Response to the August 2008
Single Equality Impact Assessment of the
Framework for Excellence
October 2009

Introduction

Action to promote equality and diversity is an integral part of the LSC’s business objectives, as set out in its Single Equality Scheme. Considerations of all forms of equality are fundamental to the Framework for Excellence (the Framework). The LSC is committed to the development of the Framework to reflect the extent to which each provider enables all learners to achieve their goals, including those from under-represented groups, and the extent to which providers respond to the diverse needs of learners and employers.

In August 2008, the LSC published a Single Equality Impact Assessment (SEIA), conducted by RCU Limited in accordance the LSC’s Single Equality Scheme, reflecting the Council’s statutory responsibilities to prevent discrimination and promote equality and diversity. The promotion of equality of opportunity is central to the mission of the LSC.

This report provides an update on the implementation of the recommendation.

The SEIA was a full impact assessment, triggered by an earlier initial screening process which identified the potential for unintended consequences arising from the implementation of the Framework for Excellence. In particular, the initial screening identified aspects of the Framework that could trigger unintended behaviour on the part of providers as a result of the eventual requirement to publish Framework scores to inform learner and employer choice.

The LSC welcomed this completed Single Equality Impact Assessment and gave its commitment to carry out the seven recommendations contained within it.

Background to the Framework for Excellence: Single Equality Impact Assessment

- The balance of learners within employer-facing provision is uneven and there may be a need to examine the implication for this in the weightings within the Employer Satisfaction performance indicator.
• There is a risk of perverse incentives within the Effectiveness Dimension due to the lower success rates of some minority ethnic groups and vulnerable learners.
• There are few equality and diversity concerns within the Finance Dimension but there is a risk of perverse incentives within the Use of Resources performance indicator due to variations in success rates among different learner groups. There is a need to ensure that this performance indicator is future proofed for developments in incremental achievement under the Qualifications and Credit Framework.
• The SEIA was informed by a detailed report on contextualisation commissioned by the Framework’s Technical Working Group, and this assessment incorporates and endorses the recommendations it contained.
• The SEIA was informed by consultation with a range of stakeholders, who expressed concern regarding perverse incentives and unintended consequences. They also expressed concern over the absence of any indicators that actively promoted equality and diversity, for example measuring responsiveness to communities.
• Stakeholders were concerned that the level of aggregation in Framework grades could mislead learners and employers seeking evidence of performance in specific areas of provision.
• The SEIA has been carried out at the earliest possible juncture. The LSC recognises that it will be necessary to repeat the process of assessment with each version of the Framework to confirm that it continues to support anticipated benefits and that anticipated risks have been mitigated.

Report Summary

• The SEIA was conducted by RCU Limited in accordance with the LSC’s Single Equality Scheme and reflects the Council’s statutory duty to prevent discrimination and promote equality and diversity.
• The scope of the SEIA encompassed the development of the Framework in its first pilot phase and the modelling of the Framework for 2008/09. It also took account of proposed adjustments in the design of the Framework for later stages, where plans were sufficiently advanced, and the proposed second pilot.
• The methodology for the SEIA took account of detailed modelling of data from the first Framework pilot (and 2008/09 projections where known) and dialogue with LSC staff, provider representative bodies and stakeholders. It also took into account the views of learners and providers as expressed during the Framework Development Groups and the evaluation of the first Framework pilot.
• The SEIA found no evidence of direct discrimination resulting from the design or implementation of the Framework for Excellence 2008/09 (as informed by the first pilot). Steps have been taken to build into the design of Framework performance indicators consideration of different provider types and contexts, and the needs of different groups of
learners. Where robust evidence of the influence of external contextual factors is available, the LSC has built these into the design of relevant measures and there is a commitment to review further evidence as it becomes available.

