualified trainer. In those cases where trainee assessors and verifiers are involved, their assessments should always be countersigned by a qualified trainer, and such activities should be recorded in the relevant class registers for both NVQ and assessor or verifier trainees.

Data returns in respect of partner provider provision

105 Providers must be satisfied that data returns from partner providers are made in an accurate and timely manner, and that they are supported by appropriate compliance evidence.

106 All learners on partner provider provision should be recorded as such on the ILR return and identified in ILR field A22 (Franchise and partnership delivery provider number) by the code assigned by the provider to their partner provider.

Monitoring (control) visits and "spot checks"

107 The LSC funding audit approach continues to address the issue of provider controls over partner provider provision. Providers should continue to address these issues for themselves, and the following paragraphs give some advice on the content of the controls expected from LSC-funded providers on their partner provider delivery arrangements.

108 The "spot check" visits should be carried out regularly in cases where the provision runs throughout the year. In other cases, the scheduled spot check visits should take account of the pattern of provision so that they are applied to a significant proportion of learners. Systematic spot check visits should involve the provider making unannounced visits in-year to each partner provider. A sample of sites should be included for provision being delivered by each partner provider, rather than simply re-visiting the same site. The checks should be proportionate to the risk and volume of the provision and contract. They should also be undertaken during the year at times that are proportionate to the periods in which funding is being claimed.

109 Some providers have requested further clarification of this requirement. This means visiting without notice. It is suggested that at least some of these visits are unannounced to the partner provider. If there are sensitivities, for instance to observe work-based training in a care home, then perhaps a courtesy telephone call just before arrival would be helpful. Partner providers should be informed of the necessity of this type of visit before the contract is signed. The times should vary; for instance, when monitoring one-day provision or short courses, unannounced visits should be undertaken at the expected start of the programme and during "twilight" time. Providers should ensure that they meet and interview a sample of learners and, where appropriate, staff. Learners should be asked to name the provider they are enrolled at, and should also be asked if they are at the same time, or have been recently, a learner at another LSC-funded provider. Other evidence sought should include marketing material, copies of registers, learning agreements, registration documents for awarding bodies, visit notes from external moderators and evidence of certification.

110 Systematic checks should be used to confirm that the provision exists and is consistent with the provider's expectations and the partner provider's records. The number and characteristics of learners should accord with the provider's expectations and the partner provider's records. For example, any obvious mismatch between the apparent and expected age of the learners should be investigated. These checks are relevant to all forms of partner provider provision.

111 Monitoring of provision should include direct observation of the initial guidance and assessment process and direct observation, at appropriate intervals, of the delivery of the learning programmes. Monitoring activities should include checks on the eligibility of provision.

112 Monitoring activities should be similar to those considered appropriate for external verification or moderation, sufficient to ensure learner progress can be monitored, and used to gather regular learner feedback.

Partner providers with multiple provider contracts

113 A partner provider should report on an ongoing basis to each provider, whether it has entered into contracts with other providers, and should commit to confirm the volume and value of those contracts. Providers should be proactive in ensuring they receive such reports. The providers should liaise to determine which of them holds the largest contract with the partner provider, where size is defined by the total amount of cash delivered with the partner provider. For these purposes, providers should treat all companies or organisations that are in the same common ownership or control as one partner provider, and should look carefully at any arrangements where a number of companies or organisations seem to share a similar ownership or control. Each provider should have a written agreement, retained as compliance evidence, which confirms that the LSC's funding has not displaced other funds and that there is no duplication of funding from another source for the provision.

114 The provider with the largest contract shall be regarded by the LSC as having lead responsibility for the provision. In the event that all contracts made by one partner provider (or by a group of related partner provider organisations) are of a similar size in terms of the amount of cash, it is expected that the provider with the longest-standing relationship with the partner provider shall take lead responsibility. The responsibilities of the lead provider include co-ordinating with the other providers, by:

- initiating sample checks, either directly or through local LSCs to confirm that the provision exists and is consistent with expectations of the provider and of the learners undertaking the programmes
- undertaking visits (some of which will be unannounced) to ensure that the provision is taking place

- checking that the provision is recorded consistently by the partner provider, in that the number and characteristics of the learners accord with the providers expectations and records
- confirming that arrangements are in place to ensure that there is no risk of double funding and that conflicting approaches to control and quality assurance arrangements are minimised; and
- ensuring that these checks are also be applied to provision delivered by related partner provider organisations.
- Funding implications: all aspects of partner provider provision

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

Advice for accounting officers on all aspects of partner provider provision

116 The LSC advice on the checks expected by funding and LEE auditors over "partner provider" delivery arrangements is made available to FE accounting officers in the following paragraphs. This advice should be helpful to accounting officers of plan-led funding providers that have significant volumes of partner provider provision.

