



Protection for Learners' Procedures (Revised)
October 2011

1. Introduction

- 1.1 The Qualifications (Education and Training) Act 1999 recognises and provides for a diverse range of providers. The Act defines a provider of a programme of education and training as a “person who, or body which, provides, organises or procures a programme of education”. A provider can be either publicly funded or commercial and profit making.
- 1.2 Where a provider ceases to provide a programme prior to completion, the learner is left at a disadvantage. The Act seeks to ensure that learners have every opportunity to complete a programme leading to an award. To reinforce this, the Act gives specific mention to ‘Protection for Learners’ in Part VII (Sections 43-47) and outlines the requirements for compliance by the provider and by FETAC. Within the Act, ‘Protection for Learners’ refers only to programmes of three month’s duration or more.
- 1.3 The updated FETAC protection for learners (PFL) policy (2011) further clarifies the requirements and ensures that there are sufficient safeguards for learners undertaking programmes of learning leading to FETAC awards.

2. Policy

- 2.1 FETAC will endeavour to ensure, through the provider’s quality assurance procedures and validation, that learners are protected in the event of a provider ceasing to provide a programme of three months duration or more on a commercial and profit making basis.
- 2.2 Providers must first agree an overall policy and procedures for PFL with FETAC through the provider registration process. Subsequently, specific PFL arrangements must be agreed with FETAC, prior to the advertisement and delivery of each programme that is offered of three months duration or more on a commercial and profit making basis.
- 2.3 From September 2011, where an application for Pfl arrangements for a new programme is being made which could lead to a Common Award, the provider is required to offer the Common Award and make the Pfl arrangement application via the programme validation process.
- 2.4 Existing Pfl arrangements for programmes leading to existing (legacy) awards will be allowed to continue until the legacy awards are deactivated, subject to the review of these arrangements in order to ensure that the 2011 policy requirements are met.
- 2.5 The required PFL arrangements are, as a minimum, the following:
 - i. Letters of Agreement with two alternate providers with whom they have arrangements in place to accept learners in the event of a programme ceasing (see Appendix 2 for pro-forma letter)

Or

A bank guarantee for each programme, sufficient in value to cover refunds to all learners of fees (see Appendix 3 for pro-forma guarantee)

AND

- ii. A stated maximum number of learners to be enrolled on the programme (single or multiple courses) at any given time.

AND

- iii. Details of the information that will be provided to prospective and enrolled learners about the arrangements in place

AND

- iv. A stated procedure for FETAC to access learner records in the event of a cessation of a programme.

- 2.6 At any given time, the number of enrolled learners on a programme (single or multiple courses) must not exceed the stated maximum number in the PFL agreement for that programme.
- 2.7 Each time a programme commences, the provider must contact the alternate providers to ensure that the protection arrangements are current and sufficient.
- 2.8 Providers must publish their PFL arrangements and prospective learners must be notified of the arrangements prior to commencement of a programme, including either:
 - the names and contact details of the alternate providers and the names of the alternate programmesor
 - a summary of the bank guarantee arrangements that are in place

AND

 - a statement that, in the event of the implementation of a PFL arrangement, learner data may be shared with FETAC and alternate providers.
- 2.9 FETAC will evaluate applications to ensure that they are appropriate and sufficient and maintain a register of the PFL arrangements that have been agreed. FETAC may charge a fee in respect of applications. FETAC will also monitor the implementation of the PFL arrangements by providers, the provision of information to learners, on-going contacts with alternate providers and the procedure for accessing learners' records.
- 2.10 FETAC may agree a financial arrangement for the protection of learners, subject to the arrangement ensuring that there is sufficient protection for learners in providing alternate programmes and/or for the refund of monies most recently paid.
- 2.11 Providers must notify FETAC and enrolled learners, as soon as is practicable, when the need to implement a PFL arrangement arises. Providers must assist FETAC in the implementation of PFL arrangements.

2.12 If an alternate provider ceases to offer a programme, they must notify FETAC and the provider, informing them that the PFL arrangements are no longer valid. The provider must secure agreement with and advise FETAC of a new alternate provider within a month. If a new agreement cannot be secured the provider must cease enrolling new learners on the programme.

3. **Process for Agreeing Protection for Learners Arrangements**

3.1 All providers are specifically required to include within their quality assurance application their overall policy and procedures on PFL.

3.2 Providers are required to identify programmes for which section 43 applies i.e. that are longer than 3 months in duration and are offered on a commercial or profit-making basis. Agreement by FETAC of PFL arrangements must be sought for each programme to which section 43 applies, prior to delivery:

- with the programme validation application in the case of Common Awards
- prior to advertisement of the programme in the case of existing (legacy) awards.

