

# The Quality Assurance System for post-16 education and training provision



**Overarching Framework**

# Contents

Section	Page
Chapter 1: Introduction	02
Chapter 2: Roles and Responsibilities	04
Chapter 3: A Summary of the Quality Assurance System	10
Chapter 4: Commissioning and Contracting Provision	12
Chapter 5: Providing Evidence of Performance	13
Chapter 6: Quality Assurance	15
Annex A: The Quality Assurance System: A High Level Overview	18
Annex B: Quality Assurance Arrangements from April 2010	19
Annex C: A Glossary of Terms	20
Annex D: The Legal Framework	23

---

# Chapter 1: Introduction

- 1.1 Delivering world-class skills and our commitment to raise the participation age requires all learning provision – for young people and for adults – to be of the highest quality.
- 1.2 The Quality Assurance System aims to:
- Improve the quality of post-16 education and training consistently through robust self-evaluation and appropriate support and challenge;
  - Provide accurate and appropriate information about the quality and range of education and training provision, to enable learners and employers to make informed decisions about where and what they want to learn and to enable commissioners to fund provision that meets the needs of learners and employers;
  - Give learners and employers confidence that the programme they choose will be delivered to the highest possible standards; and
  - Assure those who pay for the learning that their investment is making a real difference and leading to a world-class education service.
- 1.3 This document refers throughout to providers of post-16 education and training. This includes:
- school sixth forms;
  - general further education colleges;
  - sixth form colleges;
  - specialist colleges, such as land based colleges and colleges of art and design;
  - higher education institutions that offer post-16 education and training provision;
  - work-based learning providers;
  - third sector providers;
  - Independent Specialist Providers for learners with learning difficulties and/or disabilities;
  - Specialist Designated Institutions and Former External Institutions;
  - providers that deliver learning in youth custody, prisons and youth detention accommodation;
  - local authorities that deliver maintained adult learning services.
- 1.4 This document gives an overview of how the Quality Assurance System will work and is particularly relevant to the following:
- College Principals, Headteachers, staff and governing bodies;
  - private, voluntary, local authority and independent providers of education for learners aged over 16;
  - local authority staff responsible for the commissioning and performance management of post-16 education<sup>1</sup>.

<sup>1</sup> This includes learning in youth custody for those aged 10-18.

- Young People's Learning Agency (YPLA) staff responsible for the commissioning, contracting and performance management of post-16 education; and
  - Skills Funding Agency staff responsible for the contracting and performance management of post-16 education.
- 1.5 From April 2010, the YPLA will act on behalf of the Secretary of State for DCSF for certain functions relating to Academies. Further guidance relating to the quality assurance process for Academies will be issued in due course. In the meantime, Headteachers and governing bodies of Academies may find this guidance useful.
- 1.6 National multi-site employers with more than 5,000 employees are often supported and funded through the National Employer Service (NES). Contracts with NES may result in different types of operating conditions. As a result employers contracted through the NES may not be covered by all the arrangements described in this document.
- 1.7 This Overarching Framework is designed to give a high level summary of the Quality Assurance System. It will be supported by detailed guidance which will be produced by the Young People's Learning Agency and the Skills Funding Agency.
- 1.8 **The diagram at Annex A** gives an overview of the system.
- 1.9 **Annex B** gives a detailed breakdown of how each provider type will be commissioned, funded and quality assured from April 2010.
- 1.10 A glossary of terms can be found at **Annex C**.
- 1.11 **Annex D** sets out the legal framework which underpins these arrangements.



---

# Chapter 2: Roles and Responsibilities

2.1 This chapter sets out how education and training providers, local authorities, agencies and Government Departments are expected to work together to ensure that provision is high quality and meets or exceeds national standards.

## Local authorities

2.2 From April 2010, local authorities will be responsible for securing education and training provision for young people in their area who are over compulsory school age but under 19.<sup>2</sup> This includes the planning, commissioning, quality assurance and funding of provision for these learners. Where local authorities are commissioning 16-19 provision from providers for which they are not the sponsoring body, their role in quality assurance will be to ensure that their commissioning decisions take account of quality issues, maintain an interest in the quality of the provision they have contracted and work with the sponsoring body to identify and address any concerns.

## Sub-Regional Groups (SRGs)

2.3 SRGs provide a forum for local authorities to work together to build a picture of learner demand and flows between local authorities and across travel to learn areas, including how well the curriculum is being delivered and what future entitlements will mean for learner demand in the area. SRGs will agree which local authority will be the lead commissioning authority for any particular provider, or for learning provision, where there are cross local authority border issues.

## Regional Planning Groups (RPGs)

2.4 RPGs bring together regional education and skills agendas. They will review and aggregate local authority commissioning intentions, endorsed by the SRGs, against regional priorities and manage affordability. The RPG will include key partners from across the region, with representatives from local authorities, employers, Regional Development Agencies (RDA), Government Offices, the YPLA and the Skills Funding Agency.

## The Young People's Learning Agency (YPLA)

2.5 The YPLA will support local authorities to carry out their new functions. It will ensure that commissioning decisions are made within a consistent national framework and support the local, sub-regional and regional infrastructure. The YPLA will provide a strategic data and analysis service to local authorities.

<sup>2</sup> This includes those who are under the age of 18 and subject to youth detention, and young people who are 19 or over but under the age of 25 who are subject to a learning difficulty assessment.

- 2.6 The YPLA will also be responsible for the funding and quality assurance of open Academies.
- 2.7 The YPLA will, for a transitional period, directly commission provision from Independent Specialist Providers. It will also commission provision for young people in Prison Service Young Offender Institutions until local authorities take up this responsibility in September 2010.

### The Skills Funding Agency

- 2.8 The Skills Funding Agency will oversee the Further Education system for learners over the age of 19.<sup>3</sup> It will be responsible for quality assuring and routing funding efficiently to FE colleges and post-19 providers. It will be required to reflect the content of 'The national skills strategy (*Skills for Growth 2009*)' in its funding decisions, ensuring that local, sub-regional and regional needs are taken into account.
- 2.9 A single account management process will be used to manage funding and oversee the performance of the sector. This will remove regional variations and reduce bureaucracy for colleges and providers. This approach should help colleges and training providers to be more responsive to the needs of learners and employers.

### The National Apprenticeship Service (NAS)

- 2.10 The NAS, working on behalf of the Skills Funding Agency, is responsible for planning and funding Apprenticeships training provision. The NAS will report any concerns about the quality of Apprenticeship training provision (including those raised with it by local authorities) to the Skills Funding Agency Account Manager.