117 Separate funding and LEE audit programmes and guidance have been issued to the LSC contracted funding and LEE auditors for 2006/07 by the LSC Provider Financial Assurance team.

118 The LSC has identified the growth in partner provider provision in a small number of colleges, and the difficulties this has caused in evidencing control of their partnership provision. The LSC see the delivery postcode as a key field on the ILR (field A23) that will identify to local LSC (and funding auditors) the higher-risk elements of a provider's provision. A DSAT is provided to identify provision by postcode delivery, and providers are required to cross-reference this field to

their declarations of partner provider arrangements. The management teams of plan-led funding providers must ensure this is appropriately monitored within their own internal organisations.

119 The LSC requires provider management to undertake systematic in-year checks on partner provider provision where it is delivered away from the provider's main premises, and delivered wholly or in part by people who are not members of the teaching staff of the provider. These checks should, therefore, have been completed while the provision was taking place.

120 Provider management are required to satisfy themselves of the following.

- The controls set out above were in place and operating for all of their provider partner arrangements.
- Their management was making appropriate systematic checks to ensure that learners enrolled by partner providers on their behalf and recorded in the partner provider's records were correctly described in their learner record system and were actually receiving the scheduled provision described.
- No LSC funding was transferred from them to employers, including via third parties, as part of a partner provider arrangement to provide education and training to their employees. Payments to employers, for example for the use of premises and equipment, would be appropriate.
- Where secondment arrangements had been made, that appropriate legal advice had been obtained and sufficient evidence was available that a proper contract was not required and that the provision was fully under their control.
- The glh recorded for loadbanded provision had been correctly calculated in accordance with paragraphs 114-122 of *Funding Guidance for Further Education in 2006/07*. This is especially important in the case of work-based provision, particularly where the qualification aim is a National Vocational Qualification. Guidance on the calculation of glh is contained in paragraph 59 of *Funding Guidance for Further Education in 2006/07*.

121 Providers are also reminded of the following examples of controls required from them for their partner provider delivery arrangements:

- a original enrolment forms, these may be completed either:
 - at the provider by the learner and signed in person; or
 - completed online by the learner - in all cases, the enrolment form or learning agreement should be printed out by the learning centre and posted to the learner's home address. The form should then be signed and returned in the post by the learner
- b original registers, which may be electronic
- c in-year checks to establish the quality of delivery together with checks on the accuracy of the data and actual existence of learners
- d systems for ensuring the control criteria for any partner provider provision are met with regular meetings to discuss progress and any emerging issues.

4: Additional Learning Support

Compliance evidence for additional learning support

122 The following section gives advice for all providers (but plan-led funding providers only please especially note paragraph 124).

123 In planning its provision for 2006/07, a provider will have prepared an estimate of the funding for additional learning support (ALS) required for the year. The estimate of additional funding will draw on information derived from strategic planning activities, including multi-agency collaboration, school links, careers information and other activities.

124 Providers within plan-led funding need to follow the guidance for all learners where individual costs above £4,500 are being claimed. Plan-led funding providers may find some of the guidance below helpful in discussing their additional support allocations with their local LSC. Plan-led funding providers should assess for themselves how they treat their partner provider ALS claims. They have the discretion to advise any of their partner providers to apply (either fully or partially) this advice to any ALS being claimed from them.

125 For 2006/07 plan-led funding providers are reminded of the new advice in paragraphs 432 and 450 of *Funding Guidance for Further Education in 2006/07*. The principle of plan-led funding is that provider allocations are not adjusted in the light of outturns but outturn information is useful to both the provider and the local LSC in determining future allocations. This advice allows providers to apply the global costing principles used to determine their ALS allocation to review actual costs incurred during the year so the funding claim and ILR returns reflect the actual costs incurred, whilst simplifying providers' administration of ALS for learners with support costs below £4,500 as much as possible. All global costing work should only include costs allowed at an individual learner level in accordance with the guidance below and in Section 8 and Annex K of *Funding Guidance for Further Education in 2006/07*.

126 The guidance below must be fully applied by all providers outside plan-led funding.

127 Where the provider wishes to claim ALS, the learner's learning agreement should give a summary of the additional support to be provided to the learner and a copy of the ALS costs form should be retained with the learning agreement.

128 The ALS costs form provides information on the costs of providing additional learning support. It will form part of the compliance evidence to be retained by the provider in support of its claim for additional learning support funds. Care should be taken to ensure that planned expenditure does not make disproportionate use of public funds. The claim made should reflect the actual costs incurred and providers should retain evidence of the costings used.

129 Once the learners are engaged on their learning programmes, the provider should also be able to make available to its funding auditors sufficient evidence to show that the additional support or any extra funds allocated by the LSC for which additional support funding is being claimed has been made available to the learner.

130 Where a learner incurs additional expenditure over and above £19,000, the college may approach the local LSC for additional funds. The college should retain the letter from the local LSC agreeing the claim and authorising the additional payment. Additional support funding or, where applicable, extra funds allocated by the LSC in addition to the maximum rate of additional support, must relate to specific individuals.

