



Leading learning and skills

ESF Provider Handbook London West LSC



EUROPEAN UNION
European Social Fund

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1 Contents

1	Contents.....	2
2	Introduction.....	3
3	ESF Co-financing.....	4
3.1	ESF Objective 3 in context.....	4
3.2	Co-financing.....	4
3.3	The Learning and Skills Council.....	4
4	The LSC Funding Agreement.....	5
4.1	Funding Agreement types.....	5
4.2	Writing the Funding Agreement.....	6
5	Roles of the LSC and the Provider.....	8
5.1	The LSC ESF Account Manager.....	8
5.2	The Provider.....	8
6	Partnership Working.....	10
6.1	Lead Partner Responsibility.....	10
6.2	Partnership Management.....	10
6.3	Partnership Agreements.....	11
7	Eligibility.....	12
7.1	Introduction.....	12
7.2	Beneficiary eligibility.....	12
7.3	Evidence Requirements.....	15
7.4	Policy and Measure eligibility criteria.....	16
7.5	Organisation Eligibility.....	18
7.6	A Final Word - Checking Eligibility.....	19
8	State Aid.....	20
8.1	What are the State Aid Rules?.....	20
8.2	What does this mean in practice?.....	20
9	Marketing and Publicity.....	26
9.1	Marketing Your ESF Project.....	26
9.2	Press Releases.....	26
9.3	Case Studies and Examples of Good Practice.....	26
9.4	Plaques.....	27
9.5	GOL Project Directory.....	27
10	Timetable for Returns.....	28
10.1	Co-financing Monitoring Returns.....	28
10.2	Online Data Collections.....	29
11	Cross-cutting Themes.....	31
11.1	Equal Opportunities.....	31
11.2	Sustainable Development.....	33
11.3	Use of ICT.....	34
12	Contact Information.....	35

2 Introduction

Welcome to the London West LSC European Social Fund (ESF) provider handbook.

It is designed to be a practical guide to help you to deliver your ESF project, and to navigate your way around the ESF rules. Ultimately though, you are responsible for adhering to the rules and further information can be found at www.esf.gov.uk.

Your London West LSC Account Manager will normally be your first point of contact, and it is they who will be providing you with support and monitoring the delivery in your project.

Amendment Log

Version	Date Issued	Amendments
1.0	14 November 2005	Original
2.0	22 June 2006	1. Minor corrections
3.0	31 January 2007	1. Section 7 Eligibility – UK Passports
		2. Section 7 Eligibility – Age
		3. Section 7 Eligibility – Bulgaria and Romania accession rules
		4. Section 8 State Aid – de minimis
		5. Section 10 Update of CMR table

3 ESF Co-financing

3.1 ESF Objective 3 in context

ESF money is shared out under three Objectives, which are designed to focus resources on those in greatest need. Objectives 1 and 2 target specific regions or areas, while Objective 3 develops human resources.

Objective 1, 2 and 3 programmes focus on five main 'policy fields':

- Active labour market policies
- Equal opportunities for all and promoting social inclusion
- Lifelong learning
- Adaptability and entrepreneurship
- Improving the role of women in the labour market.

Objective 3 is a non-regional Objective, available in the whole of Great Britain except Objective 1 areas. Objective 3 aims to improve people's skills and employment prospects by:

- tackling long-term unemployment
- helping young people and those at risk from not being able to find work
- improving training, education and counselling for lifelong learning
- encouraging entrepreneurship and adaptability in the workplace
- promoting equal opportunities and improving the role of women in the workplace

Government Offices are responsible for delivering Objective 3 at regional level. Each region has a Regional Development Plan which sets out regional priorities within the framework of the Operational Programme.

3.2 Co-financing

The model for distributing most regional Objective 3 ESF in England is Co-financing, and funding is through Co-financing Organisations (CFOs), which provide 100% funding to successful applicants. Co-financing means bringing together ESF funds and match funding, so that applicants do not themselves have to secure match funding. Co-financing adds value to government programmes, through additional activities that would not otherwise be funded.

3.3 The Learning and Skills Council

The Learning and Skills Council is a CFO in all English regions, and funds programmes through its 47 local offices and some regional programmes. London West LSC is a local office, and has developed a co-financing plan for the period 2004 to 2008, in line with the five ESF policy fields (3.1 above), and based on the London Regional Development Plan (RDP) and London's Framework for Regional Employment and Skills Action (FRESA).

4 The LSC Funding Agreement

4.1 Funding Agreement types

The LSC uses three types of funding agreements depending on the category of the provider. Sometimes they are referred to as 'contracts', but strictly, only the first type is a contract. All three types have practically identical clauses in terms of the aims, objectives and specified deliverables of the ESF projects.

The table below sets out the range of funding agreements and the provider categories to which they apply:

Funding Agreements	Providers
Contract for Services (Education and Training provision)	Non-public sector providers External Institutions Directly funded UFI Hubs
Financial Memorandum	FE Colleges
Conditions of Funding Agreement (grant)	Local Authorities Government Departments HE Institutions

4.1.1 Contract for Services

The Contract for Services should be used for funding learning provision at all providers other than FE colleges and public bodies, including voluntary sector organisations, charities and not-for-profit companies.

4.1.2 Financial Memorandum

The Financial Memorandum only applies to FE Colleges. The ESF project agreements are variations to the existing Financial Memorandum.

4.1.3 Conditions of Funding

The Conditions of Funding Agreement is more loosely defined than the Financial Memorandum and should be used for public sector bodies (including local authorities and all government agencies) and higher education institutions. Providers receiving grant funding cannot normally apply the funds to other purposes. Providers also must spend the money in a way expected of public servants.

4.1.4 Structure of Funding Agreements

The Funding Agreement will take the form of a general contract containing standard terms and conditions, with one or more schedules containing specific clauses for each ESF project. The LSC only signs one general contract with an organisation each year, so if your organisation has already signed a Funding

Agreement with the LSC for the current academic year, the ESF Schedule will be attached to a variation letter amending the Funding Agreement.

4.2 Writing the Funding Agreement

4.2.1 Basic Principles

The Funding Agreement (contract) will be based very closely on the original provider tender, especially in the nature and number of specified deliverables.

In writing the contract, London West LSC will seek to ensure that:

- Any issues arising from the moderation process are resolved. Issues will principally arise from the assessed risk to the LSC of contracting with providers;
- The contracts represent value for money;
- The contracts have clear and measurable deliverables in the form of outputs, outcomes and milestones, and clear evidence requirements associated with each deliverable.

