For information

LSC Funding Guidance 2008/09

ILR Funding Compliance Advice and Audit Guidance for Providers

DRAFT (Version 1)— some of the guidance is still to be updated and/or completed

Markers where further updates needed

(xx) - Further updates needed before final publication

(pp) – Paragraph numbers that appear in brackets with pp are 2007/08 references needed to check final 2008/09 references to reflect guidance still in draft form or refer to documents still being drafted.

In the document reference is made to ILR Funding Claims and Audit Returns publication which is yet to be published.

June 2008
Further information
For further information, please contact the appropriate LSC partnership team at the local LSC. Contact details for each office can be found on the LSC’s website (www.lsc.gov.uk).

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This booklet is part of LSC Funding Guidance 2008/09 for all providers funded by the Learning and Skills Council (LSC) for 2008/09.

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 LSC funded provision, and to learner existence and eligibility and funding auditors.

This booklet supersedes FE ILR Funding Compliance Advice for 2007/08

For information
Summary

This document gives the LSC compliance and audit advice for all providers funded by the Learning and Skills Council (LSC) in 2008/09 and should be used as a handbook with the other documents that make up LSC Funding Guidance 2008/09.

This document sets out the LSC compliance and audit advice for all LSC funded providers in 2008/09. It is the authoritative guidance on compliance of funding of LSC provision in 2008/09. It is a technical reference document, and should be used as a handbook for all LSC programme funding. All colleges, schools, providers and other organisations that receive funding from the Learning and Skills Council (LSC) for the provision of education and training are required to comply with the Advice.

From 2008/09 the LSC will fund provision through three main funding models:

- 16-18
- Adult Learner Responsive
- Employer Responsive

This document applies to all three funding models. Annex B summarises the general compliance requirements set out in the main body of this document to assist providers whose delivery is wholly or mainly within employer responsive funding model.

Funding Guidance for 2008/09 will be published as a series of booklets, of which this document is one, in line with its business cycle, which outline the main features of the LSC funding arrangements for 2008/09. Under the main heading LSC Funding Guidance for 2008/09 each separate document is listed below, and will be available as they are published on the LSC’s website at http://www.lsc.gov.uk/providers/funding-policy/demand-led-funding/Further_Education_Funding_Policy_Documents_2008-09.htm.
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* Addendum to LSC Funding Guidance 2008/09 (this will only be published on the LSC website during 2008/09 to update any of the booklets as necessary during the year and will not be printed by the LSC).

# Summary for schools – to be distributed and printed in July 2008

They will update all the LSC various funding booklets for 2007/08 that applied to Further Education (FE), Work-based Learning (WBL), Train to Gain (TtG) and School Sixth Forms (SSF).

These booklets will be available first in draft from the LSC website during the spring/summer periods 2008. It is intended the final printed versions will be distributed in the early autumn 2008 to providers in their final printed format.
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Executive Summary

June 2008

This booklet provides companion advice to document *Principles, Rules and Regulations* for all Learning and Skills Council (LSC) funding providers for 2008/09.

This advice applies to all three 2008/09 funding models and to all LSC programme funded providers who need to ensure that any funding being claimed from the LSC supports eligible learners whose existence can be evidenced. This document gives some simple evidential guidance to assist providers to meet audit and inspection requirements.

The LSC approach to compliance advice for LSC programme funding starts from the funding principles set out in paragraphs 20-21 (pp32-33) of document *Principles, Rules and Regulations*. 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 LSC funded provision. If providers are unsure how to match their own individual delivery arrangements to either this document or the advice in document *Principles, Rules and Regulations*, they should consult their LSC partnership team, where staff will assist them in any necessary interpretation of the advice and guidance.

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 all providers from 2008/09. To assist providers whose delivery is wholly or mainly within employer responsive funding model Annex B provides a simplified summary of the general compliance requirements set out in the main body of this document in respect of employer based delivery.

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 LSC funded provision, and to funding and programme auditors.
1 Format and Background

Introduction

1 This booklet gives advice on the provision funded by the Learning and Skills Council (LSC) for 2008/09 and should be read with the companion funding documents Principles, Rules and Regulations and Learner Eligibility Guidance, which provides the primary reference documents to guidance for funding in 2008/09. This booklet contains all the compliance guidance issued by the LSC and is intended to help all colleges and other providers in receiving funding from the LSC for 2008/09.

2 The information in this document supersedes booklet FE ILR Funding Compliance Advice 2007/08 and refers to funding either received or claimed from the LSC in the academic year 2008/09. This document is substantially the same as its predecessor booklet and reflects the ongoing requirement for providers to ensure that their funding arrangements meet common minimum funding eligibility requirements.

3 This advice is written for the benefit of all LSC funded providers. The LSC provider financial assurance team will issue separate guidance to funding auditors undertaking audit work in providers, including all independent providers funded by the LSC through a contract. This document will be used by the LSC auditors in their audit testing of colleges and other providers for the necessary evidence of compliance with the Guidance. New audit approaches are being developed by the LSC for 2008/09 which will include the existing learner existence and eligibility (LEE) audit approach.

4 For providers who enter into partnership arrangements with other 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 other providers (especially where funds are transferring from the public to 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 LSC funded 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 to 6 by providers within the new audit approaches being developed for 2008/09.

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 64–80 (pp64-80), 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 delivery providers, or any other terminology that describes provision not delivered by the provider that is directly funded by the LSC, 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 providers funded directly by the LSC. Any further assistance required by providers in interpreting this advice is available from their LSC partnership team.

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 all providers. To assist providers whose delivery is wholly or mainly within employer responsive funding model Annex B provides a simplified summary of the general compliance requirements set out in the main body of this document in respect of employer based delivery.

8 If any further advice is necessary, or a provider believes any particular circumstances are not covered by this guidance, the appropriate LSC partnership team should be contacted in the first instance. This advice may assist provider accounting officers in making sure their provider is making valid funding claims/returns and will also assist either their or LSC appointed auditors.

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 methods of provision delivery are addressed in Section 3, paragraphs 64–80 (pp64-80).

Background

10 Colleges and other providers are reminded that the LSC has set out in Principles, Rules and Regulations paragraphs 20-21 (pp32–33) the fundamental principles for receiving LSC funding for 2008/09. This includes references to prioritising funding for provision that meets local
needs and targets as agreed with the LSC. 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 20-21 (pp32–33) and consult their LSC partnership team before undertaking any new or contentious provision. In consulting their LSC partnership team, providers should be open and transparent in describing their arrangements.

12 In their interpretation, help and advice, LSC partnership teams are expected to follow the advice in FE ILR Funding Compliance Advice for 2007/08 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. Where providers refer to a LSC partnership team for complex or contentious funding advice, the National Office funding implementation team will assist, where necessary, in answering any queries through the LSC partnership team.

13 The advice and information in this booklet apply to all LSC funded providers. 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 Colleges are reminded 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 learners, 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.

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 72 (pp72))
- 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 LSC funded 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 returns (for example, overseas learners).

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

21 Providers and funding auditors should refer to companion document *ILR Funding Estimate/Claim (xx-yet to be published)* for advice on
completing funding claims and funding audit opinions for 2008/09, which includes the funding claim and the funding auditor opinions, and in Annex ? (ppAnnex H) gives details of any recognised manual adjustments for 2008/09 funding claims.

22 From 2008/09, however, the LSC does not expect providers to have to make manual adjustments to their final funding returns as the new funding methodology should be able to calculate the correct funding for most providers. The principle of manual adjustments is retained to allow for both future flexibility and to enable auditors where it is essential 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 necessarily to make time-consuming changes to the Individualised Learner Record (ILR) data returns. (pp22 was paragraph 24 in 07/08)

23 If a provider must make a manual adjustment to any ILR funding returns, then they must agree this with their LSC partnership team. For any non-published manual adjustments, providers should also contact their LSC partnership team for a manual adjustment number.