131 The process of initial assessment for learning support should be integrated into the other processes carried out during the entry phase of the learning programme, and evidence should be available of the assessments that were carried out.

132 Providers should consider how the various documents and auditable evidence required are co-ordinated, and the system for calculating additional support costs, and ascribing these costs to the appropriate support band, should be reviewed for compliance with current guidance.

133 The LSC is concerned to ensure the eligibility of claims for additional support and would not normally expect providers to:

- have large numbers of students just triggering cost thresholds for each support band
- significantly increase from year to year the proportion of additional support funding in the total
- systematically extend the provider week or year for discrete groups of students with learning difficulties and/or disabilities

- claim ALS funding where the majority of students in a group, studying, for example, a vocational A level, appear to require additional help in order for them to succeed on their learning programme (this would not apply to discrete groups of students with learning difficulties and/or disabilities)
- claim ALS funding for students enrolled on partner provider provision where the appropriate proportion of funding received is not then passed on to partner providers
- systematically claim for literacy or English for speakers of other languages (ESOL) qualifications in addition to the primary learning goal of a student.

134 A copy of the ALS form should be retained with the learning agreement and should be signed by the student or parent or advocate. An integral part of the establishment of the learning support plan is the scheduling of regular reviews. These reviews may result in a reassessment of the support programme. This may lead to changes in the cost. Providers will find it helpful to ensure that this is systematically recorded.

135 Generally, providers should complete an additional support form when a student's additional support needs are first identified, and may initially have to base them on estimated costs.

136 For the final funding claim the form must be completed to show actual additional expenditure incurred by the provider.

137 Where ALS funding is claimed for programmes in numeracy, literacy or ESOL, it should be in accordance with one of the three options set out in paragraph 446–448 of *Section 8 of Funding Guidance for Further Education in 2006/07*.

138 When checking the withdrawal mechanism, providers should have robust systems in place to ensure that students with erratic attendance due to illness or other legitimate circumstances are identified. In the case of students with mental ill health or other legitimate reasons for erratic attendance, the providers should retain evidence of assessment and/or a notification from the student, parent, advocate or medical adviser that there is a strong intention to return. In these exceptional cases, the student need not be entered as withdrawn within the usual timescales. If the learner fails to return, the withdrawal date should be the last date of attendance.

139 Where ALS funds are claimed for counselling, this should be in cases where it is necessary to enable students to achieve their primary learning goal. In these cases, ALS funds may be claimed even where the provision made is confidential. In order to claim, the provider will need to make a "manual adjustment" to the final funding claim. Where confidentiality is an issue, anonymised ALS forms can be prepared. These will need to justify the costs claimed.

140 While the actual equipment costs cannot be included as additional support, a depreciation charge for equipment may be included. It should be calculated by dividing the actual cost of equipment used by the student in accordance with the provider's depreciation policy. Capital building works are not eligible for funding under the additional support mechanism.

141 Depreciation costs must be claimed in line with the provider's depreciation policy and should be calculated by a provider's finance department, as it must be shown in the provider accounts. The same procedure applies to equipment that is leased rather than purchased.

Detailed Advice for Providers

142 Providers are reminded that only costs allowed under the LSC guidance on additional support can be included in their claim. The LSC guidance, for example, does not allow providers to include in their claims or block allocations any overhead or absorption costs they decide to allocate to their additional support department that are not allowed as valid expenditure under the LSC guidance. This booklet rightly gives no advice on the internal budgeting arrangements of providers for additional learning support. For example, providers who set up a separate department for additional learning support that is then budgeted for a share of college general overheads, such as senior management costs, general building costs or finance and management information system overheads, and so on, should be aware that the LSC would see this as costs funded from the base unit of resource.

143 Only costs that are wholly exclusively additional should be charged; that is, posts that would exist without additional support cannot be charged as additional support (for example, principal, finance director or management information system officer).

144 Overhead costs, such as central services or premises costs, already met from the base unit of resource in recurrent funding, may not be charged to reflect the costs of additional support.

145 Overhead costs directly attributable to the provision of additional learning support, and as such not funded from the base unit of resource in recurrent funding, may be claimed where the college can clearly demonstrate that the extra costs have been incurred solely for the provision of additional learning support.

146 Lecturer cost should be calculated using total teaching staff salaries for the year divided by total teaching hours for the year. Additional teaching costs could alternatively be calculated based on the actual costs of those involved.

147 Teaching support staff salaries should be based on staff salaries plus on-costs and contracted hours.

148 Additional hours added to a qualification cannot be reflected in additional support costs. These should be reflected in the loadband for the qualification.

