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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 Effectiveness and Responsiveness dimensions 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.

The LSC welcomes this completed Single Equality Impact Assessment and underscores its commitment to carry out the seven recommendations contained within it.
Executive Summary

- This Single Equality Impact Assessment (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 pilot phase and the modelling of the Framework for Version 1. 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 Framework pilot (and Version 1 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 pilot Evaluation.¹

- The SEIA has found no evidence of direct discrimination resulting from the design or implementation of the Framework for Excellence Version 1 (as informed by the 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.

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.
Recommendations

The SEIA makes a number of specific recommendations to the LSC and these are set out below. Many of these issues will be taken up by the pilot of the second phase of the Framework, which will operate between the summers of 2008 and 2009.

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

- **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).

- **Recommendation 3**: the LSC should review 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*.

- **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.

- **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.

- **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.

- **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.
Section 1: Terms of Reference for the Assessment

Statutory Responsibilities

1.1 This report takes the form of a Single Equality Impact Assessment (SEIA), conducted by RCU Limited in accordance with the LSC’s Single Equality Scheme and 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. The LSC Chairman has expressed this as follows:

“We will not compromise in our expectations of ourselves and the learning and skills sector to equip everyone to be able to contribute to the success of our economy and society and fulfil their potential”

Christopher Banks CBE, Chairman LSC.

1.2 This SEIA is 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.

1.3 The Single Equality Scheme: Our Strategy for Equality and Diversity is the LSC’s first Single Equality Scheme and describes how the LSC will fulfil its statutory duties to promote equality of opportunity and avoid discrimination, placing the promotion of equality and diversity at the centre of its work both in its remit for commissioning and funding learning and skills provision. A summary of the LSC’s statutory responsibilities is set out in Appendix 1.

1.4 The scheme combines the statutory requirement to produce a race equality scheme, a disability equality scheme and a gender equality scheme, and ensures there is a consistent approach to each whilst ensuring that the distinctive requirements for the individual schemes and the individual duties are also included. The scheme also outlines the LSC’s commitment and approach to ensuring equality impact assessments are conducted for all LSC policies.

1.5 Outside of its statutory responsibilities in respect of race equality, disability and gender equality, the LSC is committed to promoting equality and diversity for all learners, for example by considering age diversity. As an employer, the LSC is required to adhere to age discrimination legislation, however the Act that established the LSC, and the guidance provided by the Government in its annual grant letters.

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3 Annex A of the scheme records the steps the LSC will take to meet its statutory requirements for race, disability and gender equality schemes.
make it clear that the LSC is expected to set targets and allocate funding differently for young people and adults.

**Specific Terms of Reference for this Assessment**

1.6 The terms of reference for the SEIA focused on the provision of evidence for the LSC to ensure that its policies in implementing the Framework would not discriminate against or disadvantage any groups of learners or potential learners. This required modelling of the impact of planned configurations of the Framework, which will bring all LSC-funded providers into scope in three successive waves. These begin in 2008/09 with Version 1, which covers general FE, tertiary, specialist and sixth-form colleges, work-based learning providers (other than local authorities) and Train to Gain providers. Since the design of the Framework in later stages has yet to be finalised, the terms of reference for the SEIA focused initially on Version 1, but with a remit to establish a schedule of future assessments to encompass later stages of the Framework as these are rolled out.

1.7 The process of modelling required by the terms of reference included a need for hypothesis-building based on the emerging results of the Framework for Excellence pilot in 2007/08 and an assessment of the risk of unanticipated consequences. This aspect of the assessment leant heavily on a separate statistical report commissioned by the Framework’s Technical Working Group. The findings from this report have been used extensively in this assessment, although the full statistical evidence base has not been reproduced. Where an adverse impact has been identified, the assessment identifies pressure points and recommends actions to mitigate potential disadvantages.

1.8 The terms of reference assumed four major outcomes from the assessment, in line with the LSC’s Single Equality Scheme:

- evaluation of the extent to which the proposals for the introduction of the Framework could have positive or negative impact on learners by race, gender and disability
- identification/evaluation of specific areas of potential implementation that may impact adversely on particular learner groups
- recommendation of actions required to address or monitor any potential benefits
- identification of an appropriate process and schedule for future monitoring of the policy as it develops and the efficacy of the actions taken.

1.9 The SEIA has taken account of equality impact assessments carried out by other partners and has tested stakeholder reaction to the detail of current policy and feedback from earlier consultations to identify clearly positive and negative impact.

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4 The LSC produced an initial screening report in October 2006, which formed part of the evidence base for the full SEIA, identified potential positive and negative impacts.

Section 2: Methodology

2.1 This section provides a summary of the approach taken and the main stages of the information-gathering process, which were:

- development of the assessment framework and review of relevant documents and current data
- specific modelling work based on the outcomes of the Framework’s pilot and forward projections of provider ratings for Version 1, where available
- interviews with LSC national and regional staff to assess the implications of the implementation of the Framework in Version 1
- consideration of evidence from the Framework’s consultation and evaluation stages of the views of providers, employers and learners
- stakeholder consultation involving sector representative bodies and key external stakeholders
- production of the overall impact assessment.