24 Providers and funding auditors are reminded that providers are now expected to run the data self-assessment toolkit (DSAT) software in-year and use this to clean their data prior to submission to the LSC. The LSC funding audit opinion will continue 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 DSAT reports 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.
2 General LSC 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 Section 2 of companion document Learner Eligibility Guidance.

28 Providers are required to scrutinise applications for study by learners to ensure that they are eligible for LSC funding under Section 2 and to support the learner’s case for consideration as ordinarily resident in England. Good practice is for providers to record (rather than photocopy) documentation to prove eligibility, including any relevant documentary evidence to support any individual learner eligibility granted for learners not meeting the normal three-year residency requirement. Where documentation is recorded as having been seen, providers need to be fully aware of the implications of the documents they are approving. In particular, providers are advised that the LSC does not require or expect passports to be photocopied by providers, although passport numbers or references may be recorded by providers where necessary.

29 Foreign nationals will have Home Office documentation that outlines their status, for example refugee status, humanitarian protection (HP) or discretionary leave (DL), or exceptional leave to enter or remain (ELE/ELR) in the UK. Providers are reminded that adult asylum seekers are only eligible for funding if they meet the conditions set out in paragraph 18 of Learner Eligibility Guidance. Further information on eligibility and documentation is provided in Annex B of Learner Eligibility Guidance, which provides further details of the full range of Home Office documentation that should evidence learner eligibility. Alternatively, the following advice may help providers in more simply evidencing eligibility under Learner Eligibility Guidance paragraph 18(a) or 18(b):

   a Asylum seekers will be able to produce an application registration card (ARC) which is issued on or close to the date of their asylum
claim. The date of issue will be recorded on the ARC. To demonstrate that they are currently supported under the Immigration and Asylum Act 1999 and thus eligible for LSC funding, a recent (that is, less than one month old) copy of a person’s post office receipt of Asylum Support (AS) assistance will be required. The ARC is used to evidence the asylum seeker at the post office before obtaining the receipt. Up to April 2007, AS was known as the National Asylum Support Service (NASS) and may still be referred to as such. The post office receipt will usually need to be dated at least six months after the ARC issue date to comply with eligibility under paragraph 18(a). It should not usually be necessary to see post office receipts for each month since the ARC was issued, merely a post office receipt issued for the same month as the learner enrolment. It is likely that the post office receipt will identify the AS support as Section 95 support.

b To demonstrate that they are currently supported under Section 4 of the Immigration and Asylum Act 1999 and thus eligible for LSC funding, learners will need to produce confirmation from the Home Office of Section 4 support within three months of the issue date. Section 4 support is often given to asylum seekers who have been refused asylum but who cannot return home. As a result, individuals may no longer have an ARC. Further guidance on Section 4 support is available in Annex B of Learner Eligibility Guidance.

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 (outside the EU and EEA) whose main reason for residence in England has been attendance at a fee-paying school will not be considered eligible for funding. Non EEA or EU learners who are granted residency in the UK as overseas full fee paying students (or learners) at other institutions are also usually ineligible for LSC 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, Scotland, Northern Ireland, the Channel Islands and the Isle of Man 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 and/or programmes 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
- learners attending provision delivered 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 learner 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 a learning agreement signed on behalf of the provider and by the learner as compliance evidence to support its funding claim. 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 unlisted provision)
- the average weekly guided learning hours planned for the programme and how long 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 that they are delivering good-quality 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 learner 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 will indicate whether the learner is a home or overseas learner. For learners not resident in the United Kingdom for the three years prior to the commencement of their programme, providers must be able to evidence alternative learner eligibility as set out in paragraphs 14–20 of Learner Eligibility Guidance. The provider may wish to use the enrolment form to collect other information as necessary for their learner record and monitoring purposes. An enrolment form 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 should pay 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 can 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 that they have seen any necessary supporting documentary evidence, rather than copying the documentation with the enrolment form to the provider. Providers should ensure that their partner providers make available, on a sample basis at least, either clear records or 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 learners were undertaking the specified learning programme during the learning period for 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 returns or claims to the LSC.

Register
44 All providers should consider the benefits of a good register system to help them to 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 that 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 and accounting officers for providers 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.

Ceasing to attend, withdrawal from course and learning agreement amendment forms
Where a learner withdraws, transfers to another programme or changes one of their learning aims or their mode of study, this should be indicated on an appropriate form 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

The funding arrangements from 2008/09 continue the historical process of recording actual achievement in ILR returns (but in the learner responsive funding model this is then used to calculate the success factor part of the provider factor). The advice on evidence of achievement is therefore still applicable, for both 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.

Achievement should be accurately recorded and substantiated by appropriate compliance evidence.

The LSC requires evidence that supports records or 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.

Where achievement is to be recorded or 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.

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

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 learners.

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

Providers are reminded that achievement may not be recorded or claimed against any LSC funding methodology for any learner where there is no corresponding claim for on-programme funding.
Fee Remission

56 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 that learners are eligible for fee remission
- the fee remission status of the learner is accurately recorded at the start of their programme and each subsequent academic year, as appropriate
- claims or records for fee remission funding are justified under the LSC’s policy, as set out in paragraph 94 of document *LSC Learner Eligibility Guidance*
- for fee remission being claimed or recorded on the basis that the learner is attending their first full Level 2 programme or for learners aged under 25 at the start of their programme their first full Level 3 programme (see paragraph 59 (pp59) 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 return.

57 Acceptable evidence of unemployment benefit or a means-tested state benefit would be official documentary evidence of the relevant means-tested state benefit. **Providers are reminded that evidence of low income, such as pay slips is insufficient to claim LSC fee remission funding and such learners should be referred to other government agencies for determination of means-tested state benefits.**

58 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.

59 The LSC has included guidance on the definition of a full Level 2 and 3 qualification in the ILR specification and this is reproduced in Annex A Table A1.

Documentation: all providers and partner providers

60 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 providers’ 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 or returns needs to be treated in the same way 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

61 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 returns or claims accordingly (but see paragraph 22 (pp24) of this document for advice on materiality).

62 For providers 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 returns or claims. 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 return or claim affected by the inadequacy. Where insufficient or no compliance evidence is available, and assuming the inadequacy is material to the overall funding return or claim, the affected funding is likely to be reduced or disallowed from final funding returns or claims by the LSC.

Additional learning support

63 Detailed compliance advice on additional learning support (ALS) is available in Section 4 of this document. For providers where ALS funding is being recorded, reasonable documentary evidence should be available for the following:

- evidence of initial assessment
- an additional support plan; and/or
- a completed ALS costs form signed by the tutor and the learner.
3 Advice on Provision Delivered with a Partner Provider

Background

64 This section explains partner provider provision as previously described in *FE ILR Funding Compliance Advice for 2007/08* 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.

65 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 the principles of trust when seeking advice on how partnership arrangements should be classified for funding purposes from their LSC partnership team. The LSC is concerned that providers do not put trust at risk by avoiding the application of LSC funding guidance and compliance advice regarding proper controls over partner provider delivery and/or provision.

66 As stated in paragraph 6 (pp6), 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.

67 This guidance makes clear that the application of the control advice and guidance by providers on any partner provider delivery and/or provision is now seen as the LSC primary concern.

68 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 LSC partnership team 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, full Level 3 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.
Recent advice to LSC partnership teams confirmed that partner providers have been built into LSC funded providers’ 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.