149 The costs of administration that are directly linked to the delivery of additional support for individual students may be calculated and claimed. General costs need to be supportable (that is, £100 added to each claim for administration and tests is not acceptable). Administration staff costs should not be charged per student hour, but should be based on costs incurred.

150 Where specific administration is dedicated to just additional support, the costs could be spread evenly over all students dealt with within the additional support department after excluding those costs allocated based on time records.

151 It is not acceptable to inflate the costs artificially by including management and administration that are not directly related to the delivery of additional support for students.

152 Cost of initial review is claimable by all where needs are assessed.

153 Costs relating to a specific group of additional support students, for example, travel on a minibus, should be apportioned to these additional support students only and not to all additional support students.

154 Where extra IT technicians are employed to provide support to all students, this should be allowable against learners identified with needs.

155 Costings should be reasonable in relation to expected costs. For example, where averages, such as average teaching costs, are used in this calculation, the provider should have retained evidence that demonstrates that the values used are reasonable.

156 Cost per hour of teaching staff should not normally exceed £43 (in London this would be higher) without extra work (in addition to those in the audit programme) to ensure the cost is appropriate. Costs must be supported and compared with actual costs of the provider. Standard rates are not to be applied.

157 Staff teaching for a proportion of their time at the provider should ensure that only the proportion of their salary related to teaching is included in any calculation of hourly rate.

158 Additional support costs should not be claimed where a student requires support in the subject area of their qualification; for example, additional support should not be claimed for a learner studying GCSE Maths and receiving extra support in Maths.

159 A reasonableness check of actual costs incurred against the funding claimed may be used as an ultimate check on any claim.

160 Where additional support is given off-site as part of a business decision (for example, care homes) the small class size calculation should take account of the learner needs, and the level of learners available to be taught. As there may only be three learners on site, the reduced class size may not be appropriate, as it is the college's decision to provide the education. Reduced class sizes will need to be justified by the college before any additional support claim is made for extra costs associated with the small class size(s).

161 The additional cost of a small or discrete group of learners with learning difficulties should be calculated by subtracting the average teaching cost per student on a standard programme from the cost per learner on a discrete programme.

162 The programme weighting for basic skills reflects delivery in small groups. If basic skills is taught in groups smaller than normal because of learners' additional support needs, funding may be claimed using the small group formula (the average group size for the college should relate to basic skills in this calculation).

Standard Class Size for Small Class Additional Learning Support

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

Figure 1: Example of small group size calculation

Cost per lecturer hour – Cost per lecturer hour
 = Cost per learner hour

Specific small group size*	Average group size for college
----------------------------	--------------------------------

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

164 The calculations are based on the “ideal” or “target” group size, based on the needs of the learner. It is therefore inappropriate to recalculate the claim according to the size of the group when, for instance, one or two learners drop out.

165 The LSC confirms that the standard class size should be calculated using the following method.

- An average class size is found from the register or other data based on the number of fundable learners attending. This is intended to exclude learners who withdraw before the first census date and other learners who do not qualify for LSC funding.
- The classes considered should exclude basic skills in literacy and numeracy and in ESOL as the funding rates for these learning aims effectively include an additional learning support element for small class delivery.
- If the average class size cannot be found by this method, a value of 14 should be used, as this is the average for all FE providers.

5: Withdrawals

Compliance evidence for withdrawals

166 General guidance on withdrawals is available in paragraphs 174-180 of *Funding Guidance for Further Education in 2006/07*.

167 Table 2 gives advice on the funding position depending on whether or not the course crosses a census date.

168 A learner should be considered to have withdrawn from a programme of study where he or she is known to have made a decision to withdraw from the programme of study, or to transfer from a full-time to a part-time programme of study or from a part-time to a full-time programme of study. Either the learner or the learner's tutor should have confirmed this in writing.

169 In addition, for full-time programmes and part-time programmes of 12 weeks or more in duration, which are not distance-learning programmes, a learner should be considered to have withdrawn where they have not attended classes for at least four continuous weeks, excluding holidays. This is unless there is auditable evidence of an intention to return. Compliance evidence includes a learner's or employer's letter or formal internal notes such as tutorial reports, "contracts of behaviour" or "personal action plans". If a learner then returns before the census date they should be counted as enrolled.

170 Providers should ensure that learners are withdrawn from a programme where they have not attended classes for four continuous weeks, excluding holidays. Withdrawals should be actioned in a timely manner, and where a learner has not been withdrawn but has been absent for more than four weeks, there should be auditable evidence of an intention to return.

171 Where a learner has not been in attendance during a programme, and is deemed to have withdrawn, the funding associated with the learner should be adjusted from the relevant census date, to reflect that the learner has withdrawn.

172 Additional guidance on withdrawals is provided below. This is in response to a number of questions on this issue from providers and funding auditors.

173 Learner withdrawal dates should be promptly and accurately recorded in order to reflect the last date of actual recorded attendance. All learner withdrawals must be recorded in the ILR.