### Ofsted

- 2.11 Ofsted will inspect most providers of post-16 education and training under the Ofsted Common Inspection Framework.<sup>4</sup> Inspection of sixth forms in maintained schools is covered by the School Inspection Framework<sup>5</sup>, which shares common inspection grade characteristics with the Common Inspection Framework. Supplementary guidance is available covering school sixth forms.<sup>6</sup> Ofsted also inspect provision for offenders in custody, doing so in concert with Her Majesty's Chief Inspector of Prisons.
- 2.12 Ofsted inspection judgements will be used to inform the quality improvement process. It will use a range of available attainment and progress data, including Framework for Excellence results, to inform inspection planning.

3 This includes those aged 18 or over subject to adult detention, but excluding those up to age 25 and subject to a learning difficulty assessment.

4 [http://www.ofsted.gov.uk/Ofsted-home/Forms-and-guidance/Browse-all-by/Other/General/Common-inspection-framework-for-further-education-and-skills-2009/\(language\)/eng-GB](http://www.ofsted.gov.uk/Ofsted-home/Forms-and-guidance/Browse-all-by/Other/General/Common-inspection-framework-for-further-education-and-skills-2009/(language)/eng-GB).

5 <http://ofsted3.openanswers.com/Ofsted-home/Forms-and-guidance/Browse-all-by/Other/General/Framework-for-the-inspection-of-maintained-schools-in-England-from-September-2009>.

6 <http://www.ofsted.gov.uk/Ofsted-home/Forms-and-guidance/Browse-all-by/Education-and-skills/Schools/Supplementary-guidance-and-resources>.



### **Government Offices (GOs)**

2.13 GOs will continue to play a key role in supporting and challenging local authority performance through:

- agreeing local priorities;
- setting and monitoring the Local Area Agreement targets;
- the Comprehensive Area Assessment (CAA) inspection regime; and
- offering a strategic perspective through the Regional Planning Groups.

2.14 GOs will ensure that overall performance on 16-19 education and training is taken into account alongside other elements of the Children and Young People agenda.

### **Regional Development Agencies (RDAs)**

2.15 RDAs will work in partnership with the local authority Leaders' Boards, sub-regional partners and other bodies, to produce a 'Regional Skills Strategy', which will form an important part of a 'Single Integrated Regional Strategy'. They will be responsible for reflecting, at a regional level, the national and sector skills needs identified by the UK Commission for Employment and Skills (UKCES) and the Sector Skills Councils (SSCs).

### **Central Government**

2.16 The Departments for Children, Schools and Families (DCSF) and Business, Innovation and Skills (BIS) will continue to have overall accountability for the post-16 and adult learning sector. Both DCSF and BIS will retain powers and responsibilities to ensure that providers, local authorities and agencies continue to provide learners with choice and quality.

2.17 The DCSF will be responsible for ensuring that the YPLA fulfils its functions. This includes setting strategic priorities, allocating funding and performance managing the YPLA.

2.18 BIS will set the strategic priorities, targets and budget for the Skills Funding Agency.

### **What this means for providers of post-16 education and training**

2.19 Although a number of organisations will have an interest in a particular provider, each provider will be held to account for the **quality** of its provision by a single **sponsoring body**:

- School sixth forms will be the responsibility of the home local authority;
- Sixth Form Colleges will be the responsibility of the home local authority supported by guidance issued by the YPLA;
- FE colleges will be the responsibility of the Skills Funding Agency;
- Providers of Apprenticeships will be the responsibility of NAS, working on behalf of the Skills Funding Agency.

2.20 All post-16 education and training providers will have Annual Performance Assessments with their sponsoring body. This will provide the opportunity for providers and sponsoring bodies to discuss the providers' assessment of how they are performing, taking into account the outcomes of Ofsted inspections and comparative benchmarking information from Framework for Excellence.

2.21 The role of the sponsoring body is to provide support, challenge and, where necessary, to intervene so that poor performance is addressed quickly and robustly.

2.22 A provider that secures positive outcomes for its learners, has effective governance and sound financial health can expect little challenge from their sponsoring body. Conversely, a sponsoring body will pay greater attention to a provider, where there are issues or concerns about their performance or financial position.

2.23 Whilst discussions relating to quality and performance will inform commissioning decisions, it is important to note that the sponsoring body will not always be the same as the lead commissioner.

### **Sixth Form Colleges (SFCs)**

2.24 SFCs will be funded, commissioned and quality assured by the local authority, following YPLA guidance.

### **General Further Education Colleges (GFECs)**

2.25 GFECs will be funded and commissioned by both their lead commissioning local authority (for 16-19 provision, including that for learners up to the age of 25 with LLDD) and the Skills Funding Agency (for post-19 provision).

## School Sixth Forms (SSFs)

2.26 SSFs will be funded, commissioned and quality assured by their home local authority. Local authorities should ensure that they discuss performance of maintained school sixth forms with their SIPs, both to inform commissioning decisions and to ensure that the quality of provision in sixth forms is being routinely considered. The role of SIPs within the QAS will be reviewed in the light of the consultation DCSF is conducting on enhancements to the SIP role to ensure they meet the needs of the 21st Century School.

## Private, voluntary, local authority and independent learning providers

2.27 Private, voluntary, local authority and independent learning providers may be funded and contracted both to local authorities and the Skills Funding Agency. Where they are contracted to the Skills Funding Agency they will be quality assured by the Skills Funding Agency. Where they are only contracted to a local authority, they will be quality assured by that local authority. Where they are contracted to both the Skills Funding Agency and one or more local authorities they will be quality assured by Skills Funding Agency but local authorities will retain responsibility for holding providers to account for the quality of the provision for which they contract (special arrangements apply where GFECs deliver the Offender Learning and Skills Service under contract to the Skills Funding Agency).

2.28 In cases where the Skills Funding Agency is responsible for quality assurance, if the provision contracted to a local authority is causing concern the local authority will raise these concerns with the Skills Funding Agency account manager. In this situation, a case-conference might be an appropriate way forward.



- 2.29 In cases where local authorities commission and deliver provision themselves, they will need to ensure that processes for both commissioning and quality assurance are objective and subject to the same scrutiny as other providers. The National Commissioning Framework, challenge through the RPG process, Framework for Excellence and Ofsted inspection will help to ensure that processes are based on fair and comparable information and actions.
- 2.30 The NCF makes clear that, if a provider serves only one local authority then that local authority will issue an allocation and funding agreement. In cases where a provider serves more than one local authority within a SRG, one of the local authorities will act on behalf of the others and issue a single allocation and funding agreement to cover all provision. The exception to this is where a regional allocation is awarded to a provider. In this instance, one local authority will draw up and issue a single funding agreement that covers that region. In all cases the local authority that issues the allocation and funding agreement will also be responsible for the quality assurance of the provider. The YPLA grant to local authorities will require them to ensure that certain expectations of providers are met. To secure consistency across the country, React are drawing up a standard model funding agreement that all LAs will be encouraged to use.
- 2.31 All providers will be able to seek advice and support to help improve their quality from a range of sources. The primary source of support for colleges, sixth form colleges and training organisations will be the Learning and Skills Improvement Service (LSIS). For school sixth forms it will be their School Improvement Partner (SIP).

