

# Guidance for 16–19 Competitions

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The document is of interest to post-16 education and training providers, members of local authorities, local LSCs, potential promoters of new 16–19 provision and other local stakeholders with an interest in submitting proposals for new 16–19 provision in their area.

### **Further information**

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## **For information**

This document sets out the process the Learning and Skills Council (LSC) will follow in running 16–19 competitions. It provides guidance on the circumstances in which a competition will be held, the criteria and process of competitions and the arrangements for representations and decision-making.

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# Guidance for 16–19 Competitions

## Introduction

1 This document sets out the process to be followed by the Learning and Skills Council (LSC) in running 16–19 competitions and provides guidance for local authorities, local LSCs, potential promoters of new 16–19 provision and other local stakeholders with an interest in submitting proposals for new 16–19 provision in their area.

2 It sets out:

- the policy context
- the circumstances in which a competition will be held
- the process to be followed, including timescales
- the criteria for assessing promoters' proposals
- the core information that promoters will need to provide.

## Context

3 Competitions for new 16–19 provision will:

- be an open and transparent means of commissioning new provision to meet identified need in an area
- help open up the market to a wider range of providers, including new providers, to increase choice and diversity of learning setting
- help ensure that new 16–19 provision enhances learner access to the curriculum breadth implied by the 14–19 agenda.

4 The DFES *Five Year Strategy for Children and Learners* (HM Government, 2004) (the strategy), summarised the Government's plans for early years, primary and secondary schools, 14–19 education and training, adult skills and higher education (HE).

5 It sets out the Government's view that choice is best delivered by opening up the provider market and giving institutions greater autonomy in serving their communities so that successful provision can expand and local strengths can be fully exploited.

6 To help achieve this for 16–19 year olds, the strategy includes:

- measures making it easier for leading 11–16 specialist schools to open sixth forms
- competitions, decided at local level, where substantial new 16–19 provision is needed
- a new 16–19 capital budget combining school and FE resources to support coherent investment in new 16–19 provision.

7 The strategy also sets 16–19 provision in the context of a coherent 14–19 phase offering a rich mix of learning opportunities with greater choice of learning programmes and settings. Since few institutions will have the capacity, on their own, to provide a broad academic and vocational (general and specialised) offer for their students, collaboration to ensure that all young people in the area have access to curriculum breadth will be the norm. A key criterion against which competition entries will be assessed, therefore, will be how far proposals help increase the range and quality of the local offer, and how new providers will collaborate with others in delivery.

## Circumstances in which a Competition will be Held

8 Competitions for new 16–19 provision will be held where a need is identified for 200 or more new 16–19 places to meet basic need (at the LSC's discretion if fewer than 200 places), to improve quality and/or to improve the balance of provision in an area, where there is no proposal to meet that need under the sixth form

'presumption' arrangements (see first bullet point of paragraph 6 in this document) or from an academy (see paragraph 20 below).

### Transition period

9 A transition period (ending 28 February 2006) will be allowed after publication of the 16–19 competitions guidance whereby 16–19 competitions will not be required where local partners have well-advanced 16–19 reorganisation plans that are required to follow a statutory process **and** where the first step in the relevant statutory process has been taken, that is, publication of notices. In such cases, local partners may also make an application for funding from the LSC's 16–19 Capital Fund without having to go through a competition.

## Local Needs

10 Strategic area reviews (StARs), and to some extent other reviews carried out by local LSCs, will assess where there are gaps that new providers, partnerships or a different mix of curriculum could help fill and, therefore, these reviews should be the starting point for 16–19 competitions. These reviews will conclude with a broad outline of what is needed in an area in terms of 'new' provision which should be defined more closely as:

- 'additional' provision to meet increased learner numbers
- 'different' provision such as adjusting the vocational–academic balance
- 'better' provision in terms of quality; or
- a combination of two or more of the above.

11 In areas where greater institutional choice is required or a substantial increase, or enhanced mix, of provision to meet local needs, competitions will be held to improve choice and bring in new providers, including leading specialist schools and colleges. In some areas, it will be clear what type of new provision is needed, for example where one or more academies with new sixth forms are the right solution to raise the secondary school standards.