The Funding Agreement will only come into force when it is signed by both the provider and the LSC. London West LSC will not authorise any activity taking place before both parties have signed, and therefore London West LSC is not liable for any commitments that the provider may make before the Funding Agreement comes into force.

4.2.2 Funding Agreement Schedules and Appendices

Generally, Funding Agreements comprise:

- General Terms and Conditions
- Schedule 1: Specification of Services
 - Appendix 1: Beneficiary Eligibility
 - Appendix 2: Contract Delivery Plan
- Schedule 2: Financial Information and Data Requirements
 - Appendix 4: Contract Payments Profile
- Schedule 3: Special Conditions.

(In Financial Memorandums and Conditions of Funding, schedules 1 and 2 are merged. Appendix 3, the monitoring return, used to be included in the Funding Agreement, but it has been replaced by an electronic form of return.)

4.2.2.1 General Terms and Conditions

This section is common to all Funding Agreements

4.2.2.2 Schedule 1: Specification of Services

This schedule contains specific clauses on the aims, objectives, and the method of delivery of the project, in addition to standard clauses about the Services to be provided.

4.2.2.3 Schedule 2: Financial Information and Data Requirements

This schedule contains information about the contract value and conditions of payment.

4.2.2.4 Appendix 1: Beneficiary Eligibility

This appendix contains specific information on the eligibility of beneficiaries under this ESF measure and project.

4.2.2.5 Appendix 2: Contract Delivery Plan

This appendix contains the table of deliverables (outputs, outcomes and milestones) that were tendered for and written into the contract, and the timetable for delivery. It also contains the minimum evidence requirements to demonstrate successful delivery.

4.2.2.6 Appendix 4: Contract Payments Profile

This appendix is based on appendix 2, and contains the timetable of deliverables and payments attached to those deliverables. Appendix 2 and 4 together define the project delivery and are therefore of paramount importance to both the provider and the LSC.

4.2.2.7 Schedule 3: Special Conditions

This schedule contains additional important information, including equal opportunities, and health and safety.

5 Roles of the LSC and the Provider

5.1 The LSC ESF Account Manager

LSC London West will appoint an ESF Account Manager who will be your main point of contact with the LSC London West. Any questions or comments on your ESF project should normally be addressed initially to your ESF Account Manager.

The specific role of the ESF Account Manager is to work with the provider to ensure that the project is delivered as agreed.

In carrying out this role, the ESF Account Manager has specific responsibilities. These include:

- Meeting providers to finalise the Funding Agreement;
- Agreeing the final delivery and payment schedules;
- Completing the necessary monitoring forms on a monthly basis, supplied by providers on the monitoring returns;
- Visiting providers on a regular basis to look at how the programme is developing;
- Taking any remedial action necessary where the programme is falling behind the delivery plan or is not meeting its targets and re-profiling if necessary;
- Attending events organised by providers as the representative of LSC London West;
- Conducting all activities taking account of LSC London West's Equal Opportunities policies, ensuring that all clients, providers, contacts and employees receive equal treatment;
- Ensuring the providers' obligations and responsibilities in respect of equal opportunities, health and safety, sustainable development and self-assessment are being fulfilled;
- Ensuring projects are delivered in accordance with relevant ESF regulations.

5.2 The Provider

You must appoint a Project Manager or Programme Manager to be responsible for delivering the project. The name isn't important, but the role is; you must have someone in place who has the responsibility and authority to manage the project and to meet the terms of the contract.

Some of the Project Manager's responsibilities include:

- Planning and implementing the project to achieve all the deliverables in the contract;

- Recruiting and managing the necessary project staff to run the project successfully;
- Ensuring that all necessary procedures are followed to obtain and retain evidence to show that the deliverables have been achieved;
- Ensuring that all required data is submitted on time to the LSC through the agreed electronic systems;
- Reporting monthly progress on time to the LSC;
- Keeping all additional documentation and paperwork to support the learning outcomes;
- Ensuring all marketing and publicity requirements are met;
- Meeting the LSC Account Managers and discussing with them all aspects of project delivery;
- Actively promoting within the project, the ESF cross-cutting themes of Equality of Opportunity, Sustainable Development, and the use of ICT;
- Completing a Self Assessment Report (SAR);
- Attending all mandatory training and workshops.

6 Partnership Working

Many ESF projects will be delivered by providers working in partnership, and there are many advantages to a partnership arrangement. However, the LSC will contract with one organisation – the one that submitted the successful tender – and that organisation has overall responsibility for all the activity, must be able to demonstrate that the contract is being delivered, and has the responsibility to provide all necessary evidence.

Sub-contracting of provision is not permitted under these Funding Agreements.

6.1 Lead Partner Responsibility

The lead partner is the organisation that signs the Funding Agreement with the LSC, and the LSC regards the lead partner as responsible for all aspects of the project. The lead partner cannot pass responsibility for delivery onto the other partners. For example, if one of the partners falls short in their contribution to the project, the LSC will claw back funding from the lead partner. It is the responsibility of the lead partner to manage the partnership in such a way as to deliver the project.

The lead partner must identify the three main partners in any tender, obtain letters of commitment from them stating their role in the partnership, and include those letters in the tender.

The lead partner must ensure that partners comply with all the ESF rules, and the requirements in the Funding Agreement.

The lead partner must make all the returns required by the LSC on behalf of all members of the partnership.

A change to the partners during the course of the project would definitely be a significant change, so any such change must be discussed initially with the LSC Account Manager, and a written request and accompanying business case must be submitted to the Head of ESF at London West LSC before the change can be put into effect.

All correspondence from the LSC will be sent to the nominated contact at the lead partner, who should be able to respond to requests promptly on behalf of the partnership.

6.2 Partnership Management

There are many aspects of partnership management that are all the responsibility of the lead partner. Don't underestimate how much time is required to manage the partnership adequately.

Some aspects are:

- **Agreement:** Partners should formally agree on roles and responsibilities, quality standards, resources, and payments. This agreement should be

drawn up as a partnership agreement or service level agreement. Reference should be made to ESF and LSC rules and regulations.