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, including funding not usually subject to any reconciliation arrangements. This will be on a costs basis for non-reconciled funding and on an activity basis for any reconciled funding arrangements. Reductions in non reconciled funding arrangements for LSC providers will usually be made only where funding returns 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.

It is now an annual requirement in LSC funding agreement that providers make an annual self-declaration of the partners with whom they are or will be working. This is in addition to the normal data on partnership provision that providers already make within the ILR and the partner register. A standard form for this information (together with the funding claim and timetable for 2008/09) is published in *ILR Funding Claims and Audit Returns* (see paragraph 28 [pp28] 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 78 [pp78] below)
- provision that is outside the normal recruitment area and confirmation of agreement from all the LSC partnership teams involved
- any lead provider arrangements.
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 LSC partnership team and the other provider. As defined in paragraph 139 (pp83) of *Principles, Rules and Regulations*, an LSC partnership team will usually regard a provider’s normal recruitment area as the LSC area the provider is physically situated in and all adjoining local LSC areas. Paragraph 140 (pp84) then goes on to say:

*This definition may be varied more tightly or loosely by LSC partnership teams, depending on the provider location, and each LSC partnership team can help providers to agree a reasonable definition of their normal recruitment area.*

It is the responsibility of providers to check with their own LSC partnership team that it is content to fund any activity delivered outside that LSC partnership team 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 2008/09

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

When interpreting Table 1, providers should note that if the last column advises that LSC partnership team consent in advance of delivery is mandatory, the provision will count towards the provider funding audit risk assessment as part of the determination of the provider’s funding audit cycle. LSC partnership teams may also decide to include in this assessment provision classified above the black line by the provider if the LSC partnership team is concerned about their classification.

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 recent years, 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 LSC partnership team
- wrongly classifying their partner provider provision and/or delivery above the black line in Table 1.

For simplicity and to keep bureaucracy and change to a minimum, Table 1 on types of provision is continued for 2008/09.

In discussing partner provider arrangements with their LSC partnership team, providers must declare the level of funding they are retaining for all partner provider provision.

In this regard, 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.

LSC partnership teams 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 Principles, Rules and Regulations, they should consult their LSC partnership team, who will assist them in any necessary interpretation of the advice and guidance. In giving their advice, LSC partnership teams will start from the funding principles set out in Principles, Rules and Regulations paragraphs 20-21. (pp32–33)
Table 1: Classification of different partnership and delivery methods.

<table>
<thead>
<tr>
<th>Type of delivery</th>
<th>Features of actual delivery of provision</th>
<th>Funding eligibility risk rating</th>
<th>LSC partnership team consent required in advance</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Direct delivery by LSC-funded provider</td>
<td>The provider delivers provision on only its own, long-term rented or leased building (see paragraph 85 (pp85)), using only its own staff to deliver the actual provision. No funding is paid to any partner organisation (apart from awarding bodies and any third party teaching materials).</td>
<td>Low</td>
<td>No</td>
</tr>
<tr>
<td>2. Direct delivery by LSC-funded provider (and also using a staffing agency for teaching delivery)</td>
<td>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 is 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).</td>
<td>Low</td>
<td>Consider</td>
</tr>
<tr>
<td>3. Direct delivery by LSC-funded provider - only applies to Employer Responsive Funding Model</td>
<td>As 1 above but delivery by directly funded LSC provider delivered primarily on employer premises. If any provision is delivered by a third party organisation on behalf of the provider then that element of the provision falls into one of groups 5 – 7 below the black line</td>
<td>Low</td>
<td>Consider</td>
</tr>
<tr>
<td>4. Direct delivery by LSC-funded provider (as 2 and marketing and IAG provided)</td>
<td>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. The third party supplier may also provide the information, advice and guidance (IAG) service to learners (supplier not a related business to the staffing agency)</td>
<td>Medium</td>
<td>Advised – increasingly advised as more services supplied by third party</td>
</tr>
<tr>
<td>5. Partner-assisted direct delivery by LSC-funded provider</td>
<td>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).</td>
<td>High</td>
<td>Yes</td>
</tr>
<tr>
<td>6. Partner-assisted direct delivery by LSC-funded provider</td>
<td>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 row 7 below.</td>
<td>High</td>
<td>Yes</td>
</tr>
<tr>
<td>7. Partner or sub-contracted or franchised delivery by a third party on behalf of LSC-funded provider</td>
<td>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.</td>
<td>Highest</td>
<td>Yes (in detail to meet risk level)</td>
</tr>
</tbody>
</table>

 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 82-85 (pp82–85).
Differences in Delivery Methods

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

82 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 LSC partnership team consent is required in advance of any programme delivery.

83 The third column is broadly similar to the risk factors attached to determining the volume of spot check visits previously necessary under the various LSC audits approaches. This also recognises the funding risk rating of learner eligibility to valid funding returns and claims.

84 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. LSC partnership teams 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.

85 Before considering the detailed advice below, providers are reminded that their LSC partnership team can assist providers with any individual or unusual delivery arrangements in determining how the delivery should be classified according to Table 1. The LSC partnership team 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 LSC partnership team 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 the recent past, the following advice is again issued for 2008/09: the LSC partnership team will, however, be the final arbiter in determining the classification of a provider’s delivery arrangements. The following detailed advice may help in using Table 1.

a Direct delivery provision by provider (types 1–3 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 LSC partnership team 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 2008/09, providers with significant community-based programmes using community facilities are expected to consult their LSC partnership team 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 LSC partnership team to discuss these types of arrangement more helpful than starting by an exchange of any detailed written information or data and so on.

- From 2008/09 directly funded LSC providers delivering employer responsive funding model provision on employer premises will fall within type 3 which will usually be a lower risk category. However, any provision delivered with a partner will need to be categorised in a group below the black line.

b Direct delivery provision by provider but with partner organisation supplying educational materials and/or a marketing service to attract learners and/or IAG (type 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.

- This type (4) describes arrangements that many providers have with other educational organisations. Type 4 provision should be discussed with the LSC partnership team in proportion to the input or value of the third party organisation contract.

- 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 LSC partnership team approval must be obtained. The provider must also then apply the partner provider control advice to the delivery of the provision.
With type 4 provision, 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 LSC partnership team.

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 LSC partnership team 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 LSC partnership team deems the provider’s natural recruitment area and not simply the provider’s own LSC partnership team 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 funding audits in 2008/09. Providers are encouraged to enter early consultations with their LSC partnership team 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

86 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.

87 Where leadership and management is deemed inadequate by Ofsted or by the LSC following a college’s failure to meet minimum levels of performance, or any other quality threshold set out by the LSC or is in financial failure, recruitment restrictions may be applied and the provider may not enter into new, or extend existing, LSC-funded franchise arrangements until the LSC is satisfied that the deficiencies have been remedied.

88 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.

89 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.

90 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 recording. The LSC would not expect to fund provision that is the responsibility of another publicly funded body.

Providers should have consulted their LSC partnership team if they wish to claim partner provision in social services day centres, residential homes or hospitals.

91 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

92 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.

93 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 LSC partnership team.

94 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’.

95 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 the 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.

96 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

97 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 LSC partnership team 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.

98 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.

99 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.

100 Where the amount and nature of the partner provider provision represents a significant departure from the provider’s previous declaration on this issue to the LSC, the appropriate LSC partnership team should have been consulted and the governing body should have approved the departure. Significant departures from previous levels are defined as those that may have significant implications for adequacy and sufficiency.

Fee charging by partner providers

101 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 (see also paragraph 93 of companion document Principles, Rules and Regulations). 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 return, including any tuition fee income collected from learners by partner providers.

Other LSC-funded learners

102 Providers are reminded that they may not transfer LSC funding among each other. Principles, Rules and Regulations paragraph 324 (pp337) confirms that providers should not claim any funding for inward franchising, and this is now extended to all other partner provider activity.