174 Withdrawn learners should generally not be recorded as completed. Learners should also be correctly recorded as having transferred to another qualification, or withdrawn without transferring.

175 The date of a learner's withdrawal should be recorded in all circumstances as the last date of their actual attendance, not the date on which the learner's record was flagged as withdrawn. While learners may not be classified as withdrawn until four weeks have elapsed since their last attendance, or for open and distance learning since the missed contact, the date of withdrawal should still be recorded as the date of last actual participation.

176 When checking the withdrawal mechanism, providers should have robust systems in place to ensure that learners with erratic attendance due to illness or other legitimate circumstances are identified. In the case of learners with mental ill health or other legitimate reasons for erratic attendance, the providers should retain evidence of assessment and/or a notification from the learner, parent, advocate or medical adviser that there is a strong intention to return. In these exceptional cases, the learner need not be entered as withdrawn within the usual timescales. If the learner fails to return, the last date of participation should be used to record withdrawal.

177 Learner withdrawals are not expected to occur in a systematic pattern. Where the number of learners shown as withdrawing from courses shortly after a census date appears to be disproportionate, providers may wish to pay particular attention to the attendance records and associated management controls for such courses.

178 A provider should also always take active measures to ensure that the learner is continuing on the programme and has not withdrawn. This should be done, for example, by providing a planned timetable for the receipt of assignments and then checking with learners who have not provided an assignment on the due date. Good practice suggests that learners should be contacted at regular intervals to check that they are still following the programme. It is not acceptable to assume that silence means a learner is "continuing". Providers are reminded of the advice in paragraph 271 of *Funding Guidance for Further Education in 2006/07* to do everything they can to help learners complete their programmes and see early withdrawal from programmes as a last and not a first resort. Colleges need to check that partner providers are implementing the guidance. In all cases the learner should be counted as withdrawn from the last date of actual attendance. In the case of distance-learning programmes, this is the date of the actual participation missed by the learner.

Questions and answers on withdrawals

179 The following questions and answers will help clarify the funding situation for withdrawals.

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

A No. Despite the implication of paragraph 179 in *Funding Guidance for Further Education in 2006/07*, which refers to a "programme", funding may not be claimed for the withdrawn parts of programmes. This is the way the Learner Information Suite (LIS) calculates the funding and has been the accepted practice. So in this question funding may be claimed only for the first period for the withdrawn qualification.

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

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

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

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

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

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

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

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

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

A Early June. Sitting the examination is assessment of the learner's achievement and may count as guided learning. In practice, given the relatively short period of non-attendance, it is unlikely providers would treat such learners that passed their examination and qualification as withdrawals, instead recording them as successful completers.

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

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

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

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

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

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

6: Specific Guidance on Individual Qualifications and Delivery Methods

Curriculum Entitlement

Compliance evidence

180 Evidence should show that the learner is receiving a substantial full-time programme of qualifications approved by the Secretary of State for Education and Skills under Section 96 of the *Learning and Skills Act 2000*. In addition to this, there should be documentary evidence of the delivery of appropriate key skills, tutorial and enrichment activity. Providers should be able to demonstrate that learning took place over a period of four to five hours a week and retain timetables, registers and recorded outcomes of planned enrichment activities.

181 To be eligible for entitlement funding, the student must be full time, as defined by 450 glh. This includes glh spent on the curriculum entitlement.

182 Where the entitlement is being claimed for a learner aged between 16 and 18, no further funding will be available if they are enrolled on a learning aim that the LSC considers similar in content to the key skills of communication, application of number or information technology (see *FE ILR Funding Estimate/Claim 2006/07 Annex H and manual adjustment 2007–18*)

183 To claim the entitlement for full-time 16–18 year olds, providers should retain compliance evidence that:

- as part of their planned delivery of the curriculum entitlement, providers have made learners aware of their entitlement to the development of key skills, tutorial and enrichment studies
- the learner's current learning agreement includes the delivery of relevant key skills
- the learner's current programme includes tutorial and enrichment activities delivered in glh that are over and above those glh delivered as part of the other learning aims in the learner's programme
- the learner started the programme while under 19, according to the definition as set out in paragraph 35 of Section 3 of *Funding Guidance for Further Education in 2006/07*, and is on a full-time course.

184 For learners with learning difficulties and/or disabilities, the provider should include as compliance evidence on the learner's learning agreement assessment evidence detailing why key skills qualifications are inappropriate and what alternative activity will be provided.

Distance Learning, Open Learning and Online Learning

Distance learning

185 The current LSC arrangements for claiming funding for distance-learning delivery for 2006/07 are described in Section 9 of *Funding Guidance for Further Education in 2006/07*. Claims for funding will fall into the two categories set out below.