12 For areas where it is less clear, competitions for substantial new 16–19 provision will be introduced. These will be open to schools, colleges, private sector organisations and other sponsors. The object is to open the market and encourage greater diversity of bids, and to establish a manifestly fairer, more democratic local process.

13 The LSC will determine the geographical area for which a competition is required to improve institutional or curriculum choice. This may, for instance, encompass the whole local LSC area, an area covered by a local authority or a specific urban or rural area.

14 In addition to geographical areas, the LSC will also consider whether competitions will be beneficial and appropriate in meeting the needs of particular cohorts of young people who might be disadvantaged, for example underachieving or non-participating groups of learners.

### Substantial new 16–19 provision

15 Demand for substantial new 16–19 provision could arise from:

- a need for additional places (200 or more new 16–19 places or at LSC's discretion if fewer than 200)
- a need for reconfiguration of provision to raise participation to meet local, regional or national targets
- a need for reconfiguration of provision to raise attainment to meet local, regional or national targets
- a need for reconfiguration of provision to raise standards
- a need for better-quality provision to improve choice
- a need for a better balance of provision to improve choice
- a combination of two or more of the above.

### What type of proposals?

16 In addition to meeting the needs of particular cohorts of young people who might be disadvantaged, competitions will be required where there is a need for one or more new 16–19 centres and may be necessary for the expansion of existing 16–19 provision to meet local need.

17 It is expected that any new institutions or centres will work in a collaborative framework with existing 16–19 providers, where the individual strengths of all partners can provide collectively high-quality 16–19 provision of sufficient breadth. Promoters will be expected to have developed a collaboration plan for their proposal.

18 Where a formal partnership involving more than one provider is proposed to meet the need for new

16–19 provision, a lead partner should be identified and the proposal should be entered as a single bid in the competition. Innovative partnership proposals involving private sector promoters will need to have a publicly funded organisation, such as a school or college, as the lead partner, and through which the funding will flow.

19 The competition specification could be met in the following ways:

- setting up a sixth form and/or college consortium arrangement
- other 16–19 collaborative arrangements, for example private training providers or independent schools working in partnership with existing local 16–19 providers
- expansion of an existing 11–18 or 16–19 school, 11–18 academy, 16–19 academy, sixth form college or distinct 16–19 centre within a general FE college
- adding a sixth form to an existing 11–16 school or 11–16 academy
- establishment of a new 16–19 school, sixth form college, distinct 16–19 centre within a general FE college or 16–19 academy
- other innovative proposals from new types of providers.

### Academies

20 A competition would not be held where an academy proposal exists that would fill the identified gap in provision. Where an academy proposal comes forward **after** a competition has been announced, it will follow the same process as all other entries. This applies to 11–19 and also to 16–19 academies (the latter established under the Further and Higher Education Act 1992).

21 Where a proposal is submitted from an 11–16 academy as part of a 16–19 competition, in-principle agreement from the Secretary of State for Education and Skills to extend the academy's funding agreement will need to be obtained before the outcome of the competition is decided.

22 If negotiations between the academy promoter and the Department for Education and Skills (DfES) were to break down during the competition process, the LSC would consider other bids (provided they had not been withdrawn) or run a new competition.

## Process

23 The stages in running a competition are:

- identifying need
- publishing a notice inviting proposals to meet the specified need
- four-calendar-month period for submitting competition entries
- publishing a summary of all competition entries
- six-week representation period for responses to the published summary
- local stakeholder panel consideration of entries
- local LSC consideration of panel advice and decision within six weeks of the close of the representation period
- local LSC communicates decision to all proponents within one week of its decision
- any challenge to the decision of the local LSC should be received in writing by the Council's solicitor (copied to the local LSC chair) within two weeks of the communication of that decision
- any challenge referred to the national LSC Reorganisations Committee will be considered within six weeks of receipt of the written challenge by the Council's solicitor.

### Identifying need

24 The local LSC will decide where there is a need for substantial new 16–19 provision requiring a competition, based on the outcomes of StARs or other reviews. In line with the Government's 14–19 agenda, the LSC will wish to consider proposals offering institutional choice to learners and enhanced curriculum breadth and balance where this is an identified need. The LSC will also wish to consider how proposals will contribute to meeting the needs of employers.