103 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 other LSC funding is
claimed for such learners that no ‘double funding’ is being claimed for them (see Principles, Rules and Regulations paragraph 21 (pp33)).

104 Provision that is 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 as follows.

- The 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.
- The participants are learners of the provider rather than the school (for example, there should be no requirement to wear school uniform).
- The 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.

105 Full-time provision made entirely on school premises by school staff is not eligible for LSC funding by any provider apart from the school sixth form funding itself.

In-company partnership arrangements to provide NVQs

106 Particular attention is drawn to that in-company work carried out by colleges and other providers in which national vocational qualification (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.

107 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

108 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.

109 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

110 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.

111 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 revisiting 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.

112 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.

113 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.

114 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.

115 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**

116 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 confirming 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 for the provision from another source.

117 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 LSC partnership teams, to confirm that the provision exists and is consistent with expectations of the provider and of the learners undertaking the programmes
- undertaking visits (some of which will be unannounced) to ensure that the provision is taking place
- checking that the provision is recorded consistently by the partner provider, in that the number and characteristics of the learners accord with the provider’s expectations and records
- confirming that arrangements are in place to ensure that there is no risk of double funding and that conflicting approaches to control and quality assurance arrangements are minimised
- ensuring that these checks are also applied to provision delivered by related partner provider organisations.
Funding implications: all aspects of partner provider provision

118 As stated in paragraphs 13–17 (pp13-17), 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 providers directly funded by the LSC continue to run the risk of a clawback of their funding if they cannot evidence good controls and regularity in their partnership provision, including 16-18 learner responsive funding providers not usually subject to reconciliation.

Advice for accounting officers on all aspects of partner provider provision

119 The LSC advice on the checks expected by LSC appointed programme and funding 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 and chief executives of providers that have significant volumes of partner provider provision.

120 Separate funding audit programmes and guidance have been issued to the LSC contracted funding and programme auditors for 2008/09 by the LSC Provider Financial Assurance team.

121 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 sees the delivery postcode as a key field on the ILR (field A23) that will identify to the LSC partnership team (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 all LSC funded providers must ensure this is appropriately monitored internally within their own organisations.

122 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.

123 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 planned guided learning hours recorded for unlisted provision from which the funding value is derived must be correctly calculated. Guidance on the calculation of guided learning hours is contained in paragraph 110 (pp68) of Principles, Rules and Regulations.

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

a original enrolment forms, which 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

125 The following section gives advice for all providers on evidencing the ALS recorded in their ILR returns and normally recorded on one of the two versions of the ALS costs form available in 2008/09. The first form reflects the new recording arrangements for claims below £5,500, as part of the new formula based arrangements (referred to as the ALS costs form (Below £5,500)). The second form will be used by providers claiming funding for all learners with costs above £5,500 (referred to as the ALS costs form (Above £5,500)). The forms are available at:

Below £5,500
http://www.lsc.gov.uk/publications/latestdocuments/Detail.htm?id=d987bbe7-ebc5-483a-99e6-60ecb1d4848a

Above £5,500

126 Providers should consider the most effective and efficient way that this information is collected for learners whose costs are below the £5,500 threshold. This may involve using group or global cost forms, and prior discussion with the provider’s LSC partnership team may be helpful in agreeing procedures that remove unnecessary bureaucracy. Evidence of the provision of the additional learning support (ALS) being recorded should be available and the documentation maybe reviewed by their funding auditor as part of their work in 2008/09.

127 In planning its provision for 2008/09, a provider will have prepared an estimate of the funding for 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.

128 Providers need to follow the guidance for all learners where individual costs above £5,500 are being claimed and they should advise any of their partner providers to apply this advice to any ALS being claimed from them.

129 The principle of the ALS allocations is that they will not be adjusted in the light of out-turns but out-turn information is useful to both the provider and the LSC partnership team in determining future allocations and in reviewing the first year of the new formula approach for 2008/09. 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 record and ILR returns reflect the actual costs incurred, whilst simplifying providers’ administration of ALS for learners whose support costs are below £5,500 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 Sections 12 and 13 and Annex G of Principles, Rules and Regulations.

130 The guidance below must be fully applied by all providers funded under contract.

131 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.

132 The ALS costs form provides information on the costs of providing ALS. It will form part of the compliance evidence to be retained by the provider in support of its claim for ALS 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 costs incurred.

133 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.

134 Where a learner incurs additional expenditure over and above £19,000, the provider may approach the LSC partnership team for additional funds. The provider should retain the letter from the LSC partnership team 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.

135 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.

136 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, should be reviewed for compliance with current guidance.

137 The LSC is concerned to ensure the eligibility of recording additional support and would not normally expect providers to:

- have large numbers of learners just above the minimum cost threshold
- 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 learners with learning difficulties and/or disabilities
- record ALS funding where the majority of learners 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 learners with learning difficulties and/or disabilities)

- record ALS funding for learners enrolled on partner provider provision where the appropriate proportion of funding received is not then passed on to partner providers
- systematically record for qualifications in literacy or English for speakers of other languages in addition to the primary learning goal of a learner.

A copy of the ALS form should be retained with the learning agreement and should be signed by the learner 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.

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

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

Where ALS funding is claimed for programmes in numeracy, literacy or English for speakers of other languages (ESOL), it should be in accordance with one of the three options set out in paragraph 622-624 (pp424–426) in Section 12 of Principles, Rules and Regulations.

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 advisor 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 withdrawal date should be the last date of attendance.

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

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 learner in accordance with the provider’s depreciation policy. Capital building works are not eligible for funding under the additional support mechanism.
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’s accounts. The same procedure applies to equipment that is leased rather than purchased.

Detailed Advice for Providers

Providers are reminded that only costs allowed under the LSC guidance on additional support can be recorded in the ILR. The LSC guidance, for example, does not allow providers to include in their ILR returns 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 ALS. For example, providers who set up a separate department for ALS 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.

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).

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.

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

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.

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

Additional hours added to a qualification cannot be reflected in additional support costs. These should be reflected in the glh record for unlisted qualifications.

The costs of administration that are directly linked to the delivery of additional support for individual learners may be calculated and recorded. General costs need to be supportable (that is, £100 added to each record for administration and tests is not acceptable). Administration staff costs should not be charged per learner hour, but should be based on costs incurred.
Where specific administration is dedicated to just additional support, the costs could be spread evenly over all learners dealt with within the additional support department after excluding those costs allocated based on time records.

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 learners.

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

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

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

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.

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.

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.

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

A reasonableness check of actual costs incurred against the funding recorded may be used as an ultimate check on any funding records.

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 record is made for extra costs associated with small class size(s).

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

The programme weighting factor 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 recorded 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

167 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.

\[
\frac{\text{Cost per lecturer hour}}{\text{Average group size for college}} = \text{Cost per learner}
\]

Specific small group size*  
Average group size for college

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

168 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.

169 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 SLN qualifying start 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 ALS 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 LSC funded providers.
5 Withdrawals

Compliance Evidence for Withdrawals

170 The LSC general guidance on withdrawals is set out below and Table 2 gives advice on the funding position in relation to eligibility to count learners as a start for SLN funding purposes.

171 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.

172 In addition, for full-time programmes and part-time programmes of more than 24 weeks 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.

173 For distant learning provision, a withdrawn learner would be one failing to meet the guidance on participation or contact as defined in document Principles, Rules and Regulations Section 7 paragraph 440:

- attendance at a centre or log-on to learning materials
- receipt of work or projects by the tutor (electronic or hard copy)
- any communication with the tutor that indicated that the learner was still active on his or her learning aim.

174 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.