3.3 The arrangements required are:

i. Letters of Agreement with two alternate providers with whom they have arrangements in place to accept learners in the event of a programme ceasing (see Appendix 2 for pro-forma letter)

OR

A bank guarantee for each programme, sufficient in value to cover refunds to all learners of fees (see Appendix 3 for pro-forma guarantee)

AND

ii. A stated maximum number of learners to be enrolled on the programme (single or multiple courses) at any given time.

AND

iii. Details of the information that will be provided to prospective and enrolled learners about the arrangements in place

AND

iv. A stated procedure for FETAC to access learner records in the event of a cessation of a programme.

3.4 Alternate providers must state the nature and extent of the arrangements that will be put in place. These must include, at the least, the following arrangements:

- completion of the programme
- assessment of learners who have completed the programme, including internal verification and external authentication arrangements
- the processing of results for certification.

- 3.5 Providers must apply to FETAC to agree the PFL arrangements. The application must be made in writing and include all of the documents outlined in 3.3 above.
- 3.6 FETAC will evaluate the arrangements to ensure that they are sufficient and robust. The PFL arrangements cannot be agreed unless FETAC satisfies itself that appropriate arrangements are in place. In the case of validation, a programme cannot be validated unless agreed PFL arrangements are in place.
- 3.7 If a provider makes a programme validation application at the same time as an alternate provider, the applications will be processed simultaneously and a decision to agree the PFL arrangements will not be made until all programmes have been evaluated and recommended for validation.
- 3.8 Following validation, the provider may commence advertising and delivering the programme. Programmes leading to existing (legacy) awards can be advertised following the agreement of PFL arrangements.
- 3.9 Providers must publish their PFL arrangements and prospective learners must be notified of the arrangements prior to commencement of a programme, including:
- the names and contact details of the alternate providers and the names of the alternate programmes
- or
- a summary of the bank guarantee arrangements that are in place
- and
- a statement that, in the event of the implementation of a protection for learners arrangement, learner data may be shared with FETAC and alternate providers.
- 3.10 At the commencement of each programme, the provider must contact the alternate providers to ensure that their alternate programmes remain in place. Evidence of this contact on the commencement of each programme session must be maintained by the provider for review by FETAC monitors.

4. Procedure for Activating Protection for Learner Arrangements

- 4.1 Protection for learner arrangements are activated when:
- i. a provider ceases trading while learners are enrolled on programmes
 - ii. a provider ceases offering a specific programme while learners are enrolled on the programme
 - iii. FETAC withdraws validation of the programme while learners are enrolled.
- 4.2 A learner enrolled is defined as any of the following:
- a learner who has paid fees but not commenced a programme
 - a learner who has commenced a programme

- a learner who has completed a programme but has not received FETAC certification.
- 4.3 Where a provider finds itself in a situation that requires the implementation of PFL arrangements, the procedure for activating protection for learners should be implemented immediately.
- 4.4 Where an alternate provider arrangement is in place, the provider must immediately notify FETAC and the named alternate providers in writing. The provider must supply the following information to FETAC and the named alternate providers:
- i. contact details post-closure i.e. the name and contact details of who can be contacted by FETAC regarding getting access to learner records and assessment material should it be required
 - ii. the following information for each relevant programme:
 - title
 - duration
 - target FETAC certificate i.e. Component Certificate/s or major award (code and title)
 - date validated (if appropriate).
 - iii. alternate provider details for each programme and copies of the signed letters from the alternate providers
 - iv. evidence of this assurance from the alternate provider (letter or email) on commencement of the programme session that current and sufficient protection for learner arrangements were in place
 - v. details of each learner affected i.e.
 - pps number
 - first name and surname (clearly distinguished)
 - postal address
 - contact telephone number
 - email address
 - fees recently paid
 - start date on programme
 - previously expected finish date
 - certification status - not yet certified, partially certified
 - components assessed but not yet submitted for certification (code and title)
 - components to be assessed (code and title). Please indicate for each whether the training is complete
- 4.5 Where a bank guarantee is in place, the provider must immediately notify FETAC and the relevant bank. Arrangements for the draw-down of funds must be communicated to FETAC. Details of each learner affected should be provided to FETAC, including:
- pps number
 - first name and surname (clearly distinguished)
 - postal address
 - contact telephone number

- email address
 - fees paid
 - start date on programme
 - previously expected finish date
 - certification status - not yet certified, partially certified
 - components assessed but not yet submitted for certification (code and title)
 - components to be assessed (code and title). Please indicate for each whether the training is complete.
- 4.6 The provider must devise an individual plan of action for each enrolled learner, to be communicated to the learner and FETAC.
- 4.7 The provider must contact each enrolled learner immediately, informing them of the situation and providing each of them with an individual plan of action for completion of the programme and/or arrangements involving alternate providers or for the transfer to FETAC of monies in the case of a bank guarantee.

