

Q&As from ESF Provider Events held in July 2008

Questions from Eligibility

Q: Learners are eligible if they live or work within the catchment area, but are they also eligible if they only train there?

A: For business support activity, participants should normally live or work in the area. For other activity working with individual participants they must live in the area. They are not eligible if they are only trained in the catchment area.

Q: Where do the Eligibility criteria come from?

A: ESF programme level eligibility criteria are specified by the European Commission (EC). These are defined by ESFD in the guidance section of www.esf.gov.uk within Manual 1. The LSC, via its specifications, will also specify project eligibility requirements to ensure the correct target groups and locations are targeted.

Q: Is it a Provider's responsibility to find funding for those people on a programme who aren't eligible for ESF Funding?

A: We would expect a Providers recruitment process to identify participants who are not eligible before they started on a programme, ideally referring them to a suitably funded Provider if possible. We are not able to pay Providers for ineligible learners.

Q: If a learner is in the summer holiday of their degree (three months outside of a learning environment) do they still count as "in funding"?

A: Although the learner would be eligible under the 2 main ESF eligibility conditions, it is unlikely they would be able to take up a place as they would not comply with other areas of eligibility criteria such as being in employment with an SME (for Employer projects).

Q: There is a checklist to make sure that learners signed up for ESF funded programmes are not eligible for Train to Gain under the new guidelines, but is there a stand alone document to state this for audit?

A: Not at present, Providers may wish to consider how to address best for their individual projects, perhaps as part of participant documentation such as the Individual Learning Plan.

Q: There was a problem in the old programme regarding postcodes that registered as part of the London boroughs- will there be a new CD coming out this round explaining about acceptable postcodes?

A: We are not currently aware of any updated CD, we are making further enquires and will publish any further information once available.

Q: For those providers working with asylum seekers, are documents needed to show their eligibility? And what should be done about those asylum seekers who do not have documentation with them?

A: New Asylum Seekers cannot be ESF participants unless they were granted permission to work before June 2003. They may however be supported by pre-vocational projects (excluding vocational guidance). No courses of this nature are being offered under the current round of funding so the question is unlikely to arise.

Q: Does the criteria "Citizens of states that joined the EU on or after the 1st of May" include all 10, or just those 8 who agreed to the terms of employment?

A: Malta and Cyprus are not included so it only applies to the other 8 accessions states.

Q: Is there a restriction on the number of times an individual can take place as a learner on ESF funded courses?

A: There is no restriction on the number of times an individual can take part in ESF funded projects, the old 3 year limit rule no longer applies. This is providing there is no undue repeat or overlap of activities; they can attend a variety of courses and can be on more than one project at a time subject no overlap of activity between projects. Care should be taken if an individual rejoins a project; they can only be counted once during the lifetime of the project as a 'start', there may also be restrictions on the number of activities that can be paid per individual on a project. You also need to be aware that the LSC systems will identify learners that move from project to project. In such cases checks are likely to be made to confirm the need for the further activity.

Q: Are self-employed people included under the term "employed"?

A: Generally yes but you need to check the target groups for your project as defined in the specification and your contract. If in doubt please refer to your LSC contract manager..

Q: If a beneficiary drops out during the run of a course can they return to it later on without it counting as a new start?

A: Yes, it will just count as an Additional Aim. The provider must keep a record of the dropout, and the reason for it, and either keeps the record open through the contract or re-opens it upon the learner's return and migrate the information.

Questions from Data

Q: Are the Monthly Employer Responsive returns the same as the ESF returns or are they in addition?

A: Monthly Employer Responsive (ER) returns are the same as the ESF ones. For those providers/colleges that complete full ILR for ESF ER contracts they need to submit the ESF data through the ER cycle of returns.

http://www.lsc.gov.uk/providers/Data/updates/08_039.htm gives clarification on if/when ESF SR form/returns should be used.

Q: For the completion of ILRs/SRs. If a learner completes an assessment for which the provider is paid, and then goes on to accredited or non-accredited further learning, do the providers have to fill out another ILR/SR?

A: Yes, but only the second part of the ILR because it's an additional aim. Employer Responsive use ILRs but others may use the SR which is much simpler and only needs section 2 completed.

Q: If gained qualifications are not a specified outcome of the contract do we report them?

A: Yes, use the SR to report this- it will show added value.

Q: IAG sessions in the past have used XESF. Why would you use XESF for qualifications not specified in the contract?

A: Only use it for non-accredited qualifications. IAG sessions should not be claimed as an additional aim, as they are included in the PAPS activity. To be claimed in S2 with the ZESF code.

Questions from State Aid and Employer Contribution

Q: Do the contributions have to be Cash?

A: No, they can be "in kind". But they must be recorded.

Q: A letter is sent to the Employer upon their application for State Aid, showing how much funding they have been granted. Is there a template for this?

A: There is not a specific template, but an example of a suitable letter is available from the BERR website and reproduced below.