175 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 appropriately adjusted to reflect that the learner has withdrawn.

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

177 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.
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.

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.

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, providers should retain evidence of assessment and/or notification from the learner, parent, advocate or medical advisor 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.

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

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 6 of Learner Eligibility Guidance 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

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 after 5 weeks, may funding be claimed all year for the withdrawn learning aim?
A  No. The learner does not meet the qualifying period to count towards the learners SLN value for the year.

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 after the SLN qualifying six week start period 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 or distance learning provision worked out in the same way as for traditional provision?

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

Q  In the learner responsive funding model, if a learner completes the first year of a two year programme and then fails to return for the second year can the provider claim an SLN value for the second year?

A  No. In the learner responsive funding model the learner must meet the start criteria for each separate funding year.
Table 2: Funding dependent on length of planned programme and date of learner withdrawal.

<table>
<thead>
<tr>
<th>Course length</th>
<th>Completion or withdrawal</th>
<th>SLN</th>
</tr>
</thead>
<tbody>
<tr>
<td>Short courses (less than 2 weeks)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Course is planned to last less than 2 weeks</td>
<td>Enrolment and at least one course activity</td>
<td>Yes</td>
</tr>
<tr>
<td>Course is planned to last less than 2 weeks</td>
<td>Enrolment and no course activity</td>
<td>No</td>
</tr>
<tr>
<td>Courses between 2 and 24 weeks</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Course is planned to last between 2 weeks and up to 24 weeks</td>
<td>Enrolment and final attendance for at least the first 2 week period of programme</td>
<td>Yes</td>
</tr>
<tr>
<td>Course is planned to last between 2 weeks and up to 24 weeks</td>
<td>Enrolment and final attendance less than first 2 week period of programme</td>
<td>No</td>
</tr>
<tr>
<td>Longer courses (over or equal to 24 weeks)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Course is planned to last 24 weeks or more</td>
<td>Learner attends for 6 weeks or more</td>
<td>Yes</td>
</tr>
<tr>
<td>Course is planned to last 24 weeks or more</td>
<td>Learner withdraws before 6 week qualifying period</td>
<td>No</td>
</tr>
</tbody>
</table>
6 Specific Guidance on Individual Qualifications and Delivery Methods

Curriculum Entitlement

Compliance evidence

184 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.

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

186 Delete paragraph-check numbering

187 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 52 (pp34) of Section 3 of Principles, Rules and Regulations, and is on a full-time course.

188 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
The current LSC arrangements for recording funding for distance-learning delivery for 2008/09 are described in Section 7 of Principles, Rules and Regulations. Funding will fall into the two categories set out below.

First, any listed provision delivered as distance learning in 2008/09 should be recorded 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 unlisted record or claim.

Secondly, providers will have agreed with their LSC partnership team a funding level for unlisted distance learning in 2008/09. In reviewing funding records in this category for providers, LSC partnership teams 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 2008/09 will have been based on the providers' previous experiences and costs.

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.

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.

**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 recorded or claimed and may recover funds if appropriate.

**Q** Should the log of tutor–learner contact correlate with the record or 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 record or 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 recorded or claimed.
Q Does the general guidance on out-of-area provision apply to distance learning?
A Yes. The LSC provides a budget to local LSCs 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 LSC partnership team as part of the planning dialogue. The LSC regards provision as higher risk where it is delivered outside either your own or a neighbouring LSC partnership team area.

Q Why have some qualifications 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 recorded or claimed.

Open learning
194 A helpful definition of open learning may be found in Principles, Rules and Regulations Section 7 paragraph 405 (pp477).
195 Providers should be realistic concerning 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.
196 Providers should give particular attention to retention and achievement in this type of provision.
197 Providers should claim the national rates for listed or unlisted learning aims, as shown in Principles, Rules and Regulations, 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 recorded or 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 unlisted 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 estimate 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 record or 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 record or 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. 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 as represented in Figure 2.

In this case, the mean is 90 glh and the funding claim is valid.
If the mean is below 90 glh, the funding based on 90 glh may be recorded or claimed for that funding year. But for the following year, funding should be recorded or claimed according to the mean value.

However, if the mean is significantly below 72 glh or above 108 glh, then the funding record or 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 recording or 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.

**Full-cost Recovery**

**Compliance evidence for full-cost recovery**

198 Paragraph 324 (pp337) of *Principles, Rules and Regulations* lists the provision not eligible for LSC funding and includes full-cost recovery programmes. Paragraph 70 (pp133) of *Principles, Rules and Regulations* sets 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.
The Department for Innovation, Universities and Skills (DIUS) 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.

In general, the LSC requires providers to see their provision as full-cost recovery provision where the tuition fee charged to the learner approaches the value of LSC funding that would be generated by multiplying the SLN value for the programme by the programme weight and by the provider area cost uplift and by the LSC published national rate for the programme of study. This formula is expressed in the following bracket (SLN x Programme Weight x Area Cost Factor x National Funding Rate). Providers may not charge learners higher retrospective tuition fees once they have started on their programmes in that academic 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.

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.

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.

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 LSC partnership team 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 issues of propriety related to public funding if the learner had believed their tuition fee charge was for a fully self-financing programme(s).
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.

No LSC funding should be claimed for any full-cost provision. Providers should consult their LSC partnership team 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**

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 LSC partnership team to fund the programme.

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.

**Unlisted Provision**

Providers should ensure that the glh for unlisted provision are accurately assessed in order to fund appropriately. All unlisted 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.

Where glh have been incorrectly calculated, the provider would be expected to revise their ILR return to show the correct glh value where the variance in glh between actual and planned is more than 20 per cent.

The examples set out for adjusting unlisted claims for open provision, where the delivered glh vary significantly from the planned glh, may give providers a reasonable methodology to apply in deciding whether or not to adjust their wider unlisted provision claims, either up or down as appropriate. These examples are given at paragraph 197 (pp197) and in the frequently asked questions related to the open learning.

**National Projects**

**Compliance evidence for national projects**

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 in the various documents within the LSC Funding Guidance for 2008/09 and will be detailed in the individual project specification as agreed with their LSC partnership team. Providers 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 for provision in the workplace

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 LSC partnership team will advise on the classification of workplace provision delivery arrangements where providers are unsure of its classification under Table 1 at paragraph 80 in this booklet. If the provider is relying on the partner provider to deliver the workplace provision and some (or all) of the class-based provision, the LSC partnership team will expect to see the provision classified below the black line in Table 1.

213 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 integral to 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 assisting these learners in 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 especially so for those involving the delivery of fundable unlisted programmes to an employer on the employer’s premises.

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 LSC partnership team 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 unlisted 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 (now unlisted) claim, the LSC view was that it seemed reasonable to allow the loadband (now unlisted) 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 each individual learner in their workplace. 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.
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 guided learning given on work placements. Providers wishing to consider this should consult their LSC partnership team. For those providers where the lecturers are travelling around providing support to 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.
## Annex A Prior Attainment Levels for Use in Assessing Level 2 and Level 3 Fee Remission Entitlement

Table A1: Prior attainment levels (see Annex G of 2007/08 ILR Specification for the full table).