- **Steering Groups:** It will be necessary to establish some means of communication to ensure that the partnership is operating as intended, and communication is clear. An option is to set up a steering group or working group to manage the strategic and day to day issues of running the project.
- **Monitoring:** The lead partner should set up arrangements to monitor all aspects of delivery by the partners. Action should be taken immediately if any of the partners are not delivering, because the LSC will hold the lead partner responsible for adhering to the Funding Agreement.
- **Communication and Briefing:** Communication takes time and effort. Don't underestimate how much is needed to run the partnership. Steering groups and other meetings will play a part. Part of gaining agreement on roles and responsibilities will involve briefing all the partners their respective roles, and on the requirements of ESF regulations.
- **Cross-cutting Themes:** The ESF cross-cutting themes of Equal Opportunities, Sustainable Development and ICT are considered very important in the delivery of ESF projects. The partnership must plan carefully how they are all going to deliver on these themes.
- **Conflict:** Sometimes partners disagree, which can seriously put the achievement of the project at risk. There should be a mechanism in place to try and manage any disagreements. Conflict with partners should be identified as a risk factor and appropriate actions should be planned to reduce the risk or to continue to deliver the project in the event of the risk actually happening.

6.3 Partnership Agreements

Partnership agreements or service level agreements (SLA) should be drawn up so that it is clear what is expected from each partner. You will find that such an agreement is invaluable, especially if there is any disagreement at a later stage as to who is responsible for what.

London West LSC cannot be prescriptive about what should be in a partnership agreement, but it should cover all the issues identified in paragraph 6.2.

7 Eligibility

7.1 Introduction

The London West LSC recognises that the issue of eligibility for ESF funding can be complex. However, it is a requirement of funding that all beneficiaries and employers are eligible, and it is your responsibility as an ESF Co-financing provider to check that eligibility and to keep sufficient evidence that you have made that check.

The London West LSC does not wish to make this more burdensome than necessary, so this guidance is issued to try and help you through the process. If you have any questions, or suggestions for improvement, please send them to:

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7.2 Beneficiary eligibility

ESF Co-financing targets key groups and sectors from within the London area. The groups differ between the priorities and measures and those that are eligible for your project are specified in the Funding Agreement at Appendix 1.

As well as these specific eligibility criteria, there is the over-riding requirement that all beneficiaries should be legally resident in the UK, and (with some few exceptions, mentioned later) should be able to take up **full time paid employment** in the UK.

7.2.1 Refugees, Asylum Seekers, and other Non-EU Nationals

Refugees. Refugees are people who have already been granted permission to stay in the UK and have been granted the right to take up paid employment. Refugees are eligible for ESF funding.

Asylum Seekers. Asylum seekers are people who are seeking permission to stay in the UK. In general they do not have the right to take up paid employment, and so they are not usually eligible for ESF funding.

However, Home Office ministers have indicated that they are keen for asylum seekers to be able to engage in useful activities whilst awaiting Home Office

decisions on whether they will be granted refugee status. Therefore, asylum seekers are eligible for ESF funding for certain activities **that do not lead to access to the labour market**.

These activities include:

- initial English for speakers of other languages (ESOL), and other basic skills (literacy, numeracy and IT) where they are not part of provision that leads to employment;
- orientation provision to raise awareness of the rights and responsibilities of asylum seekers and labour market needs;
- provision of information about further education and voluntary work they can participate in;
- general advice about what awaits those given leave to remain in the UK (information about law, culture, housing, welfare, health, educating and employment); and
- involvement in voluntary activity within the asylum community.

Other Non-EU Nationals. Other non-EU nationals, (those who are not refugees or asylum seekers) need to have been granted the right to stay in the UK and to take up paid employment from the Home Office, before they can be eligible for ESF funding.

Some Frequently Asked Questions.

- No Recourse to Public Funds. Does a passport stamp saying, 'No Recourse to Public Funds', make someone ineligible? This does not automatically make them ineligible because it refers to benefits. You should check the eligibility in the normal way as in paragraph 7.3 and if they have the right to take up full time employment, then they are eligible for ESF funding.
- Visas and Entry Clearance. Does a visa or entry clearance stamp in the passport make the person eligible? Nationals from certain countries are required to obtain a visa or entry clearance certificate from UK embassies before they travel to the UK. This frequently applies to spouses of UK citizens. If someone has been issued with a valid visa or entry clearance that has not expired, then this demonstrates that they can work in the UK (but note at 7.4.4 that non-EU students and au-pairs are not eligible).

7.2.2 EU Nationals

From 1 January 2007 there are 27 member countries in the EU. Nationals from the 25 EU countries that were already members before 1 January 2007 are eligible for ESF funding **if they are legally resident in the UK**. Nationals from Bulgaria and Romania, which joined the EU on 1 January 2007, are subject to special restrictions outlined below.

EU member states before 1 April 2004, plus Cyprus and Malta

Nationals of the 15 countries that were EU members before 1 April 2004 (Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy,

Luxembourg, Netherlands, Portugal, Spain, Sweden, UK) plus Cyprus and Malta, which joined the EU on 1 April 2004, have the right to stay in the UK and are therefore automatically eligible for ESF funding.

A8 EU member states - joined 1 April 2004

Nationals of the A8 central and eastern Europe accession countries, which joined the EU on 1 April 2004 (Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, Slovenia), **will be legally resident, and therefore eligible for ESF funding if they are:**

- In work and registered under the Home Office Worker's Registration scheme; or
- Seeking work and self-sufficient; or
- Not required to register.

Bulgaria and Romania - joined 1 January 2007

Nationals from Bulgaria and Romania in general **do not have the right** to work in the UK, and therefore most are **not eligible for ESF funding**.

However, provided the rules below are followed, some will be able to work legally and would therefore be eligible for ESF funding. The market will be opened gradually to citizens of these two countries, and initially this will be restricted to highly skilled workers and low skilled workers to fill vacancies in the agriculture and food processing sectors.

Bulgarian and Romanian citizens must, except where they are exempt (see below), obtain a work authorisation document before they start work, in order to be legally employed in the UK. This document can be an accession work card or a Seasonal Agricultural Workers Scheme card.

The following groups are exempt from the need to obtain an authorisation document:

- Those with permission to work by means of a work permit or leave to remain giving permission to work in the UK;
- Those who are spouses of European Economic Area (EEA) country or British citizens;
- Individuals who have completed, on or after 31 December 2006, 12 months continuous lawful employment in the UK;
- Individuals who have leave to remain in the UK and that leave is not subjected to restrictions on taking employment;
- Those who are highly skilled and in possession of a registration certificate confirming that they have unrestricted access to the labour market;
- Bulgarian and Romanian students who intend to work less than 20 hours a week and are in possession of a registration certificate confirming that they have this restricted permission to take employment.

It follows from the rules above that Bulgarian and Romanian citizens who are relying on a work authorisation document to prove eligibility, **must have**

employed status; those who are relying on one of the exemptions **may be employed or unemployed**.

7.3 Evidence Requirements

London West LSC does not wish to make eligibility checking unnecessarily difficult, so we recommend the following approach.