### **School and College Governors**

- 2.32 School and college governors are responsible for monitoring and challenging the performance of their institution. As strategic leaders, governing bodies should assure themselves that the institution delivers continuous improvement in performance. In particular, the governing body should: ensure that the institution is capable of delivering prompt improvement in areas of identified weakness; take a robust approach to ending activities which are not being done well; and continually strive towards achieving excellence.

---

# Chapter 3: A Summary of the Quality Assurance System

- 3.1 It is a fundamental principle of the Quality Assurance System that providers remain responsible for delivering a high quality education for their learners. In doing this, they will need continually to review and assess their own performance and be pro-active in improving the quality of education and training that they offer.
- 3.2 Central Government, together with the Skills Funding Agency and YPLA, and in consultation with sector bodies, will continue to set national minimum standards which providers are expected to meet. Until the FfE becomes fully embedded and implemented across the sector, the current approach to the setting, measurement and use of Minimum Levels of Performance (MLPs) will continue. FfE results will in future be used to influence discussions about performance and standard setting.
- 3.3 When deciding whether or not to fund provision, lead commissioners will consider their statutory responsibilities (as well as their remits, as set out by the Secretary of State) and also take into account:
- The needs of learners, employers and the local community;
  - Levels of demand and local demography;
  - The need to make improvements to the quality of the sector, whilst still sustaining the viability of providers so that demand is met; and
  - Local, regional and national strategies, which will set priorities and available budgets.
- 3.4 In planning, commissioning, procuring and funding provision, local authorities are required to have regard to the National Commissioning Framework (NCF). The NCF will be updated on an annual basis. Commissioning and contracting decisions for post-19 provision will be supported by a new Approved College and Training Organisation Register (ACTOR). Further details are in Chapter 4.
- 3.5 Provider performance will be reviewed on an annual basis and, in conducting these reviews, sponsoring agencies and lead commissioners will take a range of evidence and information into account. Chapter 5 gives further information on the different methods of providing evidence of performance.
- 3.6 The Annual Performance Assessment and subsequent actions (as described in Chapter 6) will be proportionate to any issues or concerns that are raised. A good provider who is meeting the needs of learners and employers can expect a light touch assessment and little challenge.

- 3.7 However, in cases where provision is not good enough or, at worst, inadequate, action will be taken quickly. An action plan will be agreed with the provider, outlining how any concerns will be addressed and quality delivery resumed. Failure to respond to this may lead to a withdrawal of funding or provision.
- 3.8 Where a provider offers both pre- and post-19 provision, and different sponsoring agencies are involved, these agencies will work closely together to agree the most appropriate course of action and oversee the action plan whilst it is in place.



---

# Chapter 4: Commissioning and Contracting Provision

4.1 Local authorities and the Skills Funding Agency<sup>7</sup> will be expected to commission and contract provision that has the ability to meet the needs of learners and employers and represents value for money. This will require local authorities and the Skills Funding Agency to work together, mainly through Regional Planning Groups (RPGs).

## **Commissioning provision for young people over compulsory school age but under 19**

4.2 Local authorities are required to have regard to the National Commissioning Framework (NCF) when carrying out their commissioning duties. The NCF will be published by the YPLA in April 2010 and cover commissioning for provision in 2011/12.

4.3 The NCF makes clear that local authorities will require all providers to meet at least minimum standards of performance and quality criteria in order to secure funding. Providers will also be expected to set and agree challenging targets for self-improvement in their self-assessment and development plans.

4.4 Local authorities will approach commissioning decisions with a clear focus not only on filling gaps and responding to growth in demand, but also on tackling and eliminating weakness and expanding the best provision. They will be expected to use all available evidence to analyse and evaluate areas of particular strength or weakness.

## **Contracting provision for learners aged 19 or over**

4.5 Contracting decisions for post-19 provision will be supported by a new Approved Colleges and Training Organisations Register (ACTOR). Providers who wish to be considered for funding through the Skills Funding Agency must be registered on the ACTOR.

4.6 The ACTOR will eliminate duplication and simplify previous arrangements. For inclusion on the ACTOR, organisations will need to meet entry or (other) minimum standards, including quality, capability and capacity. These standards have been developed in consultation with sector representative organisations. All providers in receipt of public funding in 2009/10 will be migrated across to the ACTOR as part of the transition process.

4.7 Although the ACTOR will be mandatory for Skills Funding Agency funded provision, it will be made available to local authorities to help them identify and commission suitable providers.

<sup>7</sup> and the YPLA in relation to Academies and ISPs, the latter for a transitional period only.

# Chapter 5: Providing Evidence of Performance

## The value of collecting and publishing performance data

- 5.1 Providers and sponsoring agencies need routinely to collect and analyse evidence and data about their services and the outcomes they deliver for learners and employers.
- 5.2 Providers will use this to:
- identify areas of good practice for sharing with other institutions or practitioners;
  - review and reflect on current practice to see where improvements can be made; and
  - provide the public with an honest assessment of value for money.
- 5.3 Sponsoring bodies will use this to:
- make better informed commissioning and contracting decisions;
  - target support to providers who are underperforming; and
  - undertake Statutory Intervention where there are significant concerns about the performance of an institution.
- 5.4 Most importantly, having access to the right information enables learners (and in many cases their parents, carers or employers) to make informed decisions about what and where they want to learn.
- 5.5 Providers, as now, will be responsible for completing the Individual Learner Record (ILR) or the school census, for all learners undertaking learning aims at their institution. Providers will continue to return their data to either the FE Data Service or DCSF (via their local authority) through the existing, secure, data systems. DCSF and the FE Data Service will continue to work together to improve the quality of data received and the processes for collecting it.



## The different types of performance data

### Self Assessment and Self Evaluation

- 5.6 Self-assessment remains at the heart of quality improvement and evaluation and so it is crucial that providers undertake robust and honest reflections of their performance and progress.

---

## School Sixth Forms

5.7 The new Self Evaluation Form (SEF)<sup>8</sup> is designed to help schools in the self-evaluation process. The emphasis is placed on justifying as concisely as possible the grades which the school decides it merits. Guidance is available to help schools complete the SEF.<sup>9</sup>

## All other post-16 providers

5.8 For other post-16 providers there is no prescribed format for the Self-Assessment Report. Instead LSIS have published guidance to support the process.<sup>10</sup> Providers are required to upload their completed Self-Assessment Reports annually to the Provider Gateway for use by the Skills Funding Agency and Ofsted. Local authorities will need to access self-assessment reports for SFCs and will require them (through funding conditions) to also upload their assessments to the Provider Gateway.