<table>
<thead>
<tr>
<th>NVQ level</th>
<th>Academic qualification equivalent</th>
<th>Vocational qualification equivalent</th>
<th>Code number for L35</th>
</tr>
</thead>
<tbody>
<tr>
<td>Level 0</td>
<td>Word Power/Number Power</td>
<td></td>
<td>07, 09</td>
</tr>
<tr>
<td>Level 1</td>
<td>GCSE/O-level grades D–G (or fewer than 5 at grades A–C) CSE below grade 1 1 AS-level</td>
<td>BEC General Certificate BEC Diploma BTEC First Certificate City &amp; 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</td>
<td>01</td>
</tr>
<tr>
<td>Level 2</td>
<td>GCSE/O-level (5 or more at grades A–C) CSE Grade 1 (5 or more) 1 A-level 2 or 3 AS-level</td>
<td>BEC General Certificate with credit BEC Diploma with credit BTEC First Diploma City &amp; Guilds Higher Operative/Craft GNVQ Intermediate LCCI Certificate (Second Level) NVQ Level 2 PEI Stage 2 Pitmans Intermediate Level 2 Diploma Certificate RSA Diploma</td>
<td>02</td>
</tr>
<tr>
<td>NVQ level</td>
<td>Academic qualification equivalent</td>
<td>Vocational qualification equivalent</td>
<td>Code number for L35</td>
</tr>
<tr>
<td>-----------</td>
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<td>---------------------</td>
</tr>
<tr>
<td>Level 3</td>
<td>2 or more A-level passes 4 or more AS-levels</td>
<td>BEC National ONC/OND BTEC National ONC/OND City &amp; 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</td>
<td>03</td>
</tr>
<tr>
<td>Level 4</td>
<td>Teaching qualifications (including PGCE) First degree</td>
<td>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</td>
<td>04</td>
</tr>
</tbody>
</table>
Annex B: Summary of Evidence Requirements for Employer Responsive Funding Model

Provider Financial Assurance

1 This annex summarises the general compliance requirements set out in the main body of this document to assist providers whose delivery is wholly or mainly within employer responsive funding model.

2 The LSC operates a risk-based approach to the auditing of the Employer Responsive Funding Model. This approach aims to reduce unnecessary bureaucracy for providers by targeting audit resources in proportion to risk. Providers assessed as low risk should receive a reduced level of audit activity compared with high-risk providers.

3 From 2008/09 providers will need to claim funding by submitting monthly electronic ILR data returns. Providers must be able to support their ILR returns with auditable evidence of learner existence, eligibility and achievement as set out in Section 2 of the main document. Providers may find the advice in Section 2 paragraphs 38, 41 and 44 particularly helpful in reviewing their systems to ensure the necessary audit evidence is available and in accordance with the advice in paragraph 6 below.

4 The LSC has made computer-assisted audit techniques CAATs available for providers to use on their own data. These are known as Data Self-Assessment Toolkits (DSATs). Use of DSATs during audits assists in the identification of areas where audit activity should be targeted. Where reliance can be placed on the submitted data, testing during the audit can be reduced.

5 There is an expectation that providers will use these on a regular basis to test the integrity of their data. Effective use of DSATs by providers is a factor that can reduce audit risk assessment. DSATs are available on the LSC’s website at: www.lsc.gov.uk/providers/Data/Software/DSAT/.

6 This annex gives further advice on the evidence requirements for Employer Responsive Funding, but it is not exhaustive. The LSC main evidential requirements are set out in Section 2 of this document. Section 3 of this document includes LSC advice on controls over partner providers (sub-contractors). The LSC will hold the provider liable for any evidence deficiencies arising from partner provider (sub-contracting) arrangements or failure by partners to produce any required evidence. Where provision is being delivered by partners, the provider should retain copies of partner provider agreements.
7 Wherever possible, LSC auditors seek to place reliance on evidence that is generated by the natural administration of the learning process, within the provider’s own systems, provided that evidence is sufficient, relevant, reliable and robust.

8 Where companion document *Principles, Rules and Regulations 2008/09* indicate that approval should be sought from the LSC, evidence of such approval (usually from the LSC partnership team) should be retained for audit purposes.

**Guidance on how the LSC “assess assurance risk on funding returns”**

9 In deciding both the cyclical frequency for a provider’s audit and the level of detail of the audit work that will be necessary to provide the LSC with the necessary assurance over a provider’s funding (ILR) claim the LSC will include an evaluation of the following factors within the employer responsive funding model assurance.

**Factors included in funding audit risk assessment**

10 For provision with alternative funding rate values (for example, high or low cost NVQs) the proportion of high to low cost learners in the ILR and the proportion agreed in any tender or contract with the LSC will both be reviewed. The closer the ILR funding is to the agreed contract values the lower will be the audit risk assessment.

11 The provider success rates in delivering qualified learners. Learners who are achieving externally approved and accredited qualifications have historically posed a much lower level of funding eligibility risk to the LSC and evidence of good success rates will be a major determinant in reducing risk in the new audit risk assessment.

12 The LSC new audit risk assessment process will target providers who meet funding targets late in the year and in particular where this is accompanied by learners not going on to achieve their learning aims. A good record in meeting funding targets through successful learners will result in a low risk assessment.

13 Comparison will be made between planned length of programme and success rates. Providers whose planned programme length is supported by both good success and evidence that the success is timely to the planned length of programme, for the majority of their cohort of learners will be seen as lower risk. The LSC will also check that the numbers of learners completing late and early are few in number and reasonably balanced. The LSC is in particular going to review funding claims for high rate learners on long programmes that are claimed for in less than 24
weeks unless there is very good matching evidence of timely learner achievement.

Evidence

Eligibility for the programme

14 The LSC requires the provider to ascertain whether a learner is eligible for LSC funding in accordance with Section 2 of companion document Learner Eligibility Guidance and learners are eligible to participate in their programme.

15 The provider should retain evidence to support their assessment of the eligibility of all learners entering the programme. This must clearly evidence or be supported by further evidence that the learner was eligible to enter the programme as set out in either Section 8 paragraphs 446 to 448 (pp-new) or Section 9 paragraphs 482 to 485 (pp-new) of the main body of this document.

Entry to the programme

16 The following evidence should be retained to support entry and categories of entry to the programme for each learner:

- evidence of assessment on entry to programme (if an Apprenticeship programme this must be for whole programme not just a single component)
- a copy of the learning agreement signed by the respective parties
- evidence that employed learners have a contract of employment in place
- evidence that the provider has paid due regard to the average length of stay and any prior learning when completing the ILR and submitting data to the LSC.

Participation on the programme

17 The following evidence should be retained to support participation on the programme:

- a copy of the Individual Learning Plan (ILP)
- evidence that the learner is working or making progress towards continued structured learning
- where progress is not being made, evidence to support the actions taken to address this
- evidence of participation within the last 12 weeks is required to claim funding for learners continued participation on their programme (this is a minimum requirement for all learners not to be withdrawn on the ILR but the LSC expects learners to usually be participating on a much more frequent basis)
• evidence of regular progress reviews.

**On-programme payments (using NVQs as an example)**

18 The following evidence should be retained to support monthly National Vocational Qualification (NVQ) on-programme payments:

• evidence that the learner is registered for the NVQ

• evidence that the learner was registered for the NVQ before the last Qualifications and Curriculum Authority (QCA) entry date

• evidence that the NVQ is eligible for funding

• evidence that the learner is making progress towards the NVQ

• where no progress towards the NVQ is being made, there should be evidence of the actions taken to address this.

**Technical Certificates (within Apprenticeships)**

19 The following evidence should be retained to support Technical Certificate delivery:

• evidence that the Technical Certificate is eligible for Apprenticeship funding

• evidence that the learner is registered for and making progress towards the Technical Certificate in line with the planned start and end dates on their ILR

• where no progress towards the Technical Certificate is being made, there should be evidence of the actions taken to address this

• evidence from the awarding body that the learner has achieved the Technical Certificate, where applicable

• evidence that the provider has ascertained that the Technical Certificate is not funded from the Higher Education Funding Council for England (HEFCE) or further education (FE) funds.

**Key skills (within Apprenticeships)**

20 The following evidence should be retained to support key skills delivery:

• evidence that the learner is registered for the key skill(s).