### Publication of the initial notice inviting proposals

25 The local LSC will publish a notice in local and national newspapers/publications specifying the need, including the geographical or target group area to be covered and the appropriate range of curriculum provision required, but **not** the institutional solution. The notice will invite sponsors to submit proposals to meet the specified need and to notify the named local LSC contact of their intention to do so (see Annex A to this document).

26 The publication of the summary of the Statement of Need, that is, the initial public notice, will specify the need and invite interested parties to submit proposals within four calendar months of the last date of publication in local and national newspapers/publications. Where the summary is placed in two or more newspapers, which are published on different days, the later newspaper publication date will represent the publication date. This period of four calendar months should be extended to take account of holiday periods.

27 In addition, the local LSC will prepare a Statement of Need (to be made available from the local LSC upon request) which sets out the outcomes of the StAR, and/or other review(s), that is, a broad outline of what is needed in the local area (which shall be defined) in terms of 'new' provision, which should be defined more closely as:

- 'additional' provision to meet increased learner numbers
- 'different' provision such as adjusting the vocational-academic balance
- 'better' provision in terms of quality; or
- a combination of one or more of the above.

### Submission process

28 Four calendar months will be allowed for promoters to submit proposals based on a prescribed set of required information (see Annex C to this document).

### Publication of the notice summarising proposals received and representation period

29 Following the four-calendar-month period for proposals to be received, the LSC will publish a notice setting out brief summary information of the proposals received, the outcomes of review(s) which led the LSC to invite proposals and inviting respondents to apply to the local LSC for full details of the proposals so that they might comment on them (see Annex B to this document). This will initiate a six-week period for representations, that is, a period of consultation to receive comments of support, objections or other comments.

30 The notice (Annex B sets out the matters to be specified in a notice inviting comments on the applications) should specify who at the local LSC will receive comments of support, objection or otherwise and by when (six weeks is allowed for the representation period). As with the initial four-calendar-month period, the six-week representation period

should take account of holiday periods and the LSC should not publish the notice initiating this six-week period during the summer holidays.

### Local stakeholder panels

31 Following the close of the representation period, local LSCs will convene a local stakeholder panel in each area where a competition is to be held. These panels will meet to:

- consider the proposals received and representations made
- assess the proposals against the criteria
- make a recommendation to the relevant local LSC on its preferred proposal.

32 The Panel will be chaired by an LSC representative, who will have the casting vote, should one be required.

33 The composition of local stakeholder panels will be for the local LSC to decide, but should include representation from the local authority, employers, school and college governing bodies, higher education, Connexions and local faith authorities (as appropriate). In establishing the stakeholder panels, local LSCs will need to ensure that members have no conflicts of interest.

### Decision

34 Within six weeks of the close of the representation period, the local LSC will meet to:

- consider the proposals received against the criteria set out in the guidance (see paragraphs 41 to 44 below) and in the published specification
- consider representations made
- note the proposal recommended by the local stakeholder panel
- decide on the outcome of the competition process.

### Communicating the outcome

35 The LSC will communicate the outcome of the 16–19 competitions process in writing to all proponents and key local stakeholders within one week of its decision, setting out the reasons for its decision.

### Challenges to the local LSC's decision

36 A proponent may only challenge the decision of a local LSC in exceptional circumstances on the following grounds:

- the local LSC did not follow the published process in carrying out the competition
- the decision of the local LSC was not one that it was reasonable to make (taking account of the criteria and the information made available, including the recommendation of the local stakeholder panel).

37 Any challenge will be considered by the Council's solicitor who may then refer it to the national LSC Reorganisations Committee.

38 Where a proponent wishes to challenge the local LSC's decision, they should write to the Council's solicitor (copied to the local LSC chair) setting out the grounds of the challenge and provide supporting evidence within 14 days of being informed of the outcome of the competition.

39 Where the Council's solicitor is satisfied that the challenge is made on one of the grounds set out in paragraph 36 above, the challenge will be considered by the national LSC Reorganisations Committee within six weeks of its receipt at the LSC national office.