As provider, you must be able to provide evidence for the LSC that you have verified for yourself that the beneficiaries have the right to work full time in the UK.

You should ask the candidate:

- their current nationality; and
- their place and country of birth.

These questions could be part of your beneficiary application form, or you may use another tailor made form. The candidate must sign the form as a self-declaration of the truth of the statements. Depending on the answer given by the candidate, you should take steps to obtain evidence for eligibility.

Please note: UK passports should not be copied, because the UK government has advised that to do so would be a breach of crown copyright. As provider, where it is necessary to see the UK passport, you should sign a declaration that you have checked the passport and that the beneficiary is eligible.

The following table gives the minimum evidence requirements.

Current Nationality	Country of Birth	Minimum Evidence Requirement
British	UK	Signed self-declaration
British	Not UK	Signed self-declaration + Signed declaration by the provider that the UK passport has been checked and the beneficiary is eligible.
EU country (other than the A8 central and eastern Europe accession countries, and Bulgaria and Romania. See 7.2.2)	Any	Signed self-declaration + copy of applicant's EU passport (or official national ID card)
EU country from the A8 central and eastern Europe accession countries. See 7.2.2	Any	Signed self-declaration + copy of applicant's EU passport (or official national ID card) + for employed nationals of the 8 central and eastern Europe accession countries, a worker's registration certificate, or proof that registration is not required.
EU countries – Bulgaria and Romania. See 7.2.2	Any	Signed self-declaration + An accession workers card, or a Seasonal Agricultural Workers Scheme card, or proof

		that they are exempt from the requirement to obtain one of these cards (see the exemptions in 7.2.2). Those who are self-employed must be able to show that they are genuinely self-employed and that their business activities are registered with HM Revenue and Customs.
Not an EU country	Any	Signed self-declaration + copy of an original Home Office (IND) letter stating that the applicant has the right to take up paid employment in the UK, or (being phased in from 2003) a UK residence permit endorsed in passports.

If you are in any doubt about the right to work of an applicant, you should refer to the Home Office document, '**Comprehensive guidance for United Kingdom employers on changes to the law on preventing illegal working**', which can be found by following the links at:

<http://www.ind.homeoffice.gov.uk/lawandpolicy/preventingillegalworking/> .

Under-16 eligibility rules are different and can be found at paragraph 7.4.5.

7.4 Policy and Measure eligibility criteria

Other criteria are identified in Appendix 1 of the Funding Agreement. However, some restrictions apply to certain categories of beneficiaries as detailed below.

7.4.1 Geographic Eligibility

You were asked about the geographical coverage of your project in your tender proposal. The breakdown provided in your tender proposal will form the basis of the geographical coverage for your project.

Projects may support beneficiaries from outside the London West LSC area (Brent, Ealing, Hammersmith and Fulham, Harrow, Hillingdon, and Hounslow) provided that the proportion of beneficiaries who live, work or train outside the area does not exceed 20%.

In the case of projects supporting organisations, at least 80% of the organisations supported must be based in the London West LSC area.

7.4.2 Unemployment

For ESF purposes, unemployment is a period where a person is not in paid employment. Periods of unpaid work (such as voluntary work) do not affect qualifying periods of unemployment and it is not necessary for beneficiaries to be registered for Jobseekers Allowance.

Part-time work of less than 16 hours a week in total will also not affect qualifying periods of unemployment, if the skills needed for the work will not lead to greater

involvement in the labour market. Casual or temporary work of not more than four weeks will also not affect their status as unemployed for ESF purposes.

7.4.3 Public Sector

ESF funding must not be used to support activity for people working in the public sector.

There is an exception for Skills for Life teachers seeking to gain the teacher qualifications introduced as part of the Government's Skills for Life Strategy. ESF can be used to support existing staff reach the new standards because they are not mandatory for this group. However, as all new staff entering the profession are required to gain the qualifications, this means that new staff (meaning staff entering the profession on or after 1 September 2002) are not eligible for ESF funding.

7.4.4 Foreign Students and Au-pairs

Foreign students and au-pairs from outside the EU do not have the right to take up full-time paid employment in the UK, and therefore they are not eligible for ESF funding.

7.4.5 Beneficiaries Aged under 16

People under the age of 16 can only be supported under certain measure specifications. In addition, only 13-15 year olds who are either socially excluded or in danger of being socially excluded can be supported by ESF. Appendix 1 of the Funding Agreement will be clear whether under-16s are eligible.

There is an obligation to provide all under-16s with a number of hours per week of learning, so the issue of 'right to work' does not apply in the same way as for other beneficiaries. Any under-16 should fall within the age range specified in Appendix 1 of the Funding Agreement, and they should in some way be either socially excluded, or at risk of being socially excluded. Social exclusion is sometimes referred to as NEET (not in employment, education, or training).

For evidence of eligibility, you should ensure that the candidate:

- is within the age range in Appendix 1;
- is socially excluded or at risk of being socially excluded; appropriate boxes should be completed on the Short Record to indicate the type of social exclusion;
- has a referral letter from the school, pupil referral unit, or institution where they are supposed to be learning;
- the Short Record should be signed by the young person; there is no requirement for signature by the parent or guardian

7.4.6 Age Discrimination

Age discrimination legislation came into force on 1 October 2006. The LSC has advised that ESF is considered to be a state funded training programme and is therefore outside the scope of this legislation. This means that you do not need to change your learner recruitment procedures for ESF projects significantly.

Most current London West ESF contracts refer to an upper age limit of 64, because that was the standard upper age limit for employment, and ESF is all about employment. In the spirit of the Age Discrimination legislation, people who are 65 or over may be eligible, provide that the training is geared towards employment. The following points will help you decide on age-related eligibility:

- ESF funding is completely geared towards employment (either getting people into jobs or helping them to stay in jobs) so anyone taking advantage of ESF funding must have 'employment' in mind, not simply personal interest.
- If the previous upper age limit was 64, this can now be extended beyond 64 **provided that** the person is taking the course or programme to improve skills to help towards gaining employment or to help stay in employment. It would not be sufficient for eligibility if the course were taken just for personal interest.
- LSC ESF programmes have also specified some other age restrictions for certain specifications, such as 16-19, and these have always had the 'objective justification' that that particular age group was not adequately catered for in particular measures. **These age limits will remain in place for eligibility purposes.**

7.4.7 People in Prison

The value that vocational and other training can have on people while they are in custody is recognised, but ESF is primarily aimed at people who are available to work in the job market. The following eligibility criteria apply to people in custody:

- People sentenced to less than two years can access ESF at any point during their sentence;
- People sentenced to more than two years can only access ESF during the last two years of their sentence.