## Framework for Excellence (FfE)

- 5.9 The FfE will provide public, comparable information for all post-16 education and training providers from 2012. This will give the public, and learners and employers in particular, better information about the quality of post-16 provision in different institutions and providers. Once the FfE has been fully implemented, we expect the assessment of providers' performance against the agreed minimum standards to be based largely on FfE information. FfE will also provide important benchmarking information to help providers with their self-assessments.
- 5.10 The Skills Funding Agency, the YPLA and local authorities will also use data from the FfE to make comparisons between providers to support quality assurance and commissioning.
- 5.11 The FfE is currently being piloted in school sixth forms. It is expected that the FfE will be rolled out to all schools with a sixth form from 2010/11, with published results in 2012 alongside the School Report Card. It will also, from 2012, replace the post-16 Achievement and Attainment Tables. In the meantime, local authorities should use a range of data to quality assure sixth form provision. The FfE will be rolled out to Academies in parallel with maintained school sixth forms.
- 5.12 The first full public presentation of FfE results will happen in June 2010. In due course, FfE results and other data will be presented in a 'labelling' format. This is consistent with the ambitions of the Skills Strategy to empower learners and employers in the choices they make about learning and it reflects recommendation made by UKCES in *'Towards Ambition 2020'* (Oct 2009). Presentation of performance data will include information that reflects providers' wider achievements in supporting participation and the community, as envisaged through development of a 'balanced scorecard'. As a first step towards this, FfE results will, from 2010, be presented in such a labelling format.

8 [http://www.ofsted.gov.uk/Ofsted-home/Forms-and-guidance/Browse-all-by/Education-and-skills/Schools/Self-evaluation-and-the-SEF/\(language\)/eng-GB](http://www.ofsted.gov.uk/Ofsted-home/Forms-and-guidance/Browse-all-by/Education-and-skills/Schools/Self-evaluation-and-the-SEF/(language)/eng-GB).

9 <http://www.ofsted.gov.uk/Ofsted-home/Forms-and-guidance/Browse-all-by/Other/General/Completing-your-self-evaluation-form-a-practical-guide>.

10 [http://www.lsis.org.uk/News/ReadNews/09-09-22/New\\_L SIS\\_Self-assessment\\_and\\_Improvement\\_Planning\\_guide\\_launched.aspx](http://www.lsis.org.uk/News/ReadNews/09-09-22/New_L SIS_Self-assessment_and_Improvement_Planning_guide_launched.aspx).

# Chapter 6: Quality Assurance

- 6.1 A consistent and robust quality assurance system gives us the confidence that we are delivering a world class education and skills service.
- 6.2 This chapter sets out the process by which we expect quality to be assured, performance monitored and improvement supported.

## Annual Performance Assessments

- 6.3 Each provider will meet its sponsoring body to undertake an Annual Performance Assessment. This will include an assessment of available evidence and data (including the provider's self evaluation or assessment) and a review of performance against the nationally agreed benchmarks and minimum standards so that fair comparisons can be made across the sector.
- 6.4 The Annual Performance Assessment will identify and agree whether action needs to be taken to improve the quality of the provision. The sponsoring body and provider should record and agree an appropriate timescale in which to review actions and progress.



6.5 The Annual Performance Assessment should be chaired by the sponsoring body. In addition, organisations with commissioning responsibilities for the provider should also participate in the assessment. For example, if the Skills Funding Agency is reviewing the performance of a General FE College, then the lead commissioning local authority should also be included in any discussions.

### Case Conferences

6.6 Lead commissioners, sponsoring bodies and providers will need to have ongoing discussions about performance and management. However, there may also be instances where organisations who share a mutual interest in the performance of a provider will need to convene outside of an Annual Performance Assessment. These meetings are often referred to as *case conferences*.

6.7 A case conference will always be convened in cases of significant provider failure or risk where there are shared interests. This will enable all organisations with an interest in the institution to play a part in finding and agreeing a solution.

6.8 DCSF, BIS, Skills Funding Agency, YPLA and Local Government Association (and the Department for Work and Pensions where appropriate) will work together to develop guidance on case conferencing. However, there will need to be some flexibility to take account of individual circumstances and so, while the detailed guidance will help to guide the process, it is not intended to be prescriptive and appropriate for all cases. Where possible, cases should be resolved at local level. Where agreement cannot be reached there will be a process of escalation to regional level.

6.9 Where improvement support or formal intervention action impacts across the age range, the lead commissioning local authority and the Skills Funding Agency will be required to work with the provider to agree a solution.



## **Institutions Causing Concern**

6.10 Where significant performance or management problems are identified by the sponsoring agency, some or all of the following measures may be considered:

- action to improve performance;
- a decision to issue the provider with a Notice to Improve (or Warning Notice for schools with sixth forms) for some or all of its provision;
- a decision to alter the volumes of provision commissioned from the provider;
- a decision to use statutory intervention powers.

## **Notices to Improve and Warning Notices**

6.11 Where a Notice to Improve or Warning Notice is given, it is the responsibility of the provider to address the concerns which have been identified.

6.12 The sponsoring agency will be responsible for co-ordinating a support package for the provider and for chairing meetings to review progress. In most cases the Notice to Improve will only be reviewed when the first validated data is available and the conditions have been met. In the case of a School Sixth Form, the process for giving a Warning Notice and the possible consequences of doing so is set out in the Statutory Guidance on Schools Causing Concern.

## **Statutory Intervention**

6.13 Although statutory intervention should always be considered as a last resort, there will be exceptional cases where the required improvements have not been made. In these instances the sponsoring agency and its partners will recommend that the Secretary of State takes one or more of the following actions:

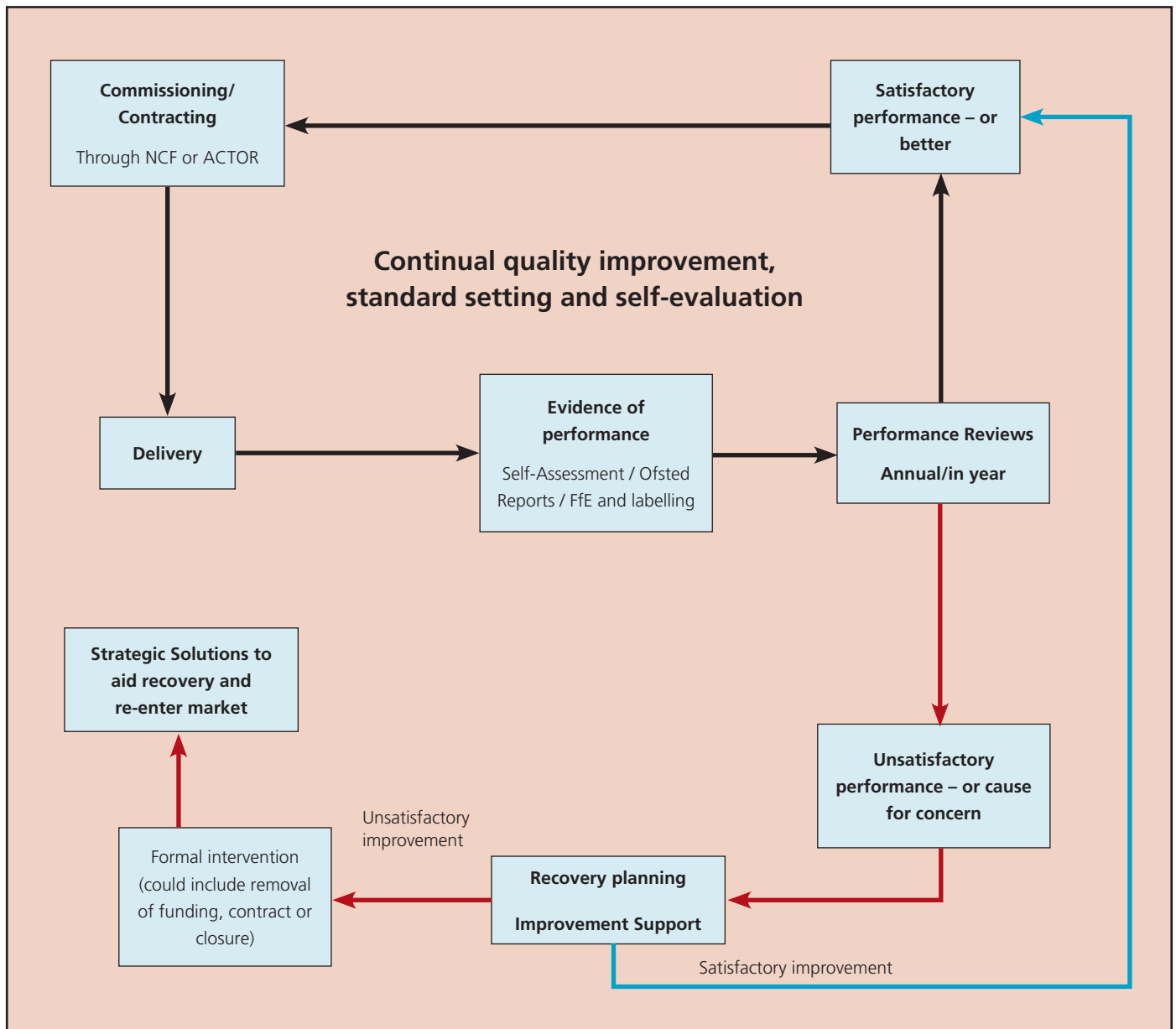
- to cease funding (and transfer learners to alternative provision);
- to replace the governing body;
- to transfer the assets and operation of the institution to the management of a provider with a successful track record of delivery.

## **Support Available to Improve Performance**

6.14 Where a provider is required to undertake a programme of planned improvement, tailored support will be available from LSIS, or, for school sixth forms, from their SIP. Providers will be free to use their own funds to purchase support from other organisations, or to secure additional support from LSIS.

6.15 All providers, including school sixth forms, can also access the LSIS 'Excellence Gateway' materials through their website at <http://www.excellencegateway.org.uk>.

# Annex A: The Quality Assurance System: A High Level Overview



# Annex B: Quality Assurance Arrangements from April 2010

New provider quality assurance arrangements from 2010									
<b>Component</b>	Schools	Sixth form colleges	FE colleges pre-19	FE colleges post-19	Independent training providers	Local authorities as providers	Open Academies	Independent Specialist Providers	Higher education institutions
<b>User choice</b>	Learners and parents/carers		Learners and employers (and carers for vulnerable adults over 25)		Learners, parents/carers and employers	Learners and parents/carers		Learners	
<b>Institutional management</b>	Headteachers and governing bodies	Principals and governing bodies			Oversight bodies, boards or trustees	Elected members	Headteachers and governing bodies	Oversight bodies, boards or trustees	Vice-chancellors and governing bodies
<b>Commissioning and funding decisions (lead commissioner)</b>	Local authorities		Skills Funding Agency		Skills Funding Agency post-19 and local authorities pre-19	Local authorities commission places and YPLA fund		Skills Funding Agency post-19 and local authorities pre-19	
<b>Identifying and managing under-performance, intervention (sponsoring body)</b>	Local authorities	Local authorities (based on YPLA guidance)	Skills Funding Agency		Local authorities for directly contracted provision		YPLA and secretary of State	YPLA (for 2011/12)	Higher Education Funding Council for England (HEFCE)
<b>Support and challenge, improvement activity</b>	School Improvement Partners (SIPs)	Learning and Skills Improvement Service (LSIS)			Local authorities		YPLA	LSIS	Quality Assurance Agency
<b>Inspection</b>	Ofsted								
<b>Data</b>	DCSF data service group		FE data service				DCSF data service group	YPLA	FE data service

---

# Annex C: Glossary

**Approved College and Training Organisation Register (ACTOR)** – replaces the Learning and Skills Council's Qualified Provider Framework. To be approved, providers will need to satisfy pre-determined criteria which demonstrate capacity and capability to deliver and quality levels according to Framework for Excellence (FfE) measures or indicators. All existing LSC providers can expect to be migrated across to the ACTOR as part of the transition process. The ACTOR will become fully operational by August 2010.

**Common Inspection Framework (CIF)** – based on the common evaluation schedule which informs all of Ofsted's inspections. The revised CIF was published on 23 July 2009 and has been used as the basis for inspections from September 2009.

**FE Data Service** – has responsibility for holding a comprehensive and holistic view of Post-16 FE sector data. Along with the Information Authority, it is responsible for driving improvements in the effectiveness and efficiency of the use of data within the post-16 sector.

**Framework for Excellence (FfE)** – provides comparable, objective and consistent information which can be used to improve the relevance, effectiveness and quality of post-16 education and training. It will be used to support more informed choices by learners and employers and help commissioners identify the best provision. FfE is at the centre of the new Quality Assurance System detailed guidance on FfE can be found at: <http://www.ffe.lsc.gov.uk/>

**Identifying and Managing Underperformance (IMUP)** – provides guidance on the operation of minimum levels of performance and Notices to Improve. The guidance for 2010/11 can be found at: [http://readingroom.lsc.gov.uk/lsc/National/nat-identifyingmanaginunderperformance\\_yr3\\_pt1-dec08.pdf](http://readingroom.lsc.gov.uk/lsc/National/nat-identifyingmanaginunderperformance_yr3_pt1-dec08.pdf)

**Learning and Skills Improvement Service (LSIS)** – is the sector-owned body that aims to accelerate the drive for excellence in the learning and skills sector, building the sector's own capacity to design, commission and deliver improvement and strategic change. Specific, tailored support is available to failing providers through the LSIS Improvement Adviser Service.