2.2 Initial planning of the assessment framework resulted in a number of key research questions, which were used to frame individual interviews and group discussions involving LSC staff, sector representative bodies and key external stakeholders:

- To what extent will the Framework for Excellence have a positive or negative impact upon learners by race, gender and disability?
- Will the impact of the policy be different for different learner groups, and can we at this stage identify any likely unintended consequences of the changes?
- What are the specific areas of potential implementation that will have impact and how might we assess the strength of that likely impact?
- What actions have already been taken to take account of equality and diversity in the development of the Framework, and what additional actions might be required to address future risks or monitor any potential benefits?
- Will the introduction of the Framework undermine any current approaches to the promotion of equality of opportunity, and will any current arrangements to monitor equality of opportunity be unsustainable in future?
- What would represent appropriate processes for future monitoring of the impact of the Framework and the efficacy of any resultant actions and how frequently should this take place?
Section 3: Overview of the Policy Context

3.1 The Framework takes forward the recommendations from the LSC’s Agenda for Change and the FE White Paper which called for a new balanced scorecard and overall performance rating to provide greater transparency and public accountability for colleges. The Framework, together with the LSC’s intervention policy, the development of self-regulation in the FE system, and the Learning and Skills Improvement Service (LSIS)-led National Improvement Strategy, will provide a driver for quality improvement and recognise success.

3.2 The main aim of the Framework is to provide a single, unified framework for assessing and reporting achievement in all key areas of performance. It will be used to secure the best outcomes for learners and employers and contribute to increasing the reputation of the FE system, helping support progress towards self-regulation.

3.3 In achieving these aims the LSC is committed to developing the Framework to:

- provide information to learners and employers to help them make decisions
- provide a management tool for providers to benchmark performance and help them improve quality
- simplify and streamline quality and performance assessment across providers
- provide a transparent mechanism to enable Ofsted, the LSC and the LSIS to work with providers, in line with their respective remits
- support moves towards self-regulation.

3.4 These goals have helped to shape the Framework’s intended outcomes, which have been set out in a series of policy documents by DIUS and the LSC.7

3.5 The development of the Framework forms part of the Government’s reconfiguration of the post-16 system to increase its focus on skills. The final report of the Leitch Review of Skills, Prosperity for all in the global economy - world class skills set out the importance of skills to the UK’s continuing prosperity. World Class Skills: Implementing the Leitch Review of Skills in England endorsed the recommendations of the Leitch Review and set out how the Government would develop the supporting framework to implement this skills revolution.

3.6 A key proposal of the Leitch Review was that public funding and systems should become increasingly demand-led. Employers and individuals should have more power to choose provision that meets their needs and training providers would need to become increasingly responsive to what learners and employers want. The publication World Class Skills: Implementing the Leitch Review of Skills in England 6

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7 For more information please refer to the Framework for Excellence website: http://ffe.lsc.gov.uk.
8 HM Treasury, December 2006.
sets out the Government’s plans for implementing the Leitch recommendations and established the Framework as a key part of the information set that would make a demand-led system work.

3.7 The basis of the Framework is a scorecard of seven key performance areas that can be brought together in three Dimensions to depict a provider’s performance in terms of Responsiveness, Effectiveness and Finance. An outline of the structure of the Framework as it operated during the pilot is reproduced below:
Section 4: Development of the Seven Key Performance Areas

Responsiveness to Learners: Learner Views

4.1 Responsiveness to Learners within the pilot version of the Framework was measured by two performance indicators: Learner Views and Learner Destinations.

4.2 The Learner Views performance indicator was derived from a measure of learners’ satisfaction with eight aspects of their experience as a learner. These eight aspects were established following a study of the issues covered by providers’ internal learner satisfaction surveys and were further refined by a development group of pilot providers. The eight issues are summarised in the adjacent text box.

4.3 The LSC, informed by a provider development group, designed wording for eight questions to capture learners’ views on these issues. The wording was tested for accessibility and used to produce paper and online versions of a questionnaire. The paper questionnaires were then subjected to cognitive testing by Ipsos MORI, which interviewed around 100 learners across a range of learning aims and levels to test the robustness of the questions. The advice from the testing phase was that the proposed wording for the questions was broadly accessible, but was not appropriate for the lowest levels of cognitive ability in specialist provision. There was also a distinction between learners on higher-level aims, who expressed a wish for a response scale of up to seven options, and learners on lower-level aims, who found this confusing.

4.4 The LSC reacted to the advice received in a number of ways:

- offering providers a choice between paper and online versions (with the latter allowing the use of adaptive technology to increase accessibility)
- offering providers the chance to mix between three- and seven-point response scales, according to the needs of particular learners
- making specific adaptations (for example, all paper questionnaires were printed in large font on a pastel-shaded background and providers were able to request Braille and audio versions of the questionnaire)
- making arrangements with providers to allow them to be responsive to learners’ needs (for example, by converting the survey into pictorial format)
- allowing providers to use judgement to exempt learners from the survey if, despite such adjustments, the communications medium was inappropriate.

4.5 The final option of providers exempting learners from the survey was identified as a temporary solution for the purposes of the pilot, and the LSC is committed to exploring options that will make the Learner Views indicator accessible to the maximum possible range of learners. In May 2008 the LSC commissioned two projects designed to increase the accessibility of the survey. The first, led by RCU
Limited working alongside specialist organisations, will identify steps required to increase the accessibility of Version 1 of the Framework. The second, led by Natspec, will look at technological and methodological adaptations required to make the survey accessible to all learners with learning difficulties and disabilities.

4.6 The scope of the Learner Views survey in the pilot included all learners on priority provision, including any learner with a self-declared learning difficulty and/or disability who would not have been included under any other priority category.

Responsiveness to Learners: Learner Destinations

4.7 The Learner Destinations performance indicator provides evidence to potential learners on the enhancements they can expect from additional learning, and it also provides a means of measuring the outcomes resulting from public money invested in different areas of provision.