### What if no proposals come forward or no suitable proposals?

40 Where no proposals come forward, or where no proposal meets the criteria by the closing date of the competition, the competition process will be deemed to have been completed. The LSC may then put forward its own proposal to meet the identified need. Where this requires a decision by the Secretary of State for Education and Skills, the statutory process will be followed.

## Criteria

41 Proposals for the reorganisation of provision should address Ministers' five key principles underpinning the organisation of 16–19 provision, that is:

- quality
- distinct 16–19 provision
- diversity to ensure curriculum breadth
- learner choice
- affordability, value for money and cost-effectiveness.

42 Core questions against which proposals arising from 16–19 competitions will be assessed include the following.

- a How will the proposal ensure effective collaboration with existing providers and complement existing provision as part of a locally coherent system?
- b Will there be an adverse impact on existing successful local 16–19 provision?
- c How will the proposal ensure a broad range of sustainable provision?
- d Where appropriate, how will the proposal meet the basic need for additional 16–19 learners?
- e How will the proposal increase levels of participation and/or increase attainment at Levels 2 and 3 to meet local, regional or national targets? (Note that the summary of the Statement of Need will specify which targets are to be met).
- f How will the proposal enhance institutional and curriculum choice?
- g How will the proposal contribute to delivering the specialised diploma lines?

### Possible additional criteria

43 While there is a need for core criteria, the criteria for deciding the outcome of a competition should also reflect the area's particular needs. Therefore, the LSC could, from time to time, decide on additional criteria to be applied, in the light of local circumstances.

44 Local LSCs may also wish to apply weightings to individual criteria to reflect their importance locally.

### Core information

45 Annex C of this document sets out the core information (against the questions listed above) that will be required of proposals submitted for 16–19 competitions.

## Subsequent Statutory Proposals

46 Some of the competition proposals will need to go through statutory processes after a 16–19 competition has been decided, for example where new 16–19 institutions or sixth forms are to be established.

47 Statutory proposals will be subject to further consultation requirements:

- a further four-week period for objections and comments for proposals made by a governing

body or local authority or to change school sixth form provision

- a further two months of preliminary consultation, followed by two months of final consultation for proposals made by the LSC to change school sixth form provision
- a further one month consultation period to set up a new FE corporation
- at least nine months of consultation between the feasibility and funding agreement stages required to open an academy.

## 16–19 Capital Fund

48 It is anticipated that many applications to the 16–19 Capital Fund will come forward as a result of the reorganisation of provision arising from the StAR process, the 16–19 competition process or the new presumption for new sixth forms to be added to qualifying 11–16 specialist schools. The arrangements for administering the 16–19 Capital Fund are outlined in a concurrent dedicated LSC 16–19 Capital Fund guidance document *16–19 Capital Fund Guidance 2006-07 onwards*.

49 It is anticipated that the reasonable capital outcomes of the 16–19 competitions will be funded from the 16–19 Capital Fund, where such funding is not likely to be available from the DfES Building Schools for the Future programme and other DfES and LSC funding streams. Project proposals arising from competition outcomes should meet the threshold and other criteria for entry to the 16–19 Capital Fund, and implementation will be subject to the availability of capital funds from year to year.

50 Applications for allocations from the 16–19 Capital Fund will be accepted from individual schools, local authorities, diocesan and equivalent authorities, HE institutions and colleges either individually or as leaders of consortia. Such consortia may include any or all of these categories of provider and other private sector providers such as those in the private school sector or work-based training sector.

# Annex A: Matters to be Specified in a Notice Inviting Proposals

- 1 A statement detailing:
  - a the name of the local LSC
  - b the geographical area within the local LSC area that is covered by the competition.
- 2 A statement explaining the specification of the provision being invited including:
  - a number of places
  - b type of provision.
- 3 Information on:
  - a the date that all proposals should be received by the local LSC
  - b where the Statement of Need, setting out the outcomes of the StAR and/or other review(s), that is, a broad outline of what is needed in the local area, can be obtained, including a named contact and email and postal addresses
  - c where all proposals should be sent, including a named contact and email and postal addresses.
- 4 A brief explanation of the procedure that will be followed after the date when proposals must be received by the local LSC.
- 5 Information on where the full guidance can be obtained, including a website address.
- 6 A statement highlighting the relative priorities of the judgement criteria set out in the guidance.
- 7 Any other information relevant to the local LSC.