186 First, any listed provision delivered as distance learning in 2006/07 can be claimed and audited as listed provision. This approach should also be applied where the recommended or average glh for qualifications have been chosen as the basis of any loadbanded claim. Providers who consider the listed funded rate does not adequately reflect their costs of delivery may choose one of the other options for funding, subject to the agreement of their local LSC.

187 Secondly, providers will have agreed with their local LSC a funding claim for loadbanded distance learning in 2006/07. In reviewing claims in this category for providers, local LSCs should concentrate on simple overall reconciliation of costs rather than the bureaucratic reconciliation of any individual learning logs. In many cases the funding agreed for 2006/07 will have been based on the providers' previous experiences and costs.

188 Providers will still need to show evidence that their learners have received guided learning support, but no longer need to provide detailed time reconciliation of individual support. The LSC has reduced the definition of higher-risk distance and open learning to include only:

- learners enrolled outside the provider's usual recruitment area; and
- partner provider-assisted provision.

189 The LSC has provided some guidance on completing the distance-learning costs form, and this guidance is available on the LSC website with the form. It is also printed in Circular 04/03: FE ILR Funding Claims 2003/04 as Annex K and is available on the LSC website (www.lsc.gov.uk/National/Documents/SubjectListing/FundingLearning/FurtherEducation/DL_form-Guidance.htm).

Distance learning: frequently asked questions

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

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

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

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

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

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

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

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

Q Why have some National Vocational Qualifications (NVQs) still not been given a listed rate?

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

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

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

Open learning

190 A helpful definition of open learning may be found in *Funding Guidance for Further Education in 2006/07* Section 9 paragraph 497.

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

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

193 Providers should claim the national rates for listed or loadbanded learning aims, as shown in *Funding Guidance for Further Education in 2006/07*, for provision delivered using open-learning methods.

Open learning: frequently asked questions

Q What are glh in an open-learning context?

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

Q How much funding may be claimed?

A For listed learning aims, the normal rates are shown in the funding guidance for the appropriate year stored in the Learning Aims Database (LAD). For loadbanded learning aims, the rate appropriate to the number of planned glh may be claimed.

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

A The provider should make an estimate of the planned glh, and this should be reviewed each year. Hence, the provider should specify the standard glh value for a particular learning aim to be studied by open

learning. This should then be used to claim the funding for all the learners studying this learning aim, irrespective of the variation in glh that each learner may receive. However, if there is a significant variation (of more than 20 per cent) between the planned and actual glh, the funding claim should be revised to reflect actual costs incurred. The provider should monitor the actual glh for each successful learner and then use these to determine the planned glh for the following year.

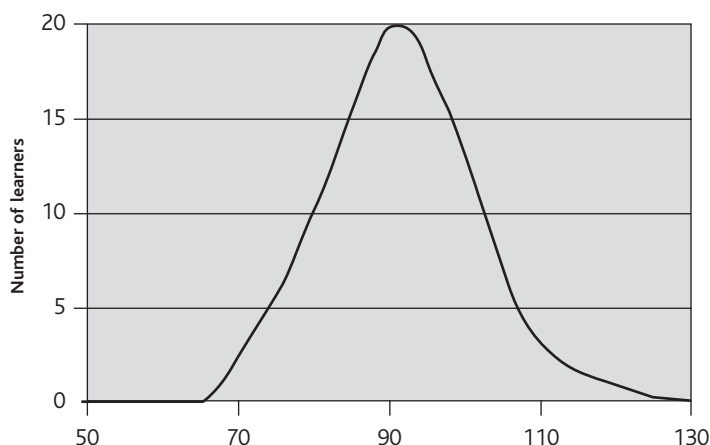
Example

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

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

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

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



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

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

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

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

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

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

Fee Remission

Compliance evidence

194 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 paragraphs 123–127 of *Funding Guidance for Further Education in 2006/07*
- for fee remission being claimed on the basis that the learner is attending their first full Level 2 programme (see paragraph 197 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.

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

196 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.

197 The LSC has included in the ILR specification for 2006/07 in Annex G under the heading "Prior attainment levels" some guidance on the definition of a full Level 2. This guidance on qualifications up to Level 4 is reproduced below in Table 3.

Table 3: Prior attainment levels (see Annex G of 2006/07 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

Full-cost Recovery

Compliance evidence

198 Paragraph 353 of *Funding Guidance for Further Education in 2006/07* lists the provision not eligible for LSC funding and includes full-cost recovery programmes. Paragraphs 129–131 set out the level of tuition fees expected from learners and employers by providers in delivering LSC-funded programmes. A number of providers have had difficulty in trying to determine the funding eligibility of some provision and where the line is crossed into full-cost recovery programmes.

199 The Department for Education and Skills (DfES) has set the LSC challenging fee targets. These include contributions from both learners and employers. The LSC is well aware that many FE providers already contribute towards these targets by running full-cost recovery courses and see no need to seek LSC funding for these learners. The LSC is also aware that some provision can be very expensive to run, and that providers need to charge fees in excess of the usual fee element. This means it is often very difficult to determine the precise boundary between full-cost recovery and LSC-funded provision.