7.5 Organisation Eligibility

ESF funding that supports organisations can only be directed at Medium, Small, or Micro Enterprises.

Working with organisations and employers may have 'state aid' implications and you must ensure that all organisations for which training is provided should complete **one** of the **Company Level Data Capture Forms**. See section 8 for guidance on 'state aid'.

For ESF purposes, a Medium Enterprise is defined as an enterprise which:

- Employs fewer than 250 people at the time the application is made;

- Has either a balance sheet at their accounting date, worth no more than 43 million Euros, **or** an annual turnover of less than 50 million Euros; and
- Is independent – that is, is not more than 25% of the capital or voting rights owned by one enterprise, **or** jointly owned by several enterprises falling outside the definition of SMEs.

A Small Enterprise is defined as an enterprise which:

- Employs 50 or less people at the time the application is made;
- Has either a balance sheet at their accounting date with assets, less liabilities, worth no more than 10 million Euros or an annual turnover of no more than 10 million Euros; and
- Is independent – that is, is not more than 25% owned by firms that do not qualify as SMEs under the above requirements.

A Micro Enterprise is defined as an enterprise which:

- Employs 10 or less people at the time the application is made;
- Has either a balance sheet at their accounting date with assets, less liabilities, worth no more than 2 million Euros or an annual turnover of no more than 2 million Euros; and
- Is independent – that is, is not more than 25% owned by firms that do not qualify as SMEs under the above requirements.

7.6 A Final Word - Checking Eligibility

It is your responsibility as an ESF Co-Financing provider, to check the eligibility of all applicants for ESF funding. For instance, they will need to ensure that asylum seekers have the appropriate documentation from the Home Office defining their status. We recommended that you keep photocopies of any documentation relating to the status of individuals to demonstrate their eligibility. ESF Account Managers and LSC auditors will carry out eligibility checks as part of their project monitoring.

Please note that eligibility should be determined on the day before a beneficiary starts on the project. For instance, if a beneficiary is being supported under a project funded under measure 2.2, they will be eligible if they are unemployed on the day before they start on the project, even if they subsequently move into employment while on the project or upon completing the project.

8 State Aid

8.1 What are the State Aid Rules?

State Aid rules are in place to ensure that the member countries of the European Union do not distort the single market by providing aid to organisations involved in commercial activity that gives them an unfair advantage compared with their European competitors.

There is no precise definition to explain what State Aid is. However there is a very clear statement of principle that any form of aid to a commercial organisation – whether provided directly by the state or provided indirectly through ‘state resources’ – does not meet single market principles if it distorts, or threatens to distort competition within the community. Aid to individuals and most grants to public and not-for-profit organisations, such as voluntary, charitable and cultural bodies, are not affected by State Aid rules **unless** they are involved in commercial activities or compete with commercial organisations. You can find further guidance on State Aid in the DTI document, *State Aids Guide – Guidance for State Aid Practitioners* (<http://www.dti.gov.uk/bbf/state-aid/advice/index>).

8.2 What does this mean in practice?

8.2.1 When should State Aid to employers be considered?

In practice this means that any ESF co-financed funding support given to employers could be construed as giving them a competitive advantage over other enterprises in the European Union because they are receiving support towards the cost of training, and ESF providers must consider the State Aid implications.

8.2.2 When can I ignore State Aid to employers?

Even though your project may be supporting training for employers, there are circumstances where the support is not considered to be State Aid:

- Where the aid provided is available to all enterprises, for example through New Deal or Apprenticeships, the support does not favour certain enterprises and so does not constitute State Aid;
- Where the aid provided is not to a commercial enterprise, it does not constitute State Aid – but beware, any non-profit making organisation (voluntary, charitable and cultural bodies), can be considered to be involved in commercial activities or to be competing with commercial organisations if they, for example, have a shop or a trading arm.
- Where the type of training is available free to all, skills for life for example, it does not constitute State Aid because it is available to all.

In these circumstances, you will be required to declare your exemption from State Aid rules in writing to your ESF Account Manager.

8.2.3 If State Aid applies, what do I have to do?

If, however, your project supports organisations that carry out commercial activities (including non-profit making organisations), then state aid regulations may apply. Likewise, elements of the London West LSC programme that support individuals in employment may also have state aid implications if their employers are receiving support towards the costs for that training.

There are two 'exemptions', which allow State Aid to be given, provided that the rules are adhered to.

8.2.3.1 De Minimis (that is, Not Significant)

This exemption can be used for much of ESF support. From 1 January 2007, it allows an enterprise to receive up to **€200,000** (approximately £134,000 in January 2007) in state aid, over a **3 year rolling period**, except in the transport sector where the limit remains at **€100,000** over a 3 year rolling period.

The de minimis exemption cannot be used for the following areas:

- The coal sector;
- The agricultural sector;
- Export related industries; and
- Aid that depends on using domestic rather than imported goods.

The provider must put in place a monitoring system to make sure that the €200,000 limit (or €100,000 for transport) is not exceeded over a three year period. This will involve:

- Asking all employers receiving support under their scheme to identify all other sources of support (either in cash or in kind) that they have received in the last three years. This will be done by the provider ensuring that the employers complete a Company Level Data Capture Form (De Minimis) This form must be retained as evidence of compliance by the provider. An electronic copy of the form can be obtained by contacting the London West LSC ESF team, using the contact details at the end of this handbook.
- Updating the de minimis information every year by ensuring that providers complete a new Company Level Data Capture Form (De Minimis) every 12 months.
- Checking if previous de minimis aid is involved, to make sure that the combined assistance does not exceed €200,000 (or €100,000 for transport) over any three year rolling period. The enterprise receiving support will need to calculate the cash equivalent of any aid in kind. If the limit is exceeded, the aid may have to be reduced or refused to keep it within the €200,000 (or €100,000 for transport) limit.
- Informing the provider in writing of the aid they have received annually, quoting the regulation number 1998/2006 (on the form).

Although de minimis rules are straightforward in principle, they are difficult to operate in practice because they are not project related. They rely on individual enterprises being able to identify how much aid they have received and under

which schemes over a rolling three year period. Money received from notified and approved schemes such as New Deal does not have to be included with de minimis aid. When enterprises have received the aid they are allowed under de minimis, they can receive no more through ESF. Because of these difficulties, the use of de minimis is not always recommended if other alternatives are available.

8.2.3.2 The Training Aid Exemption

The training aid exemption offers an alternative to the de minimis exemption, and because of the evidential complexities involved with de minimis is in many ways a better option.

