

LSC Response to *the information authority* Report on “Reduction of Learner Data Paper Records”

1. What are we asking the board to do?

The board is asked to note the LSC’s response to *the information authority* report on “Reduction of Learner Data Paper Records” in particular:

- what steps were taken to improve funding guidance and contracts in 2008/09 and are planned for 2009/10
- the position on electronic signatures
- the approach proposed for 2010/11 guidance and the further action which will be required working with the new shadow YPLA and SFA organisations
- the LSC’s position on the recommendations in the report.

2. Introduction

At its last meeting the Board discussed a feasibility study focused on researching why learning providers have a “paper burden”. The study indicated that a major source of the paper burden was felt to be due to the volume and complexity of the documentation on funding guidance and eligibility, audit guidance and individual contracts.

The report to the Board made a number of recommendations for tackling the issues identified. At the time of the meeting the LSC had not had the opportunity to make a formal response to the findings. This report sets out the LSC’s response.

3. Approach

3.1 Funding Guidance

The LSC funding guidance is intended as the definitive source of information on the principles, rules, formula and rates for funding LSC provision. It also includes information on the funding claims that are required and gives advice on compliance, including record-keeping.

The funding guidance includes information which is very technical where wording and detail are vital – for example rules on learner eligibility, an explanation of how the funding formula works and the detailed values of funding rates. It also contains information which is guidance to assist providers in claiming appropriate levels of funding, for example in relation to distributed and electronic learning.

The guidance is provided in separate documents to assist providers in finding the relevant sections. For example, the learner eligibility guidance is given in a stand-alone document as an aid to staff involved in the enrolment process, who will need this specific information when discussing eligibility with individual learners.

3.2 Contracts

One of three core contract documents are used to contract with external bodies dependant upon the type of organisation that the LSC is contracting with (e.g. FE college, private provider or public sector). These Terms and Conditions will be accompanied by relevant appendices to ensure the providers allocations and funding details form part of the contract.

The detailed feasibility study is critical of the number of contract documents there are, but this appears to refer to an internal web page that provides guidance and instruction to LSC staff on how to contract with different types of providers and includes additional guidance and contract documents that are required to contract for ESF funding. The criticism that there are a large number of documents on this site is not relevant in terms of the documents shared with providers as part of the contract.

Unfortunately the contracts that were issued to providers for the 2008/9 academic year were issued later than August. This was as a consequence of delays to the allocations process. Historically providers have been issued with Letters of Intent to cover any delays issuing the contracts but this was not felt to be helpful by provider representative groups this year. The LSC will always strive to issue contracts in time for the start of the academic year but it is sometimes difficult to do this in a timely manner when changes to policy are being made late in the process.

3.3 Audit

The LSC's approach to auditing is fundamentally driven by the overall requirement to satisfy the LSC's chief accounting officer (the chief executive) that monies distributed to providers have been used for the purposes intended. To this end, monies must be spent in line with LSC requirements as contained within the funding guidance. The audit requirements are stipulated in the funding guidance and in the contracts/financial memoranda that govern the funding. For clarity, the evidence requirements are contained within the funding guidance, as are the necessary compliance requirements for the submission of funding claims. Some requirements are necessarily detailed (for example those relating to learner existence and eligibility, and to provide a single source of guidance and rules this year's guidance on this area is contained in one booklet).

4. Improvements made in 2008/09 and planned for 2009/10

4.1 Funding Guidance

In 2008/09 the LSC made major changes to the funding system with the introduction of demand-led funding. This resulted in a major re-write of funding guidance to bring together the existing guidance for further education, school sixth forms, work-based learning and Train to Gain.

A result of this change was that the overall amount of guidance was reduced by over a quarter in 2008/09 compared to 2007/08. In practice, while

significant amounts of the guidance is defining and explaining the funding 'rules', other elements are advice and guidance to providers and in 2008/09 there were a number of requests from providers for elements which had been removed to be re-instated.

An example of the simplification is the consolidation of advice on learner eligibility into a single document (*Funding Guidance 2008/09: Learner Eligibility Guidance*) which applies across all funding streams.

Inevitably in a complex sector there is more documentation and guidance than would be ideal and we will always seek to simplify and improve guidance documents. However, it is worth noting that in terms of bureaucracy and record keeping, the key guidance on funding compliance is given in five pages of *Funding Guidance: Compliance Advice*. This document as a whole sets out the requirements for supporting claims for funding, as recommended in *the information authority* paper in February.

For 2009/10 the Funding Guidance has been issued purely as an update to the 2008/09 documents.

4.2 Contracts

The contracts issued to providers in 2008/09 were significantly rationalised compared to those issued in previous years. This included removal of any duplication in the contracts of information also contained in the Funding Guidance. Providers are now required to only refer to the Funding Guidance for the detailed rules around specific provision, however, the general Terms and Conditions of the contract and any specific funding volumes and allocations are clearly articulated within the contract. This helps to ensure there is consistency rather than contradiction between the documents.

Further rationalisation took place by ensuring that the providers only received one contract per region for 2008/09. This was a move away from individual contracts in each of the local LSC areas. In 2009/10 this will be further rationalised by ensuring Employer Responsive providers only receive one national contract with the LSC regardless of how many regions they will be delivering in.

Contracts issued for 2008/09 were three year contracts with the funding allocation agreed for one year only. This means that the majority of providers who continue to contract with the LSC in 2009/10 will receive a contract variation rather than a full contract. This variation will predominantly include a new Funding Allocation and Funding Detail and any additional contract clauses that are deemed necessary for the forthcoming academic year, 2010/11.