200 In general, the LSC requires providers to see their provision as full-cost recovery provision where the tuition fee charged to the learner approaches 100 per cent of the national rate available for the programme of study. Providers may not charge learners higher retrospective tuition fees once they have started on their programmes in that teaching year. Providers are also reminded of the need to record all learner tuition fee income in their ILR, including any tuition fee income collected from learners by partner providers.

201 Providers charging learners a high fee that incorporates a number of factors will need to distinguish between the tuition fee charge and any other charges before seeking LSC funding for these learners.

202 The LSC has been presented with questions from providers where the fee charged to the learner includes the following items:

- residential costs for course placements
- costs for books and other similar learning materials
- expenses for specialised equipment and/or related consumables

- fees for non-LSC-funded courses
- registration fees with relevant professional societies
- fees for specialised services not related to the learner's LSC-funded programmes.

203 Providers wishing to claim LSC funding for learners being charged high fees that include any of the above are asked to ensure that they provide their learners with a detailed breakdown of the fee, so that only the real tuition fee charge is used in determining whether LSC funding is appropriate. Providers are expected to consult their local LSC where the tuition fee approaches (or in a few rare cases exceeds) the 100 per cent limit to avoid unnecessary difficulties at audit or later legal challenges by learners concerned about proprietary issues around public funding if the learner had believed their tuition fee charge was for a fully self-financing programme(s).

204 If the provider charges a fee that exceeds the total available LSC funding, the LSC would regard the provision as full-cost recovery provision and ineligible for LSC funding.

205 No LSC funding should be claimed for any full-cost provision. Providers should consult their local LSC where they are uncertain as to whether any provision they proposed to offer would incur learners in a fee approaching the 100 per cent contribution.

Funding implications

206 Providers are reminded of the need to comply with the spirit and intention, as well as the letter, of funding guidance. Where fees are charged that approach 100 per cent of the funding available, the provision needs to be reviewed to assess the actual contribution of LSC funding to the overall cost of the programme. In particular, where the fee falls very close to the upper threshold, providers will expect to have written consent by the local LSC to fund the programme.

207 Where provision is deemed by the LSC to be full cost, this may result in all funding associated with this provision being removed from the claim.

Loadbanded Provision

208 Providers should ensure that the guided learning hours (glh) for loadbanded provision are accurately assessed in order to place the provision in the correct loadband. All loadbanded provision should be reviewed to ensure that the planned glh agree with those

actually delivered. Where they differ significantly, an in-year adjustment should be made.

209 Where glh have been incorrectly calculated and learners' programmes consequently assigned to incorrect loadband(s), the provider would be expected to revise their ILR return to show the correct loadband(s) where the variance in glh between actual and planned is more than 20 per cent.

210 The examples set out for adjusting loadband claims for open provision, where the delivered glh varies significantly from the planned glh, may give providers a reasonable methodology to apply in deciding whether or not to adjust their wider loadbanded provision claims, either up or down as appropriate. These examples are given after paragraph 193 and the open learning frequently asked questions.

National Projects

Compliance evidence

211 The LSC has set up a small number of national projects with providers that will have completed a project agreement form. The amount of funding to be claimed and/or the method of claiming may differ from that laid out Funding Guidance for Further Education in 2006/07 and will be detailed in the individual project specification as agreed with their local LSC. Providers outside plan-led funding should ensure that their funding auditors are aware that the provider is included in those projects and that the provision is sampled as part of any funding audit arrangements.

Provision in the Workplace

Compliance evidence

212 If provision in the workplace is being delivered with a partner provider, the advice in Section 3 of this booklet must also be applied to this provision. As stated in Section 3, the local LSC will advise on the classification of workplace provision delivery arrangements where providers are unsure of its classification under Table 1 in this booklet. If the college is relying on the partner provider to deliver the workplace provision and some (or all) of the class-based provision, the local LSC will expect to see the provision classified below the black line in Table 1.

213 Provision in the workplace is not expected to exceed 329 glh a year. For employed learners, the provider will need to check that the hours claimed for guidance and supervision in the workplace are distinct from those previously forming part of the learner's

normal employment. Providers should retain compliance evidence that the hours claimed are additional to those the employer previously provided, or would normally expect to provide, as an integral part of the learner's employment. Equally, the fact that the guidance and supervision by an employer of a learner can now lead to the achievement of a qualification, whereas previously it was directed to the achievement of the skills necessary to accomplish the task, does not justify the classification of such hours, which are not additional to existing activity, as LSC-funded glh.