4.8 The scope of the Learner Destinations measure in the pilot was all learners completing at least one priority learning aim in 2005/06 (based on the same definition) who were not recorded as continuing any aims into the following years.

4.9 In the pilot the measure was based on three evidence strands:

- learners tracked centrally into 2006/07 learning activity meeting certain criteria
- learners giving responses to a central telephone survey that indicated progression
- learners with established higher-education progression identified from provider-supplied data.

The evidence provided by learners in the central telephone survey was taken to be representative of all learners not identified in other ways, providing that the sample contacted met certain quality thresholds.

4.10 The LSC has established procedures that allow learners to indicate that they do not wish to be contacted by the LSC (or in some cases the provider) for research purposes. This flag (the L27 field on the Individualised Learner Record) can also be used where a learner or the provider feel that research contact to the learner’s home by an external third party would be inappropriate. This is used when a learner has died or been seriously injured, but it can also be used when the nature of a learner’s cognitive or communication skills would make a telephone call inappropriate.

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10 The Association of National Specialist Colleges.
11 All 16-18s, all work-based learning, all learners on target-bearing Skills for Life provision and all learners on qualifications contributing for a Full Level 2 or Full Level 3 (plus any other learners with learning difficulties and/or disabilities as stated in the text).
12 A 2006/07 highest learning aim that was either higher than in 2005/06 or was at the same level with the learner remaining in priority learning.
13 This was based on a number of possible positive responses linked for further learning, entry into employment or progression within existing employment.
4.11 From past experience with the National Learner Satisfaction Survey, the LSC was aware that the L27 field did not provide a comprehensive barrier to inappropriate calls. As a result, a decision was taken for the pilot to exclude all learners with a self-declared learning difficulty and/or disability (L14 field of the ILR).

4.12 This was a temporary solution and it will be necessary for the LSC to address the lack of application of the Learner Destinations measure to learners with learning difficulties and/or disabilities in Version 1. The temporary approach prevents learners (some of whom would find a telephone interview fully accessible) from contributing their experiences to the destinations measure, and it will also lead to a lack of guidance information for future learners or their parents/carers.

4.13 For those learners in scope for the Learner Destinations measure the approach taken is fully inclusive, in that attempts are made to contact all learners, thereby reducing the risk of (Type 1) sampling bias. However, the pilot found that some weighting will need to be applied to the application of survey results to take account of different rates of non-response. This could be an equality and diversity risk if certain groups of learners were less likely to be able to contribute to the statistics because of the contact method chosen (for example, if they were less likely to have a stable telephone contact number).

**Responsiveness to Employers: Employer Satisfaction**

4.14 The Responsiveness to Employers Key Performance Area was derived in the pilot from a single performance indicator: Employer Satisfaction. This indicator was measured using a score out of 10 derived from a composite of ratings given by employers in a multi-mode survey. The survey methodology varied, with the pilot testing the effectiveness of a number of different approaches, including provider-led postal and telephone surveys, employer self-completion online or on paper, and interviews by a central research organisation.

4.15 Considerable development work took place during the pilot in an attempt to design a second performance indicator, measuring the amount of training delivered by providers. This work will continue during Version 1 but it was judged that it was not possible to design a measure of sufficient robustness during the timescale of the pilot.

4.16 The measure related to providers that had engaged in a commercial relationship with employers and that were able to provide contact details to support a survey. Providers were exempt if they undertook no commercial activity with employers and were automatically credited with a grade of outstanding if they had been accredited successfully under the Training Quality Standard (TQS).

4.17 The questions used in the survey were derived from the TQS and questions asked in the LSC’s National Employer Satisfaction Survey. They were also informed by very extensive consultations with employers during the design phase of the TQS.

4.18 Responses from employers were aggregated without weighting to generate an average score out of 10. Any implications of this in terms of the LSC’s Single
Equality obligations will be indirect. For example, the pilot survey found that employers sending learners on Apprenticeships had, on average, a lower level of satisfaction than other employers supporting training. The take-up of Apprenticeships is skewed in terms of ethnicity (predominantly white) and gender (predominantly male) and learners/employers using Framework data to select a provider may be misled if they believe a general provider’s grade applies equally to all its provision.

4.19 In addition to exemptions, the LSC has been giving consideration to de minimus rules or minimum qualifying numbers of employers for inclusion in the survey. This has mainly been driven by concerns over the volatility of survey-based data where respondent numbers are low. However, there may also be equality issues if a provider mainly serves the needs of individual learners but has a small number of employer customers. Currently, Responsiveness to Employers has equal weighting to Responsiveness to Learners in the determination of the grade for the Responsiveness Dimension, and it could be argued that this could lead to Employer Views being given disproportionate weight in a provider for whom this was a small element of their mission.

Effectiveness: Quality of Outcomes

4.20 The Effectiveness Dimension in the Framework’s pilot was constructed from two key performance areas. The Quality of Outcomes grade was derived from four Qualification Success Rates (QSRs):

- FE long courses, excluding A-levels
- FE short courses
- A-levels
- Apprenticeships and Advanced Apprenticeships (combined).\(^\text{14}\)

4.21 The success rates for the four groups were calculated using the LSC/DIUS/Ofsted QSR measures used in the annual FE learner outcomes statistical first release for FE colleges and work-based learning respectively. As a result, they had been subject to a very high level of consultation and prior testing. The A-level QSR was supplemented by the A-level value-added outcome from the LSC’s Learner Achievement Tracker,\(^\text{15}\) although provider feedback during the pilot indicated a wish to enhance the value-added element of the measures.