# Annex B: Matters to be Specified in a Notice Inviting Comments on the Applications

- 1 The notice should include:
  - a where details of all applications can be found (including a website address)
  - b the date when all comments on the applications should be received by the local LSC
  - c details of where comments can be sent (including an email address)
  - d information on the procedure to be followed once consultation has closed (including dates).

# Annex C: Core Information Required for 16–19 Competition Proposals

Proposals coming forward should include the following information.

**a. How will the proposal ensure effective collaboration with existing providers and complement existing provision as part of a locally coherent system?**

To what extent will the proposal complement and enhance existing 16–19 provision in a locally coherent structure, that is, how any new institution proposes to work collaboratively with existing post-16 providers in a locally coherent system?

To what extent is the proposal consistent with the overall strategy for the local area?

What are the details of any proposed collaborative arrangements, including management arrangements?

Who is the lead partner in a partnership proposal?

**b. Will there be an adverse impact on existing successful local 16–19 provision?**

Proponents should note that local stakeholder panels and local LSCs will assess to what extent proposals might have an adverse impact on existing successful 16–19 provision and which providers might be adversely affected.

**c. How will the proposal ensure a broad range of sustainable provision?**

An explanation of how the proposal will meet the specified need for substantial and sustainable new 16–19 provision, that is, to what extent will the proposal ensure a wide range of general and/or specialised and/or work-based learning opportunities to meet the specified need at suitable levels and

location(s) that will be viable and sustainable in the longer term?

To what extent will the proposal contribute to meeting the needs of employers?

Please supply:

- an estimate of the capital costs
- an outline summary of the capital project if applicable, including estimated floor area
- a summary of the likely funding and financing of the capital costs (if applicable)
- details of the proposed site (if applicable)
- an opening date for any new institution and start date for any new provision.

**d. Where appropriate, how will the proposal meet the basic need for additional 16–19 learners?**

To what extent will the proposal meet the basic need for additional 16–19 learners?

Provision is recommended at not less than the average size of sixth forms inspected by Ofsted (173 students) and preferably over 200 students, which is the number at which Ofsted reports that a sixth form would, generally, be able to offer a range of 20 or more A-levels, with three or four Advanced Vocational Certificates of Education (AVCEs) or equivalent. Competitions for new 16–19 provision will be held where a need is identified for 200 or more new 16–19 places to meet basic need. Proposals for new 16–19 provision for fewer than 200 students will be invited at the discretion of the LSC.

Please provide information on learners, including the number of learners and age range.

**e. How will the proposal increase levels of participation and/or increase attainment at Levels 2 and 3 to meet local, regional or national targets?**

To what extent is the proposal consistent with, and likely to meet, the local, regional or national targets for increased participation and attainment?

To what extent will the proposed provision of education and training be responsive to the needs of young people and facilitate progression to further and higher education, training and employment?

Describe the extent to which the provision furthers social inclusion.

Say how the proposal will increase participation in local target groups.

How will the quality of provision be assured?

**f. How will the proposal enhance institutional and curriculum choice?**

To what extent will the proposal respond to the needs of learners and employers, ensuring a wide, viable and sustainable range of 16–19 learning opportunities at suitable levels and in suitable settings and locations that meet either the need of all 16–19 learners or identified target groups of 16–19 learners?

To what extent will the proposal provide equality of opportunity for all groups of learners and contribute to the achievement of local targets for participation, retention, attainment and progression of learners at all levels?

What is the geographical area to be covered or target group of young people?

Describe the extent to which the proposal provides greater curriculum breadth.

**g. How will the proposal contribute to delivering the specialised diploma lines?**

How does the proposal support the requirement to deliver access to all 14 specialised diploma lines for 14–16 year olds as well as for 16–19 year olds?

# Notes

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