The training aid exemption regulation covers all sectors and there is no need to monitor levels of de minimis aid provided to individual enterprises. However, dealing with aid through this regulation will result in a number of administrative issues for providers, employers and beneficiaries. Under this exemption, ESF funding can be used to contribute to the costs of training, but the enterprises supported must make a contribution to a proportion of the costs.

The ESF measures that are eligible for the training aid exemption are those that can support employed people and so are likely to provide aid to enterprises. The following measures are eligible under the London West ESF programme:

- 3.1 promoting wider access and participation in lifelong learning
- 3.2 improving the employability of those in work
- 4.1 supporting companies, especially SMEs to update and upgrade their employees' vocational, basic and key skills
- 4.2 identifying and meeting emerging skill shortages
- 5.1 improving women's access to learning and employment.

Training Aid rules can be applied to any enterprise and allow aid up to €1,000,000. However, a contribution must be provided by the organisation receiving the aid. Contribution rates vary according to the size of the enterprise and the type of training being offered. The maximum percentages of ESF funding that can be contributed to a project are listed in the table below.

Organisation size	Specific Training	General Training
Large Enterprises (250 or more employees)	25%	50%
Small and Medium Sized Enterprises (up to 250 employees)	35%	70%

Please note however that all LSC London West ESF funding supporting organisations must be directed at SMEs.

General training is provision that is not only applicable to assisting the employee's present or future position in the firm, but provides qualifications that are transferable to other firms or areas of employment and substantially improves the employability of the employee concerned.

For training to be considered as **general**, it must be recognised, certificated or validated by public authorities or by other bodies with the necessary powers. An example would be training that leads to a National Vocational Qualification (NVQ).

Conversely, **specific training** is where the training provided is principally applicable to the employee's present or future position in the assisted organisation and provides qualifications that are not transferable.

We would expect that most ESF-funded provision would involve general, rather than specific, training to employees from SMEs.

Where the worker is **disadvantaged**, the aid can be increased by 10%.

A **disadvantaged worker** is:

- Any young person under 25 who has not previously obtained their first regular paid employment;
- Any person with serious disabilities which result from physical, mental or psychological impairments and yet are capable of entering the labour market;
- Any migrant worker who moves or has moved within the Community or becomes resident in the Community to take up work and who needs professional and/or language training;
- Any person wishing to re-enter working life after a break of at least three years, and particularly any person who gave up work on account of the difficulty of reconciling their working life and family life, for the first six months after recruitment; or
- Any person older than 45 who has not attained an upper secondary educational qualification or its equivalent.

8.2.3.3 Calculating the State Aid Contribution

As we would expect most ESF-funded provision to involve general training to employees from SMEs, we would expect organisations supported through projects to make a contribution of **30% of the direct training costs** for the employee (subject to the case of disadvantaged workers).

In addition to training for employees, other ESF funded projects may be supporting employers generally, for capacity building or to support the achievement of liP for example. Providers of these projects will also be required to comply with the state aid rules in the same way as those dealing with employees.

LSC London West accepts that providers may comply with state aid rules by accepting the 30% employer contribution in cash or in kind. However, this choice will have been made at the time that the applications for funding are submitted. If the applicant includes an employer contribution in cash in their tender, this will be taken as an indication that the 30% contribution will be paid in cash when and if the project is up and running. If there is no cash contribution included in the application, this will be taken as an indication that, if successful, the 30% contribution will be in kind.

If applicable, the precise amount of cash contribution will be refined during the contracting stage and this will be deducted from the ESF funding provided by the LSC.

To calculate the **direct training costs**, use the following as a guide:

- Direct costs are project costs that have a link to the beneficiary. Examples of direct costs are:
 - Tutors;
 - Assessors;
 - Other staff costs relating to project delivery, such as administrator, project manager, project director (non-direct cost elements such as planning, research, reporting, evaluation should be excluded);
 - Verification and certification;
 - Course materials;
 - Include material design, contact time and client-centred work from start to completion of training;
 - Beneficiary materials;
 - Other beneficiary costs identified in the proposal (such as childcare or travel);
 - Room hire.

- Examples of indirect costs are:
 - Overhead;
 - Recruitment of staff and beneficiaries;
 - Research;
 - Evaluation;
 - Marketing;
 - Advertising;
 - Promotion;
 - Capital costs.

Each organisation supported will need to complete a Company Level Data Capture Form (Training Aid). This form must be retained as evidence of compliance by the provider. An electronic copy of the form can be obtained by contacting the London West LSC ESF team, using the contact details at the end of this handbook.

8.2.3.4 In cash contributions

In order that the contribution cannot be construed as providing revenue, it is vital that the provider maintains records that the ESF funding and the employer's contribution together make up the cost of training **and no more**.

As an example, if the unit price of training in the provider's tender was £2,000 but the direct cost of the training for one individual was £1,200 (the other £800 being made up of admin/overhead costs etc. within the application) then the contribution at 30% would be £360 (30% of the £1,200 cost of training that individual).

8.2.3.5 In kind contributions

In kind contributions will usually be in the form of 'time' that the employees spend in training when they would otherwise be working for the employer. A time recording sheet should be provided for each employee by the employer, stating the employee's hourly rate and oncosts. The timesheet should then be maintained by the provider as evidence that the contribution rates have been met.

Using the same example as for in cash contributions above, with in kind contributions, the £1,200 now represents 70% of the total cost of training, so the in kind contribution in staff time should amount to £514.29 ($(£1,200 \times 100/70) - £1,200 = £514.29$).

Electronic copies of the weekly and monthly time sheets suitable for recording time spent on the project can also be obtained by contacting the London West LSC ESF team, using the contact details at the end of this handbook.

9 Marketing and Publicity

9.1 Marketing Your ESF Project

Both the new LSC and ESF logos must be used on all publicity and marketing materials, including web media. The LSC and ESF logos can be found through the links at the LSC brandsite (<https://brand.lsc.gov.uk/>).

To access the website:

- Once in the website, go to “Request access” on the left-hand side of the page;
- You will be asked to complete a form with your details and to give your LSC London West contact's name and email, which will be you LSC London West Account Manager;
- Click the “Request access” button;
- Your LSC London West contact will then receive an automated email to approve the access request and you will get a confirmation that this has happened;
- Once your LSC London West contact approves the request, you will get access.

In cases where you cannot include the ESF logo, you need to refer to the fact that the project receives ESF funding by including the following statement – ‘This programme is part funded by the European Union through the European Social Fund’.

Copies of the final versions of all publicity and marketing materials should be sent to your ESF Account Manager.

You must also ensure that all learners and other beneficiaries (including organisational beneficiaries) are made aware of the support your project receives from ESF.