4.22 The QSRs for each of the four constituent groups were brought together into a single learner-weighted performance measure. This weighting was based on learner volumes, meaning that pockets of underperformance might be missed in the aggregation process. This could have equality and diversity consequences in the form of incomplete market signals if the resultant aggregated score masks poor (or

\(^{14}\) In the pilot, Apprenticeship success rates were averaged across all Apprenticeships, despite the lower measured success rates on Advanced Apprenticeships.

\(^{15}\) This is not contextualised, but will reflect variations in GCSE input scores that could be correlated to external factors.
outstanding) provision in areas of provision accessed disproportionately by particular
groups. For example, ESOL provision within a large general provider. However, this
impact may be mitigated by the continued publication of QSRs at the level of
qualification type.

4.23 There is a considerable body of evidence to show that there are significantly
different rates of retention and achievement for different groups of learners, and this
means that any measure based on success rates is likely to reflect the different
client groups of providers. This is not in itself an argument for contextualisation. For
example, learners from minority ethnic backgrounds are not spread evenly in terms
of geography or curriculum area, and measured differences in success rates could
accurately reflect provider performance rather than/or in addition to external
contextual factors.

4.24 It could also be argued that the lower success rates achieved by some minority
ethnic learners, and learners with learning difficulties and/or disabilities (and indeed
by some learners from disadvantaged socio-economic backgrounds), is a sign that
they are more likely to encounter poor quality provision, and that the higher profile
given to success rates within the Framework will help to address this.

4.25 As an illustration of this issue, Appendix 2 provides summary evidence showing that
White British learners have a significantly higher success rate than minority ethnic
adult learners. The likelihood of leaving with partial qualifications is broadly constant
across all ethnic groups, but most minority ethnic groups are more likely to leave
further education provision without achieving. Success rates for disabled learners of
all ages are lower than those for learners with no declared disability, although
learners with a learning difficulty are more likely to succeed than other learners. 16
Partial achievement does not appear to be a specific issue for learners with learning
difficulties and/or disabilities.

4.26 The initial Single Equality screening report for the Framework raised concerns about
perverse incentives if providers, aware of the above patterns, switch provision away
from ‘high-risk groups’ as a result of the increased publicity given to success rates
due to the Framework. Providers involved in Framework development groups
reported, anecdotally, that this had been the initial provider reaction to Minimum
Levels of Performance, with providers axing provision with poor success rates rather
than improving it.

4.27 In preparation for the Framework, the LSC cross-referenced the inspection grade
distribution of providers against their QSRs. College and sixth-form college provision
correlated fairly closely, but concerns remain about a lack of correlation between
work-based learning Framework achievement rates and inspection grades.

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16 This is not consistent across all levels of study: learners with learning difficulties and/or disabilities have higher success
rates on lower level qualifications, but the polarity switches at Level 2.
Effectiveness: Quality of Provision

4.28 The second key performance area in the Effectiveness Dimension in the Framework pilot was Quality of Provision. For the pilot this was derived from a single performance indicator: Ofsted’s most recent judgement on the overall effectiveness of provider’s provision. The LSC acknowledges that Ofsted’s most recent judgement may not reflect a provider’s current position, and in the light of the pilot it is working with Ofsted to explore options for using more recent evidence, such as information from monitoring visits and Ofsted’s consideration of a provider’s self-assessment.17

4.29 The process for deriving Overall Effectiveness judgements within the Common Inspection Framework is subject to Ofsted’s own quality assurance framework and therefore lies outside the scope of this assessment. However, the impact of using Overall Effectiveness grades was tested alongside other performance indicators in the contextualisation project that supported this SEIA.

Finance: Financial Health

4.30 The Framework’s pilot used well-established LSC procedures for monitoring the financial health of providers, but the mechanism for doing this was reduced to three performance measures from the previous six financial ratios. These three financial health measures relate to the solvency, sustainability and status of a provider, with the definitions differing slightly between FE colleges and other providers, due to differences in their legal and financial reporting status.

4.31 Each of the three measures received a score ranging from zero to 100, and the overall score for a provider was obtained by totalling the scores for the individual measures and adding an adjustment to recognise consistent good performance across the three ratios. The score resulted in four possible grades in parallel with the rest of the Framework indicators, replacing the previous (unpublished) A, B and C categories used in the sector.

4.32 Under LSC conventions, FE colleges formally consider whether their automatically calculated financial health grade appropriately reflects their position, and the LSC carries out the final professional validation of all the automatically generated financial health grades.

4.33 Few issues of equality and diversity emerged during the detailed pilot consultations on the derivation of the Financial Health key performance area, although there was some concern that the potential negative impact of capital investments might act as a perverse disincentive. This led to the development of the capital element within the Use of Resources key performance area. There was also concern that the publication (for the first time) of financial health grades could lead to providers being risk averse, stifling initiatives aimed at hard to reach groups.

17 The pilot included some judgements based on 2003 inspections.
Finance: Financial Control

4.34 The grade for the Financial Control key performance area was derived from a four-point score based on providers’ Financial Control Evaluation (FCE) documents. Pilot providers were asked to complete FCE documents to self-assess their financial controls, replacing a number of previous audit documents, and the final grade was determined by LSC auditors based on consistent application of professional judgement.

4.35 The Framework’s Evaluation process indicated that some providers found the process of completing the FCE difficult, especially where their internal accounting circumstances were complex, but grades were arrived at for 80 providers during the pilot. The aim of the pilot was to devise a level playing field for providers, while recognising that they operate under different legal structures and financial audit regimes. As a result, there is no reason to expect that the approach taken to assessing Financial Control would have implications for equality and diversity.