4.3 Audit

For 2008/09 PFA has reviewed all of its audit methodologies against the revised funding guidance for demand-led funding. Further to that, PFA will review these same methodologies for 2009/10 to take account of any amendments to the funding guidance for that year.

5. Approach for 2010/11

For 2010/11 onwards, it is likely that the YPLA and SFA will require separate guidance documents, which will increase the challenge of maintaining consistency but will also provide an opportunity for further refining and improvement of guidance, as recommended in the report. However it is important to note that the major organisational challenges which will arise through these Machinery of Government changes will severely limit the scope for an early major re-write of guidance documents.

During the course of 2008/09 and 2009/10 a lot of rationalisation work has already taken place. Planned work for 2010/11 is described below. It is difficult to advocate the time of transition as being the most appropriate time for additional significant activity to take place.

We propose, therefore to proceed with the planned work, and at the same time take forward discussions with the recently announced senior postholders in the shadow YPLA and SFA to ensure that transition is as smooth as possible and consideration is given to consistency of processes by the new agencies.

Planned activity to support 2010/11 guidance

Decisions are yet to be taken as to whether contracts will be novated to the new organisations (including LAs) or whether the LSC's contracts will be terminated and new contracts will be set up with providers. Other considerations that need to be addressed through the Transition programme for contracts are the arrangements for 16-18 provision. The LSC currently contracts with LAs for a lot of this activity. A move to contracting by the LAs will remove the necessity to contract in the same way and will inevitably rationalise further as layers are being removed in the contracting process.

Contract documents issued in 2009/10 by the successor organisations will require a thorough review to ensure that they are fit for purpose for the new duties imposed on the organisations. At this time it is suggested that specific issues raised through the field work are addressed where it is valid to do so.

PFA is already undertaking a major review of our assurance processes to take account of the many and varied implications for the move to the SFA, YPLA and local authorities. Once we know more about responsibilities regarding the need for, and reporting of, assurance we will be able to progress our review (i.e. from September).

6. Response to the recommendations

Key Principles

The LSC is happy to adopt the following key principles which were recommended:

- Define clearly what is required of each party, listing evidence of funding records required and acceptable methods of record storage
- Articulate funding calculations in simple terms
- Use clear and unambiguous language which is easily understood by the intended audience
- Issue documents in a version controlled environment, including listing changes to sections of the released document

We believe we already follow these principles although there is always room for improvement. For example the funding guidance is version controlled with changes listed, and the vast majority is issued in advance of the year in question.

We do not agree with the principle of removing secondary references to other documents. The various documents will need to refer to one another unless you have a single huge document or you repeat large volumes of text.

“Consideration is given to achieving consistent processes in relation to commissioning FE provision across the new bodies responsible for funding and contracting”

Agreed. This needs high-level buy-in from the new organisations. Propose to take forward discussions with shadow organisation senior post-holders who have recently been announced.

“Providers should be encouraged to capture evidence for funding as part of their own business processes rather than establishing separate recording through proforma ILR documentation.”

Agreed. This is already the LSC’s position and is stated in the funding guidance within the Principles, Rules and Regulations book. It is worth noting, however, that feedback from some providers does request standard forms, resulting in the recent documents in relation to TtG bureaucracy which give advice on good practice in terms of forms but don’t make use of those mandatory.

“Audit requirements are specified which are suitable for fully electronic recording”

Agreed. We do want to be in a position, as an organisation and as auditors, where electronic records are acceptable, and we are working towards that. The LSC has already taken action in response to calls from the sector to consider the changes brought about by electronic records and the virtual learning environment. The National Office PFA team has over the past year or so been working alongside large providers to consider how electronic records could satisfy the LSC’s assurance needs. PFA need to consider the

adequacy, reliability and robustness of evidence that is derived and held electronically. Within the LSC's commitment to a sustainable environment and to reducing unnecessary bureaucracy PFA is keen to play its part.

A particular aspect of electronic recording is electronic signatures – not scanned signatures but the generation of secure, incorruptible signatures (including but not restricted to digital signatures). Any consideration that the LSC makes in relation to the suitability of electronically captured and stored learner signatures is necessarily constrained by the progress of the technology. PFA has recently been contacted by a provider that uses a signature pad and associated software to capture learners' signatures and embed them into the document. We will over the coming months be evaluating this system with the provider to determine how well it fulfils the LSC's evidence requirements for signatures. We will report our progress and outcomes to this Board if that would be beneficial.

“Audit guidance, training and practice is defined and checked to keep consistent across the audit functions”

Agreed. The LSC has nationally agreed audit guidance and associated training to which all regional teams work. In any professional activity, like auditing, there is permissible subjective judgement during audits as long as this is confined within the bounds of the prescribed approach. Through regular meetings of regional PFA colleagues at manager and practitioner levels we strive to ensure that consistency is assured in the way we work. As a further control over consistency, all audit work undergoes review within the regional assurance team hierarchy before a report is issued to the provider. Additionally, we in PFA have an annual peer review (quality assurance) process that helps to ensure consistency of all aspects of our operations.

As we move towards the new organisations of SFA and YPLA, PFA will give due consideration to the assurance requirements and methodologies of both organisations, with an intent to maximise the effectiveness of assurance whilst maintaining a minimal level of bureaucracy on providers.

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