**National Apprenticeship Service – (NAS)** – has end to end responsibility for Apprenticeships in England. It has been designed to increase the number of Apprenticeship opportunities and provide a dedicated, responsive service for both employers and learners.

**National Commissioning Framework (NCF)** – sets out the core systems for planning, commissioning, procuring and funding for education and training for 16-19 year olds, young people up to age 25 where a learning difficulty assessment is in place, and young offenders in youth custody.

**Notices to Improve (Ntis)** – set out the conditions that must be adhered to in order to secure continued funding.

**Chief Executive of Skills Funding** – a statutory post carrying out Crown functions supported by the Skills Funding Agency within BIS. The Chief Executive is responsible for funding 19 years and over education and training, for exercising the apprenticeships functions (including securing provision of apprenticeship places for suitably qualified young people aged 16-18) and for the education and training of those in adult custody.

The Chief Executive, supported by the Skills Funding Agency, will be ultimately responsible for the allocation of funding to all post 19 educational institutions and employers, but not universities. Emphasis will be on responsiveness to employers and individuals, with colleges and providers delivering high quality provision which reflects employer and individual demand.

The **Skills Funding Agency** will also oversee the development of the Further Education sector to ensure that there is sufficient capacity of learning provision to meet the needs of learners and employers. The focus will continue to primarily be on qualifications and training that will deliver



most benefit to individuals and the economy, and on ensuring that the system is clear and simple for learners and employers to use, with clear links to Skills Accounts, and the new client focused gateways which will be housed within the Agency.

**Skills Funding Agency: Account Manager** – is a single point of contact for each provider for all their contracts across all Skills Funding Agency programmes. It will encompass the negotiation and allocation of funding, performance management, monitoring and review, and risk assessment and will incorporate provider specific initiatives such as capital projects. The details of this role and guidance are currently being developed.

**Young People’s Learning Agency (YPLA)** – is a non-departmental public body that will support and enable LAs to carry out their new duties. It will ensure that local commissioning decisions are made within a consistent national framework, secure national budgetary control, provide a strategic analysis service to LAs and support the local, sub-regional and regional infrastructure. The YPLA will also perform functions relating to the performance management of open academies, on behalf of the Secretary of State for Children, Schools and Families. It will calculate and make payments of grants, supervise and ensure financial control of budgets, and monitor and enforce the Funding Agreement.



# Annex D: The Legal Framework

1. The Apprenticeships, Skills, Children and Learning Act (2009) provides the legal grounding for the 16-19 Transfer (which is the result of Machinery of Government changes) that mostly take effect from the 1st April 2010.
2. The Act deals with a wide range of matters but this Annex focuses solely on the sections which are most relevant to the role of local authorities, the Young People's Learning Agency and the Chief Executive of Skills Funding in securing and assuring high quality post-16 and adult learning provision.
3. The first three sections of this Annex cover the legal powers and duties of local authorities, the YPLA and the Chief Executive respectively.
4. The fourth section covers the legal framework which supports the performance management of School Sixth Forms.

## Local Authorities – Powers and Duties

### Commissioning (sections 41 – 52)

5. *Section 15ZA of the Education Act 1996 (inserted by section 41 of the ASCL Act)* puts a duty on local authorities to secure enough suitable education and training to meet the reasonable needs of—
  - (i) Persons in their area who are over compulsory school age but under 19, and
  - (ii) Persons in their area who are aged 19 or over but under 25 and are subject to learning difficulty assessment.
6. Local authorities will have powers to secure this provision either within or outside their areas to enable them to secure the most appropriate provision for young people and reflect the normal means by which learners travel to their places of learning (“travel-to-learn patterns”).
7. In securing education and training opportunities, local authorities must take account of:
  - People's ages, abilities and aptitudes;
  - Any learning difficulties they may have;
  - The quality of education or training; and
  - the locations and times at which those opportunities are provided.

- 
8. In performing these functions, LAs must also act with a view to encouraging diversity (in both type of provider and provision) and increasing opportunities for young people to exercise choice; and enabling those learners who are subject to the duty to participate in education or training until they reach the age of 18 (to fulfill it once that duty comes into force).
  9. LAs will also have powers to fund provision for the duration of the course being undertaken by a young person, even if that course continues after they have reached the age of 19 (or 25 in the case of a learner with a learning difficulty assessment).
  10. Local authorities must co-operate with each other when carrying out these duties.

### Young Offender Learning (section 18A of the Education Act 1996 (inserted by s48))

11. LAs with relevant youth accommodation in their area are required to secure enough suitable education and training to meet the reasonable needs of the children and young people in the youth justice system who are held in those establishments.
12. Relevant youth accommodation does not include Young Offender Institutions (YOIs) accommodating 18 – 20 year olds and so LAs will not therefore be responsible for securing the provision of education in YOIs accommodating 18-20 year olds. In England this will be the responsibility of the Skills Funding Agency.

### YPLA: Powers and Duties

#### Commissioning (section 66)

13. The YPLA may secure the provision of suitable education or training for persons—
  - who are over compulsory school age but under 19, or (except for 18 year olds in YOIs);
  - who are aged 19 or over but under 25 and are subject to learning difficulty assessment.
14. This power enables the YPLA to secure provision directly, for example:
  - From the small number of national providers from whom it may be appropriate to commission at a national rather than a local level;
  - Where sub-regional groups of local authorities are not yet ready to take on this role; or
  - Where an LA is failing or likely to fail to fulfil its duty to commission suitable education or training.

#### Funding (section 61)

15. The YPLA must secure the provision of financial resources to—
  - (i) persons providing or proposing to provide suitable education or training to persons—
    - who are over compulsory school age but under 19, or who are aged 19 or over but under 25 and are subject to learning difficulty assessment;

- (ii) persons providing or proposing to provide suitable education to children subject to youth detention;
  - (iii) local authorities, for the purposes of their duties to commission suitable education or training.
16. The YPLA must also secure the provision of financial resources in accordance with any directions given to it by the Secretary of State. This would, for example, allow the Secretary of State to require the YPLA to secure in future the provision of financial resources to a specific group of learners not covered in its duties or powers. However, this would not allow the Secretary of State to require the YPLA to secure the provision of financial resources to a particular person (for example, to provide a certain amount of money to a specific LA).
17. In addition, the YPLA also has the power to secure financial resources for provision for learners of and under compulsory school age, and learners aged 19 and over (who have not had a learning difficulty assessment) who started their course before they were 19. These powers will enable provision to be secured, for example, for:
- Young people under the age of 16 who are attending courses in a 16-19 institution (this may be because they are starting a course early or because the course is specifically designed for those under 16, such as young apprenticeships);
  - Young people who start a course before they reach 19 which ends after their 19th birthday.
18. The YPLA also has the power to pay grants and allowances to learners of all ages. These powers enable the YPLA to administer, for example, Care to Learn grants, Education Maintenance Allowances and the Adult Learning Grant.
19. As well as providing financial resources directly, the YPLA may also secure them by:
- Making arrangements for another person to provide the resources (for example delivering learner support funds through contracts); and
  - Making arrangements for two or more persons to jointly provide the resources (for example, to deliver shared services with the Skills Funding Agency).