Finance: Use of Resources

4.36 The Use of Resources (UoR) key performance area underwent rapid development during the course of the pilot and given the specificity of some aspects of the measure to particular provider types, further adjustments are expected for Version 1.18 The aim of the performance indicators within the UoR key performance area is to take account of efficiency and economy, by linking learning outputs to resource inputs, but these terms mean different things in different provider contexts. Development of the UoR measures was informed throughout the pilot by development group activity and a UoR Technical Working Group.

4.37 Use of Resources includes a capital indicator (comprising condition and renewal measures)19 and four revenue indicators:

- application of LSC funding to priority provision20
- delivery against funding allocation
- funding for each successful outcome
- a benchmarked cost comparison, based on operating cost for each weighted Standard Learner Number.

4.38 There are links within Use of Resources to a number of other aspects of the Framework, for example ‘priority learning’ determines the sampling frame in Responsiveness to Learners and success rates determine Quality of Outcomes (and

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18 Any indicator that impacts in a differential manner on different categories of provider will inevitably increase the risk of unintended consequences for particular groups of learners since the pattern of participation by different learner groups is uneven across the sector.
19 “Condition” is derived from validated college e-mandate returns and “renewal” is based on the updating of current capital stock.
20 The use of priority learning in a number of aspects of the Framework for Excellence is consistent with the LSC’s Statement of Priorities and does not, therefore, require separate assessment within this SEIA. Providers seeking to concentrate on priority provision as a result of the Framework could not be viewed as a perverse incentive.
inform Ofsted judgements). It will be important to ensure that consistent definitions of these aspects are used across the Framework.

4.39 The use of success rates as an indication of the volume of outputs within the UoR measures carries the risk of perverse incentives for providers to divest themselves of provision aimed at vulnerable groups, as discussed in the Quality of Outcomes section of this assessment. There may also be a need to consider inclusion of partial achievements if the Framework is to be ‘future-proofed’ for the UK Vocational Qualification Reform Programme and the Qualifications and Credit Framework. Appendix 2 records variations in the pattern of partial achievement.
Section 5: Statistical Testing

5.1 The LSC commissioned RCU Limited to carry out a separate investigation into the impact of external contextual factors upon a provider’s Framework scores and gradings as part of the evidence base for this report. The significance of this work, from an equality and diversity viewpoint, is that evidence of a strong influence on Framework grades by external factors would (unless corrected) disadvantage some providers and, by extension, their learners.

5.2 The key findings from the report, which will be published separately by the LSC, are reproduced here. The aim of the research was to test the case for contextualisation, a term that refers to adjustments made to correct for the impact of the operating context of a provider or a class of providers. Any such adjustment would have to be based on evidence that providers would otherwise suffer significant and predictable advantage or disadvantage.

5.3 The research was based on the Framework’s pilot and explored the extent to which contextual variables correlated in a positive or negative manner with the grades resulting from the pilot assessment criteria. More than a dozen potential contextual factors were identified by applying multi-level modelling to learner datasets, and correlation analysis was then used to identify the strength of relationship between these factors and the grades and scores gained by providers in the Framework’s pilot. These factors included a provider’s learner mix in terms of gender, ethnicity, ability/disability and age, as well as a number of social and economic factors.

5.4 The Learner Views score had already been partly contextualised in the pilot. An adjustment was made to correct for the impact of level of study, based on robust evidence from successive waves of the National Learner Satisfaction Survey, showing a stable inverse relationship between level of study and satisfaction. No correlations were found during the research that indicated the need for further contextualisation of the Learner Views indicator.

5.5 Analysis of the Learner Destinations indicator raised concerns over a relatively strong correlation between the performance indicator grade and the proportion of adult learners and part-time learners at a provider.

5.6 Analysis of the Employer Satisfaction indicator generally showed weak correlations with external contextual factors, although there was some evidence of a link to factors influenced by the tightness of local labour markets.

5.7 Correlations within the Effectiveness Dimension were generally weaker than in the Responsiveness Dimension. However, significant evidence was found of a negative correlation between Qualification Success Rates (QSRs) and adult part-time learning, and there was also evidence that QSRs are lower in areas of social disadvantage.

5.8 The report noted that the Quality of Provision key performance area grade was based on Ofsted’s Overall Effectiveness grades, and already reflect the use of

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21 This has been published separately by the LSC as The Case for Contextualisation in the Framework for Excellence.
contextual factors to inform inspectors’ judgements. Correlations for the Framework grades against external factors were relatively weak.

5.9 The Financial Health key performance area produced relatively weak correlations and there was little evidence of a need for additional action, other than the consideration already given to financial regulations for different types of provider.

5.10 The Financial Control key performance area produced stronger correlations, backed by high levels of statistical confidence. The report concluded that at this stage of the Framework’s development the effects were not strong enough to warrant contextualisation, but recommended that the LSC examine the reasons why providers in areas of relative disadvantage appeared to score poorly in this area.

5.11 The Use of Resources key performance area produced relatively weak correlations, but the report recommended that the LSC should examine why providers with high proportions of adult and/or part-time provision scored less well in capital measures. It also identified a need to re-examine the treatment of general providers in the Use of Resources efficiency measures.