9.2 Press Releases

Press releases should refer to the fact that the project is supported by ESF. Copies should be kept on file and final content should be approved by LSC London West. When speaking to the media, the fact that the funding has come through ESF should be stated clearly.

9.3 Case Studies and Examples of Good Practice

LSC London West is required to send details of publicity, events and good practice to GOL each quarter. If you are planning any events, launches or VIP visits, you are required to forward details of such events to your ESF Account Manager **prior to the event**. You may be contacted by GOL or the LSC London West for information about publicity.

Please inform your ESF Account Manager of any interesting stories or case studies about your project that you believe would be of benefit to the LSC London West by completing the last section of your monthly narrative report.

9.4 Plaques

Permanent plaques should be displayed in buildings where ESF funding has supported a project. Commercial business premises must display a commemorative plaque for at least one year.

Plaques and fixing kits are free to ESF projects please contact the company below quoting ESF001:

Corporate Document Services
7 Eastgate
Leeds, LS2 7LY
Email: orderline@cds.co.uk
Telephone: 0113 399 4040

9.5 GOL Project Directory

LSC London West are required to provide details of all ESF-funded projects to GOL for inclusion in their project directory (which is available through the GOL website at: http://www.golondon.gov.uk/european_structural_funds/objective_3/ESF_Projects_Directory/).

The information we forward to GOL is based on information you provide to us. Therefore, please advise your ESF Account Manager of any changes to your contact details, location or other relevant information about your ESF project.

10 Timetable for Returns

10.1 Co-financing Monitoring Returns

10.1.1 What is the CMR?

As part of the monitoring process, activity returns, known as Co-financing Monitoring Returns or CMRs, must be sent to London West LSC by the **fifth working day** following the month during which the activity took place. CMRs are a monthly report of progress in achieving the project deliverables, the outputs, outcomes and milestones. It is a contractual requirement to submit the CMRs by the appropriate date.

The CMRs are submitted electronically, through the Provider Online Data Collection System. Training has been given to all providers on how to access the collection system, but should you experience problems in using the system please contact the London West ESF Data Manager whose contact details are given at the end of this document.

Please do not leave submitting the CMRs to the last minute, as this will leave no time for solving any of your queries.

Payment on the 18th working day of the month is dependent on satisfactory submission of the CMR.

10.1.2 What should be included in the CMR?

The CMR must be an accurate return of what you have actually achieved in terms of the contractual outputs, outcomes and milestones during the previous month. Your contract Delivery Plan and Payments Profile (Appendix 2 and Appendix 4) specifies what outputs, outcomes and milestones you are expected to deliver each month, and you should enter onto the CMR what you have actually achieved during that month, which may or may not be the same as the plan.

If any of the deliverables on the return vary by more than 10% from the contract delivery plan, you will be automatically prompted to complete a narrative report where you can briefly explain the reasons for the variance.

If you have not achieved any deliverables in any month, either because there were no deliverables on the plan for that month, or for other reasons, you must still enter a nil return. This can be done quickly from the CMR system, by clicking the nil-return button. You will be expected to complete a short narrative report as above, if some delivery was expected that month.

The final part of the CMR to complete is the Monitoring Tab. Enter the total number of hours that beneficiaries have been on the programme that month.

The CMR is an absolutely critical return in the sense that:

- Your LSC Account Manager will look at it and expect to see evidence that you have achieved what is on the CMR.
- The LSC auditor will use it to test the evidence that you have achieved what you are claiming, and any CMR that is not supported by evidence will result in funding being clawed back.
- The payment you receive is dependent upon an accurate CMR.

10.1.3 Some advice on the CMR and audit trail

Each ESF project and contract is different but you should always follow the advice below:

- If the output or outcome you are reporting is related to a beneficiary start or achievement, you must ensure that you have submitted the corresponding Short Record or ILR for that beneficiary through the Provider Online System. The numbers of Short Records/ILRs must match the CMR submissions.
- You should be able to demonstrate a complete audit trail from the CMR. A good way of doing this is by keeping management information, which could be as simple as a spreadsheet, listing the names of the beneficiaries against each output or outcome that you are claiming in any one month. The beneficiary names will then lead to the individual folders where all the detailed evidence will be retained. Do not enter any outputs, outcomes or milestones on the CMR unless you have full evidence for achievement of those deliverables. The evidence required is specified in the contract Delivery Plan.

10.1.4 Co-financing Monitoring Return Timetable

Activity for the month of	CMR due at latest by
November 2006	7 December 2006
December 2006	8 January 2007
January 2007	7 February 2007
February 2007	7 March 2007
March 2007	12 April 2007
April 2007	9 May 2007
May 2007	7 June 2007
June 2007	6 July 2007
July 2007	7 August 2007

10.2 Online Data Collections

These are the records of Short Records or ILRs that must be completed for all beneficiaries that pass through your programme.

Short Records/ILRs are also submitted electronically, usually through the Provider Online Data Collection System. Training has been given to all providers on how to access the collection system, but should you experience problems in using the system please contact the London West ESF Data Manager whose contact details

are given at the end of this document. A small number of providers submit Short Records/ILRs by batch electronic transfer. If you submit in this way, please contact your software supplier for instructions on how to interface with the LSC Data Collection System.

Short Records/ILRs should be submitted regularly, preferably at the same time that the beneficiary is being interviewed, so that a copy can be printed off, signed by the beneficiary and filed.

You must ensure that you have submitted a Short Record/ILR for each beneficiary, and that it is updated when necessary with, for example, additional learning aims or learning outcomes.

Some fields on the Short Records/ILR include a code for "Not Known/Not Provided". While London West LSC recognises that in some cases it can be difficult to gather this information, the "Not Known/Not Provided", should only be used where absolutely necessary. If you do find that you are routinely having to use the "Not Known/Not Provided" codes, please raise the matter with your account manager.

The Short Record/ILR forms and accompanying guidance on completion can be found at:

<http://www.lsc.gov.uk/Providers/Data/Datacollection/ILR/ILR+Documents+2006-2007.htm#ESF>.

Cross-cutting Themes

The LSC and ESF both require that providers show how they are supporting the three cross-cutting themes of equal opportunities, sustainable development and the use of ICT.

10.3 Equal Opportunities

10.3.1 Background

The LSC has a statutory duty to promote equality and diversity. In order to do this, we seek to include equality and diversity into all our work. For our statutory provision, this is achieved, in part, through Equality and Diversity Impact Measures. We also seek to promote equality and diversity in our ESF co-financed projects.