214 Where a supervisor is delivering provision to a group of learners, the LSC requires such provision to be scheduled, and the attendance of learners on each occasion that the provision is delivered to be recorded. Otherwise, it is expected that the supervisor is delivering glh to learners on a one-to-one basis. Funding auditors should satisfy themselves that the number of glh recorded is reasonable, bearing in mind how the supervisor's time is divided between:

- supervision or assistance specific to the study of each learner they are responsible for supervising
- general supervision or assistance of these learners carrying out their normal work activities
- tasks other than the supervision of individual learners.

215 The following hypothetical examples of activities that are not eligible for inclusion as glh may be of assistance to providers and auditors:

- training in the use of a till provided to checkout operators by a supermarket
- on-the-job supervision of employees by their supervisor other than where the hours involved are additional to the supervisor's previous oversight.

216 Where a provider is engaged in partner provider arrangements for the delivery of work-based programmes, the basis for the number of glh claimed for non-individually listed qualifications is of particular concern. This is so especially for those involving the delivery of programmes to an employer on the employer's premises, typically for learners pursuing programmes leading to NVQs.

217 In the case of work-based NVQs, the delivery of the learning programme should be sufficiently specified in the learning agreement to make clear the balance of work-based activity and training activity, and the

planned number of glh to be delivered to achieve the qualification aim.

218 There is no provision in the LSC's funding methodology for a notional calculation of the number of glh. The partner provider should have identified in its learning agreements the number of glh to be delivered.

219 This guidance also relates to provision made in other situations such as residential homes or social services day-care provision. It is expected that, because of the possibility of double funding with other statutory agencies, such provision is made in exceptional cases only. It is recommended that it be discussed in detail with the local LSC before the delivery starts. Robust evidence that the provision is additional to that normally provided to the individual, and that it extends the education and training available to the individual, should be sought.

Funding implications

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

Small Work Placements within a Programme

221 The approach set out below for small work placements is purely an optional approach for providers in considering their loadbanded claims for these placements.

222 During the course of submitting previous funding claims, a small number of providers experienced difficulties in providing the necessary compliance evidence to support their glh claims for work-based experience. This was resolved in the past by agreeing a glh figure based on the glh that would have been claimed had the learners been attending their normal classes. This was agreed on the basis that the lecturers concerned were spending the same amount of time supporting learners at their placements in the workplace as they would have spent in delivering normal classes. As the placements were only a small part of the overall loadband claim, the LSC view was that it seemed reasonable to allow the loadband claim to stand.

223 In one example, the provider was sending all the learners out on four-week block placements and the tutor was then supporting the learners by travelling round to see all his individual learners in their

workplaces. The tutors had difficulties evidencing the actual amount of glh and argued that much of their support was on a one-to-one model. As the time the tutors were spending supporting their learners matched their normal classroom delivery time, the LSC was content for them to claim equivalent glh to the figure generated during their class-based weeks of attendance.

224 As the LSC has discontinued the old multiplier approach for funding, providers may see this type of approach as a fair means of claiming funding that reduces the bureaucracy in trying to evidence work-placement-guided learning. Providers wishing to consider this should consult their local LSC. For those providers where the lecturers are travelling around providing support to their individual class learners for short block placements, this approach at least recognises that the costs to the provider are no less than those incurred by normal classroom delivery.

Work-based Learning

Compliance evidence

225 The LSC does not expect providers to claim funding for provision funded under the following schemes, which are funded separately:

- Foundation and Advanced Apprenticeships
- life skills funded through work-based learning
- the Gateway to Work and all other training under the New Deal options
- NVQ training funded through work-based learning
- key skills or technical skills associated with an Apprenticeship programme that is funded through work-based learning.

226 Where a learner on any of the above schemes seeks to follow an additional qualification or programme not funded under work-based learning funding, this qualification or programme may be funded under the funding arrangements outlined in *Funding Guidance for Further Education in 2006/07*.

227 Providers wishing to claim additional funding should obtain written notification from the local LSC for each learner that the additional programme or qualification claimed is not already funded as work-based training under the work-based learning funding arrangements. For providers outside plan-led funding,

their funding auditors will require this notification in order to confirm eligibility for funding.

Funding implications

228 Where the provider is claiming funding for provision that would normally be funded under work-based learning, this provision should be considered to have already been fully funded by the LSC and should be removed from the claim.

229 Where additional programmes have been delivered, but approval has not been sought and approved by the local LSC, this funding should be removed from the claim.

Notes

Learning and Skills Council
National Office

Cheylesmore House
Quinton Road
Coventry CV1 2WT
T 0845 019 4170
F 024 7682 3675
www.lsc.gov.uk

© LSC May 2006

Published by the Learning and Skills Council.

Extracts from this publication may be reproduced for non-commercial educational or training purposes on condition that the source is acknowledged and the findings are not misrepresented.

This publication is available in an electronic form on the Learning Skills Council web site:
www.lsc.gov.uk

Publication reference: LSC-P-NAT-060276

If you require this publication in an alternative format or language please contact the LSC Help Desk: 0870 900 6800