5.12 The report made a number of recommendations that:

- there is no compelling case for any further contextualisation at this stage
- the contextualisation of Learner Views by level of study used in the calculation of pilot scores should be carried forward as a methodology into Version 1
- the large and significant correlation between Learner Destinations and age and mode of study should be tackled by a review of the criteria for a successful outcome, and/or the definition of in-scope learners (for example through the introduction of a minimum qualifying number of guided learning hours) not by contextualisation
- the correlation between Qualification Success Rates and learners’ age band and mode of study should be further examined
- the Learner Destinations Version 1 survey should include a test of learners’ perceptions of the success of their outcomes and should also test for a wider range of impacts of learning (for example increased confidence)
- the LSC should examine negative correlations between Financial Control scores and relative social and economic disadvantage and should explore a range of further correlations within the Use of Resources measure
- the LSC needs to examine the negative correlation between Quality of Outcomes scores and the extent to which providers serve areas of relative disadvantage
there should be further testing of the influence of external factors on the outcomes of Version 1 and at the earliest possible stage of the introduction of any new measures into the Framework.

5.13 These findings and recommendations align closely to the LSC’s obligations under the Single Equality Scheme and are therefore carried forward into this report.
**Section 6: Stakeholder Perceptions**

6.1 The findings from initial discussions with Framework key performance area leads and from the modelling of the impact of the Framework’s measures and grading systems were tested with a range of stakeholders and provider representative bodies. The assessment also took account of evidence of provider, employer and learner views resulting from the evaluation programme supporting the Framework pilot.

6.2 Consultations with stakeholders and provider representative bodies were conducted at a dissemination seminar on 2 May 2007 and in a series of subsequent interviews. Participants included the DIUS, Ofsted, the Single Voice, the Quality Improvement Agency, LSC Regional Offices and LSC staff with responsibility for Equality and Diversity. The general term ‘stakeholders’ is used to describe all these groups in the discussion that follows.

6.3 Stakeholders discussed the extent to which age had emerged as a significant factor in the modelling of Framework outcomes. They noted that the LSC had more flexibility under the law with regard to age discrimination because of the terms of the Further and Higher Education Act. In particular, this allows positive action for identified age groups.

6.4 Stakeholders were concerned by the absence of recognition of the contribution made by providers to the promotion of equality and diversity, or to the meeting of the needs of their communities (including through partnership working). Stakeholders acknowledged the difficulty of identifying the contribution of an individual provider to the complex pattern of provision in some areas, but felt that Comprehensive Area Assessments provided a potential model for collective responsibility for an area’s performance indicators.

6.5 Stakeholders believe that the absence of a measure of performance in respect of equality and diversity is compounded by the narrow definition of Responsiveness to Learners within the Framework, and in particular the lack of consideration of unmet needs or the wider aspects of responsiveness covered by Learner Involvement Strategies.

6.6 While recognising that the definition of priority learning was outside the scope of the SEIA, stakeholders felt that the implications of using priority learning as a Framework filter had equality and diversity implications.

6.7 Stakeholders noted that one of the key objectives of the Framework was to improve the evidence base available to inform learner and employer choices. However, they argued that most employers and learners were interested in a specific area of provision and they felt that the results of the Framework’s Overall Performance Rating (OPR) could be very misleading as an indicator of the quality of specific aspects. It was noted that this risk increased with the range of a provider’s curriculum. This concern should be taken into account when weighing up the advantages of sampling as an approach to gathering the views of learners and employers.
6.8 Stakeholders noted that the inclusion of a broader range of providers in later versions of the Framework could lead to some providers having substantial holes in their scorecard as a result of exemptions and (depending on the decision taken on combination rules) a high level of gearing for some indicators.

6.9 Stakeholders identified a number of issues relating to the Responsiveness Dimension, including:

- the relatively narrow conception of employer responsiveness within the Employer Responsiveness key performance area, which was felt to be restrictive in the light of the range of providers that will be in scope for future waves of the Framework
- concern that the momentum towards online response mechanisms in the Learner Views and Employer Satisfaction key performance areas appeared to assume that online systems were automatically inclusive, whereas this may not be the case for some providers or learner groups
- concern that the views of learners leaving programmes of study before completing them (shown by the National Learner Satisfaction Survey to be the least satisfied) were not currently gathered
- concern that sampling could lead to the exclusion or under-representation of some groups unless it is tightly monitored by the LSC.

6.10 Stakeholders identified a number of issues relating to the Effectiveness Dimension, including:

- concern that the Framework does not currently gather evidence of the ‘softer’ or more long-term impact of learning, nor does it yet take into account value added in most provision or the distance travelled (Ofsted is promoting the value of Recognising and Recording Progress and Achievement (RARPA) and has asked the Information Authority to consider adding it to the ILR)
- concern that there could be confusion and miscommunication resulting from the lack of a consistent definition of success rates between the Effectiveness and Finance Dimensions and Minimum Levels of Performance
- concern that success rates are reduced to a single score that does not take into account the mix of performance within a provider’s courses and that this may have implications for the way results from the Framework are published (that is, grades may need to be qualified by the aspects to which they apply).

6.11 Stakeholders noted and understood the emerging findings of the contextualisation study, which showed no robust evidence of a correlation between the factors tested and Framework pilot scores. However, they favoured the re-testing of this with the much larger Version 1 dataset once this became available. In particular, Ofsted stressed that the impact of a contextual factor on any single provider might be much more significant than the overall impact revealed by the data analysis, and noted that much of the provision for vulnerable learners was delivered by small and potentially vulnerable specialist providers.
6.12 Stakeholders will be concerned if the behaviour encouraged by the Framework is caution and a conservative curriculum offer, as the innovation required to meet the needs of currently excluded groups might be discouraged.
Section 7: Conclusions and Recommendations

7.1 The SEIA has found no evidence of direct discrimination resulting from the design or implementation of the Framework for Excellence. The Framework has been designed to implement Government policy and the LSC has tested the components of the Framework and the scoring and grading mechanisms in an extensive pilot to ensure that they do not produce changes that are counter to Government policy. Steps have been taken to amend the proposed system where equality and diversity issues have been identified, for example actions to increase the accessibility of the Learner Views survey.