• evidence that the key skill is eligible for Apprenticeship funding

• evidence that learning towards the key skill has taken or is taking place and is in line with the planned start and end dates of each key skill on the learner’s ILR

• evidence from the awarding body that the learner has achieved the key skill, where applicable.

**Basic skills (within Train to Gain)**
21 Where Basic Skills funding is being claimed then the provider must retain written evidence of the learner’s need. This evidence must be produced from an initial and/or full diagnostic assessment of a learner’s literacy, English language or numeracy need and the results recorded in the learner’s individual learning plan, confirming that the learner has a basic skills requirement in accordance with companion document Principles, Rules and Regulations Section 9 paragraphs 514 to 525 (pp-new). The LSC does not prescribe the use of a particular assessment tool, however providers must use Skills for Life initial assessment tools which are based on the literacy and numeracy standards.

22 The provider must be able to demonstrate that the learner is progressing towards an approved Basic Skills qualification as detailed in the paragraphs referred to above.

Additional learning needs and additional social needs

23 In addition to the general LSC learning evidence requirements, additional learning needs (ALN) and/or additional social needs (ASN) payments must be supported by evidence that:

- the provider has documented the arrangements for the identification of those with additional learning and support needs (ALSN), the planning of learning and support to meet those needs, and progress review arrangements

- for ALN, the learner has been assessed as having needs as described in Section 13 of Principles, Rules and Regulations 2008/09, paragraphs 668 – 673 (pp16–22) through the use of Basic Skills Agency assessment materials (July 2002) or equivalent

- for ASN, a clear indication that the learner has needs relating to 2 out of the 10 barriers (or one serious barrier) detailed in paragraph 677 of Principles, Rules and Regulations 2008/09 (pp Annex E 24)

- an additional support plan has been drawn up and agreed by the provider and the learner that meets the requirements in paragraph 697 of Principles, Rules and Regulations 2008/09 (pp Annex E 43)

- a programme of support designed to address the needs of the learner is being or has been delivered

- the learner’s progress has been reviewed in accordance with their plan, the effectiveness of the support has been evaluated and a forward support plan developed at each review.

Exceptional learning support

24 Where the costs of ALN and/or ASN are assessed as exceeding £5,500 over the length of the programme, then the amount over £5,500 is classed as exceptional learning support (ELS) and the provider should complete the ALS costs form and retain this as evidence to support ELS claims.
NVQ achievement (these principles should also be applied to any similar qualifications funded in the Employer Responsive Funding Model)

25 For NVQ achievements (Train to Gain only), there must be evidence that:
   - at the time of award, the qualification is current and approved
   - the learner was registered with an awarding body for the qualification before the last QCA entry date
   - for providers that have been approved for direct claims status by the awarding body, the qualification has been achieved with this evidence supplied by the internal verifier
   - for providers that have not been approved for direct claims status, the qualification has been achieved, with this evidence supplied by the awarding body
   - Copy of qualification certificate from the relevant awarding body within three months of achievement
   - Evidence of sufficient hours of underpinning knowledge, understanding and learning have taken place for the higher or lower SLN funding value claim.

Apprenticeship achievement

26 For Apprenticeship achievement, there must be evidence in the form of:
   - a copy of the completion certificate from the relevant sector skills council (SSC) or sector body or
   - a copy of the application for the completion certificate with the supporting evidence or
   - copies of the supporting evidence where the originals have been sent with the application for the completion certificate. If a copy of the application is used as evidence of completion, then a copy of the completion certificate may also be required within a reasonable timescale.

Withdrawal

27 It is the responsibility of the provider to have and operate a withdrawal and follow-up policy and procedure. This policy should be retained as evidence to support the systems in place.

28 In addition, the provider should hold the following evidence to support the date of leaving recorded on the ILR
   - clear written evidence of the last date of continued structured learning. This may be the last date of evidenced attendance or other documentation such as a review, assessment or observation materials or portfolio work produced by the learner which shows that the learner was in continued structured learning
• written notice of termination from the programme.

Training Provider Statement

29 The mechanism for notifying the LSC of actual data and expenditure incurred, which is not captured on the ILR, is through the Training Provider Statement (TPS) and the submission will remain online. The provider must print a copy of the submission, sign it and retain it for audit purposes.

30 The provider should hold evidence to support the amounts claimed on the TPS. This includes full details of how the volumes and values claimed on the TPS have been calculated in order to provide an audit trail from individual learner funding to total value of funding claimed. This evidence should be held at the time of submission of the TPS. Detailed funding and compliance guidance on completing TPS is available from the LSC website at (xx- detailed document still being drafted to appear on link below):


Education Maintenance Allowance

31 An overview of the LSC’s audit arrangements for Education Maintenance Allowance (EMA) in WBL is detailed in ‘Guidance on LSC Audit Arrangements for EMA in LSC-funded Entry to Employment (E2E) and Courses Leading to an Apprenticeship (PLP)’ (LSC, March 2006) and this is available at: (http://ema.direct.gov.uk/ema.html). Usually, the LSC audit of EMA payments takes place at the same time as other funding audits. For each learner, there should be evidence that:

a the learner satisfies the programme eligibility rules and criteria detailed in Learner Eligibility Guidance 2008/09 and in Education Maintenance Allowance Extension to LSC-funded Entry to Employment and Programme-led Pathways: Guidance for Providers (January 2006) which is available from the LSC website at: readingroom.lsc.gov.uk/lsc/2006/learningopportunities/youngpeople/nat-emaextensionguidance-gn-jan06.pdf.

b the Contract (Part 1) (Attendance) document has been completed correctly

c attendance has supported weekly payment decisions, including evidence supplied by partner providers or sub-contractors

d bonus payments have been made correctly for:

• agreement of the fully completed Individual Learning Plan (ILP)

• achievement of up to two learning goals, as detailed in the ILP, such as the achievement of key skills or NVQ modules

• progression into a paid Employer-led Apprenticeship. The evidence from a learning provider and/or employer should confirm
that the learner is in learning for at least 16 hours a week for a four-week period

e learners have been notified of non-payment decisions.

Retention of documents

32 Documents are to be retained for inspection for six years from the end of the contract year (for example, 31 July 2015). Where the funding has been matched to European Social Fund funding, documents are to be retained until 31 December 2016.

Train to Gain – Operational Audit Guidance

33 The advice in the following paragraphs for employers, skills brokers and providers should be read with Annex N of companion document Principles. Rules and Regulations.

Evidence to support Contribution to Wage Cost Payments

34 Providers are required to maintain evidence in support of employers claims for contribution to wage cost payments:

a. Evidence that the learner meets the eligibility criteria (see paragraph 13 and 14 above) to access Train to Gain

b. Records that clearly demonstrate the number of hours the learner has actively participated in the structured learning programme detailed in the individual learning plan. The format of this record is not prescriptive other than that it should be agreed and signed by both learner and provider

c. A copy of the signed confirmation from the employer and learner of the total number of release hours for learners for whom wage subsidy is being claimed.

Evidence to be retained by Skills Brokers

Evidence to Support Employer Eligibility for Train to Gain (Direct Referral)

35 The LSC requires the skills broker to ascertain whether an employer is eligible to access the Train to Gain Service. Eligibility requirements are detailed in companion document Principles, Rules and Regulations Annex N paragraphs 1 to 11. The skills broker should retain evidence to support their assessment of the eligibility of all employers. This must clearly evidence or be supported by further evidence that the employer was eligible to access the Service.