### Performance assessments (section 63)

20. This section enables the YPLA to:
- Adopt existing schemes, such as the Framework for Excellence, when assessing and evaluating the performance of providers;
  - Develop performance assessment schemes (for example, tools for scrutiny of LA commissioning plans or self-assessment tools for LAs to ensure quality of provision in their commissioning plans).

---

21. The YPLA may adopt or develop schemes for the assessment of the performance of persons in providing education or training funded (directly or indirectly) by the YPLA in the exercise of its functions under section 61.

#### Intervention in LAs (section 67)

22. This section applies if the YPLA is satisfied that a local authority is failing, or is likely to fail, to perform its duty to secure enough suitable education and training for young people.

23. The YPLA may give directions to the authority for the purpose of securing the provision of education and training in order to meet its duty. A direction given under this section may include provision requiring an authority to allow the YPLA or another body to take on the LAs commissioning functions. The YPLA may give a direction under this section only with the approval of the Secretary of State.

24. The YPLA must publish a statement that sets out the circumstances in which it will intervene under this section and the nature of that intervention. (Section 73)

#### Guidance to LAs (section 72)

25. This section requires the YPLA to issue guidance to LAs about:

- The performance of their duties to secure enough suitable education and training provision;
- The performance of their duty to co-operate with each other;
- The performance of their duty to encourage employers to participate in the provision of education and training for young people;
- The performance of their duty to meet needs of children and young people in youth justice.

26. Before issuing this guidance, the YPLA must consult LAs and other appropriate bodies and individuals. LAs must have regard to this guidance. The main guidance to be issued under this power is the National Commissioning Framework, which covers how LAs should work independently and together in sub-regional groups to develop commissioning plans that will set out how they intend to secure education and training provision for learners within their area. The YPLA also has the power to issue guidance about other matters for which it has a function.

#### Intervention powers – policy statement (section 73)

27. The YPLA will be required to prepare and consult on a policy statement which sets out the detail of its policy on intervention. It will set out the triggers for, and the nature of, such interventions. Having considered representations during consultation, the YPLA must send a copy of the final policy statement for approval by the Secretary of State, and then publish the approved statement.

### Academy Arrangements (section 77)

28. From April 2010, this section enables the Secretary of State to require the YPLA to provide (on behalf of the Secretary of State) support to and performance management of Academies, City Technology Colleges and City Colleges for the Technology of Arts. For example, the YPLA may be required to carry out:
- Calculating and paying grants;
  - Supervising budgets;
  - Managing specific cases concerning admissions;
  - Exclusions and special educational needs;
  - Monitoring and enforcing funding agreements;
  - Monitoring the standard of performance of pupils;
  - Managing school building work.
29. The YPLA must also set out a complaints procedure so that Academies and others may complain to the Secretary of State if they are concerned by the conduct of the YPLA under the arrangements.

### The Chief Executive of Skills Funding

#### Apprenticeships (section 82)

30. The Secretary of State may direct the Chief Executive of Skills Funding to designate a person to carry out apprenticeship functions on behalf of the Chief Executive. The Government has decided that the person designated is the Chief Executive of the National Apprenticeship Service (NAS). The NAS will be a discrete service within the Skills Funding Agency, and the Chief Executive of the NAS and his staff will undertake the apprenticeship functions, including the duty to secure places for young people under the apprenticeship scheme (section 9<sup>11</sup>).
31. This section, together with the administrative arrangements in place, allows the Secretary of State to define and regulate the relationship between the Chief Executive of Skills Funding and the person designated to carry out the apprenticeship functions, and contains a power for the Secretary of State to make directions to the Chief Executive of Skills Funding requiring him to ensure that the designated person reports to the Secretary of State on the performance of the apprenticeship functions. The "Secretary of State" in this instance should be taken as meaning both the Secretary of State for Business, Innovation, and Skills, and the Secretary of State for Children, Schools and Families.

#### Apprenticeship training for persons aged 16 to 18 and certain young adults (section 83)

32. These sections set out the general powers relating to the provision of apprenticeship places for young people. Local authorities will agree with the Chief Executive the amount and type of apprenticeship training required.

<sup>11</sup> Sections 91-99 (the Apprenticeships Offer) and Section 105 (promoting progression from level 2 to level 3 apprenticeships) are not yet in force

---

### Arrangements with LAs (section 84)

33. This section enables the Chief Executive to enter into arrangements with local authorities when securing apprenticeship training for young people. It also requires the Chief Executive to co-operate with local authorities when they are determining or securing any apprenticeship provision. The arrangements need to enable local authorities to meet their responsibilities under section 15ZA and to enable the Chief Executive to meet demand for apprenticeship places under the apprenticeship scheme in accordance with section 91.

### Commissioning (section 86)

34. This section sets out the general duty of the Chief Executive to secure the provision of “reasonable” facilities for the education and training of people aged 19 or over, (other than those aged under 25 who are subject to learning difficulty assessment) and those who are detained in a prison or an adult young offender institution.

35. In discharging this duty, the Chief Executive must—

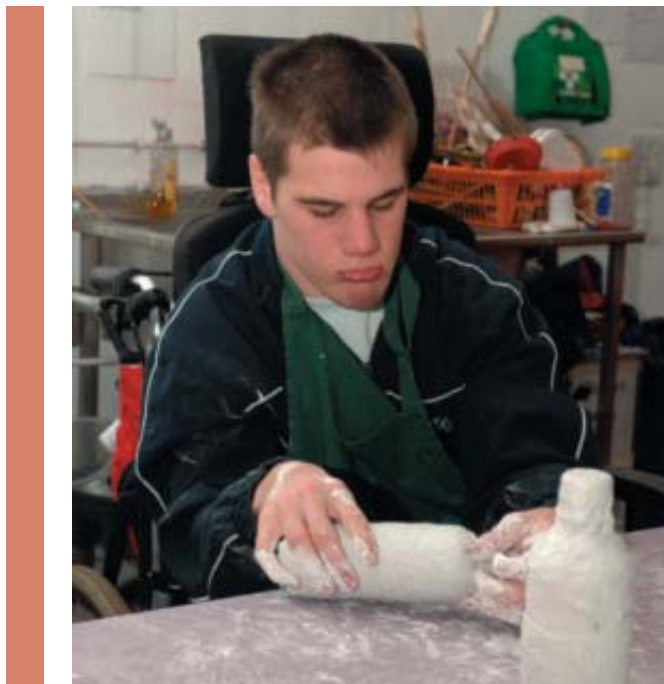
- take account of the places where facilities are provided, the character of facilities and the way they are equipped;
- take account of the different abilities and aptitudes of different persons;
- take account of the education and skills required in different sectors of employment for employees and potential employees;
- take account of facilities the provision of which the Chief Executive thinks might reasonably be secured by other persons;
- act with a view to encouraging diversity of education and training available to individuals;
- act with a view to increasing opportunities for individuals to exercise choice;
- have regard to the desirability of enabling persons subject to adult detention to continue programmes of education or training which they have begun;
- have regard to the desirability of the core entitlement and the additional entitlement being satisfied for persons subject to adult detention but aged under 19 who have elected for them (when those entitlements are in force);
- make the best use of resources.