7.2 However the SEIA has found a number of risks of potential disadvantage arising from the introduction of Framework and the unintended consequences of these aspects could lead to adverse impact on some learner groups that the LSC is committed to supporting. Further testing and monitoring is required to assess the extent of these risks and their causes, especially as the sample of providers in the Framework pilot did not include organisations known to be under-performing. Modelling of the link between Framework grades and external contextual factors has indicated that some measures used in the Framework produce lower scores for providers serving areas of relative deprivation, while other measures impact less favourably on providers delivering provision for older learners.

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

7.3 The Framework for Excellence does not currently reward positive provider behaviour in responding to the needs of vulnerable groups and communities or provider commitments to equality and diversity. Nor does it consider unmet needs or the wider aspects of responsiveness covered in Learner Involvement Strategies. This appears at odds with the requirement for policies to promote equality and diversity in a positive manner.

**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).

**Recommendation 3:** the LSC should review 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.

7.4 Providers, stakeholders and representative groups are concerned that some Framework indicators (reinforced by Minimum Levels of Performance) may make providers more risk-averse and may reduce the provision available to encourage and sustain participation by vulnerable groups. This derives partly from the inclusion of success rates in the algorithms for measures in all three Dimensions of the Framework.
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.

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.

7.5 Discussions with stakeholders and provider representative bodies indicated concern over the extent to which priority learning has been introduced as a filter in parts of the Framework (for example, Learner Views, Learner Destinations and Use of Resources).

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.

7.6 All learners with learning difficulties and/or disabilities were excluded from the pilot Learner Destinations measure, and some were excluded from the Learner Views survey if providers considered the approach inappropriate. Neither of these approaches is tenable in the long-term.

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.

7.7 Many of these issues will be taken up by the pilot of the second phase of the Framework, which will operate between the summers of 2008 and 2009. The second pilot does not simply encompass new categories of provider but will also consider adjustments to current performance indicators in the light of the first pilot.

7.8 This will include further development of the revised Amount of Training performance indicator and testing of new performance indicators, for example retention rates in non-accredited learning and aspects of the implementation of Minimum Levels of Performance. It is hoped that the issues of equality and diversity set out in this Single Equality Impact Assessment will help guide the design and evaluation of the second pilot.
Appendix 1: Statutory Responsibilities

During 2007 the Government launched a consultation on potential progress towards unifying legislation on discrimination and the promotion of equality under the title, *Discrimination Law Review: A Framework for Fairness: Proposals for a Single Equality Bill for Great Britain.* This described the separate current responsibilities for Government agencies and other bodies to prevent discrimination and promote equality and proposed strategies to bring these responsibilities together under a single legislative framework.

Current legislation establishes a number of responsibilities on the LSC both as an employer and as an agency implementing Government policy. For example, the Learning and Skills Act 2000 included a duty on the LSC to encourage participation in post-compulsory education and training, with due regard to the promotion of equality of opportunity. In the context of the SEIA, the key implications of current legislation are set out in the panels below.

Race relations legislation establishes a duty to assess current practices for direct or indirect discrimination and to ensure that policy is implemented in a way that promotes equality of opportunity and further good race relations. Similar requirements are placed on the LSC by the Disability Discrimination Acts, which also include a duty on public bodies to promote positive attitudes towards disability.

<table>
<thead>
<tr>
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<tbody>
<tr>
<td>Duty to:</td>
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<td>Duty to:</td>
</tr>
<tr>
<td>• Eliminate unlawful race discrimination</td>
<td>• Eliminate unlawful disability discrimination</td>
<td>• Eliminate unlawful gender discrimination</td>
</tr>
<tr>
<td>• Promote equality of opportunity</td>
<td>• Promote equality of opportunity</td>
<td>• Promote equality of opportunity</td>
</tr>
<tr>
<td>• Promote good relations</td>
<td>• Eliminate harassment</td>
<td>• Eliminate harassment</td>
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<tr>
<td></td>
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<td>Promote positive attitudes</td>
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</table>

The Equality Act 2006 consolidated earlier gender equality responsibilities under the Sex Discrimination Act 1975 (and subsequent amendments) and the Equal Pay Act of 1970. It also created a single commission to replace the Equal Opportunities Commission, the Commission for Racial Equality and the Disability Rights Commission. This Commission for Equality and Human Rights oversees legislation that makes it unlawful (apart from certain exemptions) to discriminate on the grounds of religion or belief or sexual orientation in the provision of goods, facilities and services, the management of premises, education and the exercise of public functions. The Equality Act 2006 also created a duty on public authorities to promote equality of opportunity between men and women and prohibit sex discrimination in the workplace.

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### Appendix 2: Patterns of Further Education Retention and Achievement by Different Adult Learner Groups (source ILRF05 2005/06).