- The SEIA identified aspects of the Framework where there was a risk of indirect discrimination and the report includes recommendations for action to monitor these aspects. For the most part these risks result from the context in which providers operate, with a consequential risk of disadvantage (or advantage) for the learner groups with whom they work. However, there are also risks of intended provider behaviour in response to the factors influencing scores in the Framework, which will be published in future.
- The Framework for Excellence has been developed with an extremely high level of provider and stakeholder involvement and has been subject to extensive piloting, consultation and evaluation.
- The Learner Views performance indicator has been developed to take account of the accessibility needs of different learners and further work on this has been commissioned.
- The Learner Destinations performance indicator has been designed to take account of a variety of learning contexts and is fully inclusive for those in scope but currently excludes all learners with learning difficulties and/or disabilities.

**Recommendations and Responses**

The SEIA made a number of specific recommendations to the LSC and these are set out below with our responses. Many of these issues were taken up by the pilot of the second phase of the Framework, which operated between the summers of 2008 and 2009.

**Recommendation 1:** The LSC needs to run further tests on the measures within the Framework for Excellence 2008/09 and implement the recommendations of the recent report, *Testing the Case for Contextualisation in the Framework for Excellence*.

**Response:** The 2007/08 report into contextualisation concluded that, from the data available, the 2007/08 Framework for Excellence Indicators took sufficient account of contextual variables. However, as part of our ongoing commitment to the fairness, robustness and applicability of the Framework, the LSC commissioned a further study based on the full datasets available as part of the 2008/09 assessment period. This study, *Testing the Case for Contextualisation within the Framework for Excellence*, is published on the Framework for Excellence website at [http://ffe.lsc.gov.uk](http://ffe.lsc.gov.uk).

**Recommendation 2:** The LSC should design and test a performance indicator that takes into account the impact providers have on social cohesion and their promotion of equality and diversity (including as an employer).

**Response:** The LSC is currently scoping the introduction of an indicator to measure social and educational inclusion.
**Recommendation 3:** The LSC should review the scope for expanding ‘responsiveness to learners’. This could include wider obligations to learners under Learner Involvement Strategies, the personalisation agenda and (for younger learners) Every Child Matters.

**Response:** The scope of the Learner Views survey has been expanded to include: all 16-18 learners enrolled on at least one LSC funded learning aim; and all adult learners with at least one learning aim funded through the adult learner responsive or employer responsive funding stream. We encourage participation by all applicable learners, including those with learning difficulties and disabilities, and have published extensive guidance for providers to facilitate this.

As part of the School Sixth Form and Local Authority Pilot 2009/10 we are trialling the addition of a number of questions specifically related to the health and well-being of 16-18 year olds.

Further opportunities for expanding the scope of ‘responsiveness to learners’, which includes performance indicators for Learner Views and Learner Destinations, are being examined as part of the Framework for Excellence extension project in 2009/10.

**Recommendation 4:** The LSC should re-examine the rules of combination for the Framework measures to take account of the risk of unintended provider behaviour arising from the strong influence of success rates on the Overall Performance Rating.

**Response:** The Framework has been developed to improve its fitness for purpose. This was strongly influenced by experience from piloting and feedback from providers and stakeholders during implementation. From 2009 the Framework is a flat, simple structure more sensitive to the needs of a diverse further education sector. The rules of combination and the Overall Performance Rating have therefore been removed.

**Recommendation 5:** The LSC should review the learner mix on provision currently falling below Minimum Levels of Performance to assess the equality and diversity implications if this provision were withdrawn.

**Response:** This exercise has been carried out outside the scope of the Framework for Excellence.

**Recommendation 6:** The use of priority learning as a Framework filter is in line with Government policy, but the LSC should continue to monitor the equality and diversity implications for learners excluded from contributing to Framework measures by this approach.

**Response:** As the Framework for Excellence rolls out more providers will come into scope; with school sixth forms being included from 2010. The LSC will continue to monitor the equality and diversity implications of learners.
excluded from contributing to Framework measures and will undertake a Single Equality Impact Assessment initial screening in May 2010 following the completion of the second year of implementation and the school sixth form pilot.

**Recommendation 7:** The LSC should continue current research to increase the accessibility of the Learner Views survey and should take urgent steps to remove the need for the blanket exemption of learners with learning difficulties and/or disabilities who would otherwise be in scope for the Learner Destinations measure.

**Response:** See response to Recommendation 3.