36. The duty includes funding and securing delivery of education and training for those detained in prisons and adult young offender institutions, whether sentenced to imprisonment or committed to prison on remand or pending trial or otherwise. This includes 18 year olds held in adult custody (and, very rarely, those under 18), therefore aligning the category of detained people in relation to whom the Chief Executive has responsibilities with the category of people detained in the adult criminal justice system, thereby avoiding local authorities and the Chief Executive each having responsibility for the provision of education or training in individual establishments.

37. Where a person in adult detention has already begun education or training, the Chief Executive must have regard to the desirability of those persons continuing such programmes whilst in custody.

38. The Chief Executive should make the best use of resources. This might mean that for courses and skills where demand is more limited, the Chief Executive could decide to fund places concentrated in particular geographical areas which have links to a particular industry sector, rather than providing more widespread provision for smaller groups of learners. Learners

(and employers) seeking to access these more unusual courses may need to travel (or permit employees to travel) to take up the offer of a course.



### Funding (section 100)

39. This section provides powers for the Chief Executive to pay persons who provide or are proposing to provide education or training, and to pay persons who may not be providers themselves but who supply services which support the delivery of such education and training by providers (for example, delivery of transport and other support services). The powers also provide for the Chief Executive to pay persons providing or proposing to provide information, advice or guidance about education or training or connected matters, and individuals receiving the education (aged 18 and over).

40. In exercising the powers under this section, the Chief Executive must make the best use of resources. The Chief Executive may provide the resources himself, or he may make arrangements for the provision of resources by someone else, or he may make arrangements so that other people may jointly provide those resources.

41. In order to fulfil his or her powers to fund colleges and providers, the Chief Executive will receive an annual letter setting out the available budget and the Secretary of State's priorities. The Government anticipates that under this section, the Chief Executive will exercise his or her funding powers in order to fund FE colleges, training providers and others for learning provision which responds to the choices of individuals and employers, and the wider skills needs of the economy.

## Performance Assessments (section 102)

42. This section enables the Chief Executive to adopt or develop schemes for the assessment of the performance of individual providers of education and training. The Chief Executive may take this assessment into account when deciding which providers he or she will continue to fund under powers in section 100.

## School Sixth Forms

43. The provisions in Part 4 of the Education and Inspections Act 2006 set out measures to ensure that fewer schools become a cause for concern, and that those which do get in difficulty are supported to recover more quickly.



44. Sections 59-62 of the Act define when maintained schools are eligible for intervention by local authorities:
- when the school has not complied with a valid performance, standards and safety warning notice (section 60);
  - when the school requires Significant Improvement (section 61);
  - when the school is in Special Measures (section 62).
45. Section 60 relates to schools where there is a low standard of performance and includes schools that are badly underperforming in relation to the nature of their pupil intake or the school's general context, in addition to schools at which absolute standards (attainment) are unacceptably low. When giving a performance, standards and safety warning notice, the local authority must set out the action it is contemplating if the school does not respond satisfactorily. It must also tell the school that it has the right to appeal to Ofsted and must give at the same time a copy of the warning notice to Ofsted. This can be done by emailing a copy of the warning notice to: [warningnotices@ofsted.gov.uk](mailto:warningnotices@ofsted.gov.uk). The school must respond to the warning notice, or appeal to Ofsted, within 15 working days.
46. Sections 63-66 set out local authorities' intervention powers in relation to those schools eligible for intervention:
- (i) Section 63 is a power to require a school to enter into a contract or other arrangement (such as a collaboration or federation) with another school, FE college, or other named person for the purpose of school improvement;

- (ii) Section 64 allows the local authority to appoint additional governors;
  - (iii) Section 65 empowers the local authority to apply to the Secretary of State to replace the entire governing body with an Interim Executive Board (IEB);
  - (iv) Section 66 empowers the local authority to suspend the school's delegated budget.
47. Sections 67-69 set out the Secretary of State's powers of intervention, following amendments to the 2006 Act by the Apprenticeships, Skills, Children and Learning Act 2009:
- (i) The Secretary of State may appoint additional governors if the school is eligible for intervention (section 67);
  - (ii) The Secretary of State may close a school in Special Measures (section 68);
  - (iii) The Secretary of State may put an IEB in place if the school is eligible for intervention (section 69);
  - (iv) The Secretary of State may direct a local authority to consider giving a performance, standards and safety warning notice to a school (section 69A).
48. Section 70 and Schedule 6 set out the detailed provisions about IEBs, creating the rules for governance under an IEB and providing a regulation-making power.
49. Section 71 and Part 1 of Schedule 7 comprise the amendments to previous legislation on schools causing concern. These provisions:
- (i) require the local authority to consider what action to take immediately after a school is judged to require special measures or significant improvement (see Chapter 3), including how to involve parents;
  - (ii) empower the Secretary of State to require a local authority to re-consider radical action (when the "case becomes urgent"; see Chapter 3);
  - (iii) extend the existing duty on proprietors of non-maintained schools to consider and prepare statements of action if their school is judged to require Special Measures or Significant Improvement (see Annex 2).
50. Section 72 indicates that local authorities must have regard to guidance from the Secretary of State when exercising powers in relation to schools causing concern.
51. The ACSL Act 2009 gives the SoS additional powers. Section 204, *Subsection (2)* inserts an additional trigger for the Secretary of State's power at section 62A of Education Act 2002 to require the LA to obtain advisory services. The new trigger allows intervention when the local authority maintains a disproportionate number of low-performing schools and it appears to the Secretary of State that the LA has not been effective, or is unlikely to be effective, in securing improvements in standards in those schools or in other schools in their area which may in the future become low-performing.

**Contact [qasmailbox@bis.gsi.gov.uk](mailto:qasmailbox@bis.gsi.gov.uk)  
Phone: 0114 259 1086 Web: [www.bis.gov.uk](http://www.bis.gov.uk)**

Department for Business, Innovation and Skills. [www.bis.gov.uk](http://www.bis.gov.uk)  
First published November 2010. Crown Copyright. BIS/03/2010/NP. URN 10/920