<table>
<thead>
<tr>
<th>Group</th>
<th>Aims</th>
<th>%</th>
<th>Aims</th>
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<th>Aims</th>
<th>%</th>
<th>Aims</th>
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</tr>
<tr>
<td>Female</td>
<td>2,495,399</td>
<td>74.2%</td>
<td>44,029</td>
<td>1.8%</td>
<td>3,288</td>
<td>0.1%</td>
<td>199,369</td>
<td>8.0%</td>
<td>313,277</td>
<td>12.6%</td>
<td>43,313</td>
<td>1.7%</td>
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<td>Male</td>
<td>1,502,656</td>
<td>73.0%</td>
<td>28,993</td>
<td>1.9%</td>
<td>1,986</td>
<td>0.1%</td>
<td>129,240</td>
<td>8.6%</td>
<td>191,246</td>
<td>12.7%</td>
<td>26,272</td>
<td>1.7%</td>
</tr>
<tr>
<td>Total</td>
<td>3,998,055</td>
<td>73.8%</td>
<td>73,022</td>
<td>1.8%</td>
<td>5,274</td>
<td>0.1%</td>
<td>328,609</td>
<td>8.2%</td>
<td>504,523</td>
<td>12.6%</td>
<td>69,585</td>
<td>1.7%</td>
</tr>
<tr>
<td>Ethnicity</td>
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<td></td>
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<td></td>
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<tr>
<td>Asian or Asian British - Bangladeshi</td>
<td>41,141</td>
<td>70.8%</td>
<td>789</td>
<td>1.9%</td>
<td>18</td>
<td>0.0%</td>
<td>4,901</td>
<td>11.9%</td>
<td>4,872</td>
<td>11.8%</td>
<td>731</td>
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<td>Asian or Asian British - Indian</td>
<td>97,196</td>
<td>71.1%</td>
<td>2,069</td>
<td>2.1%</td>
<td>87</td>
<td>0.1%</td>
<td>11,668</td>
<td>12.0%</td>
<td>11,016</td>
<td>11.3%</td>
<td>1,634</td>
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<td>Asian or Asian British - Pakistani</td>
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<td>2,234</td>
<td>2.1%</td>
<td>52</td>
<td>0.0%</td>
<td>12,115</td>
<td>11.6%</td>
<td>14,076</td>
<td>13.5%</td>
<td>2,105</td>
<td>2.0%</td>
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<tr>
<td>Asian or Asian British - Any other Asian</td>
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<td>1,674</td>
<td>2.2%</td>
<td>116</td>
<td>0.2%</td>
<td>8,398</td>
<td>11.2%</td>
<td>9,410</td>
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<td>Black or Black British - African</td>
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<td>171</td>
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<td>19,690</td>
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<td>22,275</td>
<td>13.7%</td>
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<td>95</td>
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<td>11.2%</td>
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<td>1.8%</td>
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<td>676</td>
<td>2.5%</td>
<td>28</td>
<td>0.1%</td>
<td>3,203</td>
<td>11.7%</td>
<td>4,440</td>
<td>16.2%</td>
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<td>680</td>
<td>2.3%</td>
<td>35</td>
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<td>3,348</td>
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<td>3,550</td>
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<td>13</td>
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<td>1,373</td>
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<td>1,987</td>
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<td>20</td>
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<tr>
<td>Mixed - White and Black Caribbean</td>
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<td>2.3%</td>
<td>22</td>
<td>0.1%</td>
<td>1,834</td>
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<td>3,461</td>
<td>18.8%</td>
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<td>Mixed - Any other mixed background</td>
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<td>68.1%</td>
<td>351</td>
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<td>442</td>
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<td>1,624</td>
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<td>Not known/not provided</td>
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<td>1.5%</td>
<td>197</td>
<td>0.1%</td>
<td>12,682</td>
<td>8.6%</td>
<td>18,726</td>
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<td>2,392</td>
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<td>73.8%</td>
<td>73,022</td>
<td>1.8%</td>
<td>5,274</td>
<td>0.1%</td>
<td>328,609</td>
<td>8.2%</td>
<td>504,523</td>
<td>12.6%</td>
<td>69,585</td>
<td>1.7%</td>
</tr>
<tr>
<td>Learners with Learning Difficulty or Disability</td>
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<td></td>
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<td>2,145</td>
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<td>2,873</td>
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<td>617</td>
<td>1.8%</td>
<td>64</td>
<td>0.2%</td>
<td>3,179</td>
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<td>4,433</td>
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<td>521</td>
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<tr>
<td>Both Learning Difficulty and Disability</td>
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<td>72.3%</td>
<td>7,088</td>
<td>1.9%</td>
<td>466</td>
<td>0.1%</td>
<td>32,206</td>
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<td>7,060</td>
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<tr>
<td>Learning Difficulty or Disability (No Details)</td>
<td>59,742</td>
<td>78.7%</td>
<td>690</td>
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<td>25</td>
<td>0.0%</td>
<td>4,680</td>
<td>7.8%</td>
<td>5,840</td>
<td>9.8%</td>
<td>718</td>
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</tr>
<tr>
<td>None</td>
<td>3,098,980</td>
<td>74.0%</td>
<td>57,546</td>
<td>1.9%</td>
<td>4,015</td>
<td>0.1%</td>
<td>251,964</td>
<td>8.1%</td>
<td>387,458</td>
<td>12.5%</td>
<td>55,111</td>
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<tr>
<td>No Information</td>
<td>415,500</td>
<td>73.0%</td>
<td>6,701</td>
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<td>655</td>
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<td>34,435</td>
<td>8.3%</td>
<td>56,052</td>
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<td>5,784</td>
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<tr>
<td>Total</td>
<td>3,998,055</td>
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<td>73,022</td>
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<td>5,274</td>
<td>0.1%</td>
<td>328,609</td>
<td>8.2%</td>
<td>504,523</td>
<td>12.6%</td>
<td>69,585</td>
<td>1.7%</td>
</tr>
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