Evidence to Support Wage Subsidy Payments

36 The skills broker must retain documentary evidence of employer eligibility to receive contribution to wage cost payments – volunteers and the self employed are not permitted access to these payments:
a. Evidence that the employer has less than 50 Full Time Equivalent (FTE) employees

b. Evidence that the learner has achieved their first full Level 2, Basic Skills or level 3 (jumpers) qualification

c. Evidence that the provider, employer and learner have each signed off the confirmation of release hours for training pro-forma

d. Evidence that the learner has achieved the qualification

e. A copy of the employers contribution to wage cost claim as submitted to the skills broker, signed by a person with sufficient authority at the employer e.g. director or senior manager.

Evidence of Employer Bank Account Details

37 Each employer needs to supply a list of authorised company signatories. This needs to include individuals with authority to release this information such as a Director, Accountant, Office Manager or another delegated person with sufficient authority. This is information should be supplied on form:

LSC-P-NAT-060513 Specimen signatures – employers.

In addition, employees bank account details should be provided to the LSC (signed by an authorised signatory) using form:

LSC-P NAT-060444 Bank Details form.

Management Information

38 Skills brokers monthly returns as submitted to the LSC via the National broker portal website provide the primary data for performance management of skills brokers. Consequently skills brokers should maintain documentary evidence that support all management information submitted via the portal.

39 The Table below illustrates the types of evidence expected, to support the Management Information statistics that are mandatory. Other key performance indicators will vary across LSC regions to reflect regional priorities. Skills brokers are advised to agree evidence requirements, in line with their LSC contract annexes “Management Information” and “Evidence Requirements”, with their LSC Regional Audit Manager on similar lines to the examples given in the Table below.

Table B1 – Mandatory Key Performance Indicators
# Key Performance Indicator

<table>
<thead>
<tr>
<th>Key Performance Indicator</th>
<th>Evidence examples</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of employers contacted</td>
<td>Contact register detailing date, employer name, address, name of employer contact and the initials or signature of the person making the entries in the register</td>
</tr>
<tr>
<td>Number of employers contacted that are hard to reach</td>
<td>Completed customer relationship management system entry plus a documented organisational needs analysis and a proposal signed by the employer</td>
</tr>
<tr>
<td>Number of employers contacted that are new employers</td>
<td>Completed Customer Relationship Management system entry plus possible organisational needs analysis</td>
</tr>
<tr>
<td>Number of proposals</td>
<td>Completed Customer Relationship Management system entry plus possible signed proposal document</td>
</tr>
<tr>
<td>Agreed number of referral outcomes</td>
<td>Completed customer relationship management system entry plus a documented organisational needs analysis and a proposal signed by the employer. In addition each region will agree locally the specific evidence required to confirm referrals e.g. a letter or hard copy of an email from the broker to provider confirming the details of the referral. As a minimum this would include the details of the employer, the learner and the training required.</td>
</tr>
<tr>
<td>Number of Organisational Needs Analyses completed</td>
<td>Completed customer relationship management system entry plus a documented organisational needs analysis</td>
</tr>
<tr>
<td>Number of engagements</td>
<td>Completed interaction with an employer leading to a completed ONA and/or Proposal and /or Referral. N.B. an employer is only counted once – i.e. an employer who is referred and has a proposal completed with an ONA is counted as one engagement.</td>
</tr>
</tbody>
</table>

## Evidence to be retained by Employers

40 Employers should retain and make available to the LSC and its agents on request at all reasonable times, the following evidence:

- Evidence of participating employees contracts of employment
- Payroll records that demonstrate actual wage costs
c. Evidence to confirm number of employees

d. From time to time LSC auditors may also wish to interview participating learners

e. Accounting records that confirm receipt of wage subsidy payments (bank statements).

Management Information requirements for Skills Brokers

41 This is a list of Management Information requirements for Skills Brokers.

a. Actual employers engaged compared with targets/segmentation set in contract.

b. Number of Brokers working towards/achieved new Standard.

c. Indicative number of learners for Apprenticeships, first level 2 NVQ, Level 3, and 4, Skills for Life and other training linked to the employer referrals in 1 above.

d. Indicative level of employer full-cost investment (drawn from employer proposal).

e. Use of diagnostic tools.

f. Referrals to Investors in People.

g. Referrals to Leadership and Management.

h. Referrals to Higher Education.

i. Organisation Needs Analyses completed.

j. Referrals to IAG service.

k. Referrals to Job Centre Plus.

l. Repeat Business i.e. employers with more than one agreement.

m. Referrals to IDB generalist brokers.

n. Mode of brokerage i.e. telephone or face to face.

o. Number of contribution to wage costs claims processed.

p. Number of Employers registered for contribution to wage costs.
Annex C: Entry to Employment Compliance Evidence and Audit Requirements

1. These requirements are in addition to the general evidence requirements detailed in this document and in Annex B. Whilst E2E falls within the learner responsive funding model the audit evidence has many similarities to that of the employer responsive funding model as detailed in Annex B. The overarching criteria for all items of evidence are that they should be sufficient, reliable and relevant.

2. It is anticipated that most, if not all, of the evidence required for E2E, including evidence required for Education Maintenance Allowance (EMA) payments to learners, will be generated by the provider’s normal operations and will therefore be naturally occurring evidence. It is appreciated that the first six weeks of E2E will be fluid. Providers are to work towards gathering all the required documentary evidence during this time.

Learner Eligibility

3. Learners must be eligible for E2E to attract any payments. For this reason, providers are to retain evidence that the learner was eligible for and suitable to enter the programme and that within six weeks of starting the programme their suitability for E2E has been confirmed by Connexions.

Evidence Required

Profiled allocations and payments for 2008/09

4. These payments will normally be evidenced by the documentation collected for in-learning payments and by the provider having a current contract for the places. However, where the places are not filled, the LSC may require evidence that demonstrates that the full number of planned places was in fact available. Examples of suitable evidence include the following documents:

- schedule of learning and/or sessions
- availability of resources and accommodation
- staffing arrangements
- waiting lists, induction arrangements, offers made to learners
- business plans and/or financial forecasts
- past occupancy levels.

5. Providers may be asked to provide other naturally occurring evidence that demonstrates that the places would have been filled if they were required. The LSC may also contact other agencies to confirm the availability of places.

Continued structured learning

6. The following evidence applies:
• the E2E Passport which identifies the learning objectives informed by the initial assessment

• evidence to indicate that the learner is making progress in continued and structured learning towards their learning objectives, or, where no progress is evident, to show what actions have been taken.

7 These requirements will normally be met through the initial assessment, E2E activity plan and review process documentation. The E2E Passport has been designed to meet these requirements. However, the use of this document will not in itself meet the requirements. It is the completeness and the quality of the entries that will determine whether the evidence is sufficient.

**Bonus Payments**

**Qualification bonus**

8 For the qualification bonus payment, there must be evidence that:

• the qualification is approved for funding and is consistent with the Learning Aims Database or, where the qualification is locally approved, evidence from the local LSC that it is a locally approved qualification

• the learner was registered with an awarding body before the last entry date

• the qualification has been achieved, that is where the provider has direct claims status, evidence from the internal verifier, or where the provider does not have direct claims status, evidence from the awarding body.

**Progression bonus**

9 The following evidence applies:

• evidence from a learning provider and/or employer confirming that the learner is in learning or employment for at least 16 hours a week for a four-week period or

• a self-declaration from the learner stating that they are in learning or employment, with ongoing learning, for at least 16 hours a week for a four-week period, and giving contact details of the employer and/or provider.

**Exceptional Learning Support**

10 The following evidence applies:

• evidence that the amount claimed and authorised by the LSC was spent in line with that detailed on the standard costs assessment form. The evidence must show that the learner was eligible and that the expenditure was incurred in line with the form.

**On Leaving**

11 Evidence to support the leaving date recorded on the ILR.