Accordingly, ESF providers are required to embed equality and diversity within their project delivery, and actively promote it within their organisations. This involves complying with legislation, developing equality and diversity policies, beneficiary demographics and project monitoring.

10.3.2 Equality and Diversity Legislation

Providers should ensure that all their policies and practices comply with anti-discrimination legislation including:

- Sex Discrimination Act (1975);
- Race Relations Act (1976);
- Disability Discrimination Act (1995);
- Race Relations (Amendment) Act (2000);
- Special Educational Needs and Disability Act (2001);
- Employment Equality Regulations (Religion and Belief); and
- Employment Equality Regulations (Sexual Orientation).

Although these are the main pieces of legislation that directly tackle discrimination and equality, other legislation such as the Flexible Working Regulations (2003) may also have implications for equality of opportunity. The Human Rights Act (1998) also has many implications for services provided by public bodies.

Guidance on the implications of this legislation can be found from a variety of sources – these websites are just a starting point:

- Equal Opportunities Commission www.eoc.org.uk;
- Commission for Racial Equality <http://www.cre.gov.uk/>;
- Disability Rights Commission www.drc.gov.uk;
- Acas www.acas.org.uk;
- National Council for Voluntary Organisations www.askncvo.org.uk.

10.3.3 Monitoring Equality and Diversity

Equality and diversity has an impact on most, if not all areas of a project, but we cannot monitor them all. Therefore, in order to ensure that this is significant and will identify compliance with legislation where possible, we have decided to limit monitoring of 2005-2007 ESF projects to:

- Progress in achieving any equality and diversity strategies or achieving the agreed beneficiary diversity profile;
- Discipline and grievance cases with an equality and diversity dimension;
- Physical adjustments or adaptations made to facilitate learners or staff; and
- Good news/good practice stories.

These areas will be monitored on a quarterly basis by your ESF Account Manager and we will monitor them in the same way we conduct other quarterly reviews.

10.3.4 Equality and Diversity Policies

Your ESF Account Manager will discuss your Equal Opportunities Policy and make recommendations. These should be incorporated into a revised policy as agreed with your ESF Account Manager.

10.3.5 Equal Opportunities and Beneficiary Profiles

Most projects will target one or more socially excluded group. Some equalities elements (gender, disability, ethnicity) of your beneficiaries may have been written into your tender, and therefore into the contract – however, other elements may not.

In order to integrate equality and diversity into all aspects of projects, it is important to try to ensure that the beneficiary profile takes into account not only the target attributes specified in the tender, but also the other demographics – for example:

- If a project targeted lone parents or ‘socially excluded groups’, we would expect the beneficiary profile to match the cohort profile on the basis of gender, ethnicity and disability;
- If a project targeted women from the Bangladeshi community, we would expect it to also ensure that there are a sufficient proportion of beneficiaries with disabilities.

In the interests of simplicity, we will not be monitoring all equality and diversity areas relevant to beneficiaries at this stage, but will restrict monitoring to gender, disability and ethnicity, as profiled in your delivery plan.

10.3.6 Adjustments to Accommodate Needs On the Basis of Disability, Religion or Any Other Need

Under legislation such as the Disability Discrimination Act (DDA) and the Employment Equality Regulations (Religion and Belief), businesses and training providers have to make reasonable adjustments to enable them to be accessible.

Under the DDA, some of these amendments should be anticipatory, such as ensuring that premises are accessible to wheelchair users. However, other adjustments will not be as easy to anticipate. Therefore, you may from time to time be asked to make adjustments. Examples of this could be:

- Accommodating the religious needs of staff or learners by providing time off for religious observance; or
- Providing learners with course materials in accessible formats.

Quarterly reports should capture how often such requests are made, and how providers seek to accommodate these requests. Information gathered in this section could indicate support needs for your organisation, or more general support needs for all providers.

10.3.7 Internal Complaints or Discipline and Grievance

Complaints or disciplinary actions can often have equality and diversity aspects. Monitoring complaints or disciplinary proceedings is important as it may highlight non-compliance with anti-discrimination legislation and may reveal training and development needs of both staff and learners. In both cases, early awareness can help us point providers in the right direction for guidance on the law, thus preventing the situation escalating. Information should be incorporated into quarterly reports.

10.3.8 Good News Stories or Good Practice

We are also often asked for good news stories and equality and diversity stories for marketing purposes. Therefore, please record any success stories that have equality and diversity dimensions (such as learners overcoming diversity and stereotypes to succeed). We are also interested in good practice stories, so if you feel your project has developed new ways of working in areas such as reaching hard to reach groups or promoting success, we would like to share this knowledge with other organisations.

10.4 Sustainable Development

10.4.1 What is Sustainable Development?

Sustainable development is a process that seeks to ensure a better quality of life for everyone, now and for generations to come. It does this by integrating social, environmental and economic considerations equally into everything we do. It recognises that social, economic and environmental issues are interdependent and therefore activity in one of these areas should not be pursued in isolation but with consideration for each of the other areas as well.

There are four objectives to guide sustainable development:

- Social progress that recognises the needs of everyone;
- Effective protection of the environment;
- Prudent use of natural resources; and
- Maintenance of high and stable levels of economic growth and employment

For details go to <http://www.sustainable-development.gov.uk>

10.5 Use of ICT

As part of the drive to widen access to information and communications technology and to enhance the opportunities for new forms of knowledge and new ways of working, providers should ensure that they incorporate ICT into their delivery wherever appropriate in order to maximise the skill of the beneficiaries. Providers should also consider how ICT could be used to deliver, manage and monitor the project to enable greater effectiveness and control.

11 Contact Information

The London West LSC Account Managers and ESF team details are:

Name and Title	Responsibility	Email	Telephone
Your LSC Account Manager	First point of contact for all issues	<forename>.<surname>@lsc.gov.uk	020 8929 <ext>
Ian Holliday Operations Manager	All operational issues; eligibility; state aid; requests for significant changes	ian.holliday@lsc.gov.uk	020 8929 8423
Jeremy Barker Compliance Manager	Tenders for new ESF rounds; open and competitive tendering; planning	jeremy.barker@lsc.gov.uk	020 8929 8458
Chris Shaw Data Manager	Data issues; publicity; cross-cutting themes	christopher.shaw@lsc.gov.uk	020 8929 8475
Bhavisha Unjia	Contract Monitoring; events management	bhavisha.unjia@lsc.gov.uk	020 8929 8417

The general details for the London West LSC are:

Post	Central House, 3 Lampton Road, Hounslow, Middlesex, TW3 1HY
Telephone	0845 019 4164
Fax	020 8929 8403