Review

The policy on Protection for Learners will be reviewed following the establishment of Qualifications and Quality Assurance Authority of Ireland.

Further Information

Guidelines and Criteria for Agreement of Providers' Quality Assurance

Appendix 1 List of required documents for an application to agree Protection for Learner arrangements

<i>No.</i>	<i>Requirement</i>	<i>Documents</i>
1 1a	Letters of agreement with at least two alternate providers with whom the provider has arrangements in place to accept learners in the event of a programme ceasing Or A bank guarantee for each programme, sufficient in value to cover refunds to all learners of fees	2 letters using the pro-forma template (see Appendix 2) from FETAC registered providers Or A signed statement from the bank to the effect that the guarantee is in place (see Appendix 3)
2	A statement specifying the maximum number of learners to be enrolled on the programme at any given time	A signed written statement by the applicant provider
3	Details of the information that will be provided to prospective and enrolled learners about the arrangements in place, including information about the data implications if a protection for learners arrangement is implemented	A copy of learner information to be provided in programme prospectuses, websites, hand-outs etc. A copy of the specific information note outlining the protection for learner arrangements to be given to learners on enrolment, including a statement on data protection
4	A stated procedure for FETAC to access learner records in the event of a cessation of a programme	A signed statement from the provider outlining the procedure for access to learner records, including an indication of where learner data is stored (electronically) and an assurance that learner record data will be retained and updated by the provider
On-going	Contact with the alternate providers at the commencement of each programme session to ensure that the arrangements are current	A letter or email from each alternate provider indicating that the alternate programme is available

Appendix 2 Pro Forma Alternate Provider Letter

[on alternate provider letterhead]

[insert date]

To FETAC

We confirm that arrangements are in place between this organisation and [insert applicant provider name and address] to comply with Section 43.2.a of the Qualifications (Education and Training) Act 1999 in respect of learners on the programme(s) listed below leading to a FETAC Award.

[insert programme title] [insert FETAC award title] [insert FETAC award code]

We confirm that the arrangements in place will cover a **maximum** of [insert maximum number of learners to be covered by the arrangements] learners enrolled on the programme at any given time.

In the event that [insert applicant provider name] ceases to provide the programme before their learners have achieved the above award(s) we [insert alternate provider name] have agreed that the learners on the above programme(s) may transfer into the equivalent programme(s) at this organisation so that they can complete the programme. This includes, as a minimum:

- completion of delivery of the programme
- assessment of learners, including internal verification and external authentication arrangements
- the processing of results for certification.

We are currently registered with FETAC, roll number [insert roll number or provider registration number].

Yours sincerely

[insert signature]

[insert name, title and organisation]

Appendix 3 Pro Forma Bank Guarantee

[on Bank letterhead]
[insert name of Bank branch]
[insert address]
[insert telephone number]

[insert date]

Bank Guarantee To the Further Education and Training Awards Council

To FETAC

In consideration of your accepting the protection for learners arrangement for [insert name of programme] programme leading to [insert name of award] of [insert name of provider] and agreeing the arrangements, we the governor and company of [insert name of bank] hereinafter referred to as “the bank”, hereby guarantee the repayment to you of all amount payable by [insert name of the provider] to you in relation to the reimbursement of fees paid by learners enrolled on the [insert name of programme] programme of [insert name of provider] should such a reimbursement be necessitated in the event of a cessation of the programme. The total liability ultimately enforceable against the bank under this guarantee shall be limited to a sum or sums not exceeding an aggregate of € [insert sum equal to programme fees multiplied by the maximum number of learners].

Your demand for payment should be made in writing and delivered to the under mentioned branch of the bank and such a demand shall be conclusive evidence that the monies demanded by you are due and payable by the [insert name of the provider] without further enquiry.

The guarantee shall expire on [insert expiry date].

The guarantee shall be governed and construed in accordance with the laws of Ireland.

All correspondence relating to this guarantee shall be addressed to the manager [insert name of bank branch] [insert address of bank branch].

Dated [insert commencement date of the guarantee]

Signed on behalf of the governor and company of [insert bank name]
[insert authorised signature]