"The assistance for [...] constitutes State aid as defined under Articles 87 and 88 of the Treaty of Rome and is being granted as 'de minimis' aid under Commission Regulation EC 1998/2006 (the "de minimis" aid regulation). European Commission rules prohibit any undertaking from receiving more than €200,000 'de minimis' aid over any period of three fiscal years. Any 'de minimis' aid granted over the €200,000 limit may be subject to repayment with interest. If you have received any 'de minimis' aid over the last three years (from any source) you should inform us immediately with details of the dates and amounts of aid received. Furthermore, information on this aid must be supplied to any other public authority or agency asking for information on 'de minimis' aid for the next three years.

For the purposes of the 'de minimis' regulation, you must retain this letter for 3 years from the date on this letter and produce it on any request by the UK public authorities or the European Commission. (You may need to keep this letter longer than 3 years for other purposes.)"

This should be kept by the Provider for 10 years.

Questions from Health and Safety

Q: Is there somewhere providers can access to gain a copy of the DVD?

A: The JCL safe learner DVD should be available soon from the safe learner web site www.safelearner.info. This site contains the LSC learner health, safety and welfare good practice guidance and it is recommended that Providers make regular visits to the site.

Q: Are Health and Safety checks necessary, because there are sections within other compulsory checks that cover the wellbeing of the learner, including health and safety. Would these not suffice as proof that the correct measures have been taken?

A: The LSC funding clauses require that HASPS (Health and Safety Procurement Standards) are implemented throughout all LSC funded learning. HASPS assist the Provider in coming to an informed judgement on the suitability of the delivery of learning, the facilities, environment and/or equipment being used and the learners health safety and welfare during their learning journey.

In implementing HASPS, Providers through the advice and guidance of their health and safety competent person may wish to consider a risk based approach, in terms of the depth required of each check on an employer. As an example, where learners may be vulnerable and/or working within high risk environments (e.g. Construction) a more in-depth HASPS assessment may be required than for a learner of good ability working within a low risk environment (e.g. Business Administration).

Q: Do the providers hold direct responsibility to check that all of their employers have effective health and safety measures and procedures within their work places to ensure the wellbeing of learners?

A: The LSC has a statutory duty to secure appropriate premises/facilities/equipment for learning; it implements this statutory duty through conditions of contract and its learner health safety and welfare seeking assurance processes. These conditions and processes require providers to make an informed judgement on the Health, Safety and Welfare suitability of employers prior to funding occurring, or the learner being placed, where they may not be directly employed. Whilst the Employer retains the overall duty of care for their employees, where funding occurs, the Provider also needs to meet the LSC

funding conditions and its own health and safety duties to the learner to ensure that learning takes place in a safe, healthy and supportive environment.

Questions from Contract: General Issues

The answers to the questions raised are still being investigated.

Questions from Audit

Q: With regard to evidence that must be kept until 2020, are either electronic copies or hard copies acceptable?

A: For ESF records hard copies are generally considered best. It is possible to keep records electronically and guidance on the requirements is available although rather onerous. If you are considering this option please contact us for further information.

Q: How do you prove that someone is at risk of becoming NEET?

A: The relevant school or education department should be able to provide you with a suitable referral letter or other documentation.

Q: The wording within the Evidence Requirements Checklist (specifically, “in order of preference”) is causing concern because some parts are vague, and providers want to know that even if they can only use the last possible option listed it will still be acceptable for audit purposes. Can a list please be produced showing the things needed to be kept in order for the providers to definitely pass their audit?

A: The wording of the list is fixed, and the preferences stand in the order in which they are considered most robust for audit. Any one of the options on the list is acceptable. Near the start of your project it is recommended you discuss with your LSC contract manager the specific types of evidence your project aims to provide. This will help avoid problem later on.

Questions from Contract- services, conditions, and visits

Q: Some providers already have a system in place to follow when assigning work outside of their company, or adding a partner to a contract. Is it alright for them to continue using this process for their ESF contract?

A: The understanding is that Providers can change delivery partners prior to the contract being signed, as long as the LSC are notified (via email is fine) without the need for OCT. If the contract has been signed they need to follow their own company system for OCT procurement.

Q: How are the providers supposed to know that they have been paid for each of their individual projects? The money comes through in bulk, without a sheet explaining which of the projects are being paid for with a percentage of that funding.

A: LSC remittance advices list the separate amounts that make up the total and for ESF they quote project numbers and the longer 14 digit ESF code. Providers may need to liaise with their finance department to check / confirm what has been received. Details of the profile payments due can be found in Schedule 1 Appendix 2 of the ESF contract.

Q: For the file checks, do these need to be original files or can they be photocopies?

A: It's up to each individual provider to decide what would be easiest and most sensible for their case. Copies of the files are absolutely fine for PA quarterly reviews, but originals will be required for audit and for retention until 2020. It is important to be very precise in the organisation and archiving of the evidence. It may be the safest option for each provider to gather in all the evidence at the end of the programme and store it all in the same place. All evidence must have signatures.

Q: Is there a standard format for completing the EDIM reports?

A: No, but content will be along the lines of the requirements of the ALI Common Inspection Framework. We are aiming to run some training and produce some guidance to help with this subject.

Q: Sub-contracting cannot start yet because the contracts have not been set up, but can beneficiaries start before the contract is finalised?

A: Contracts will be dated 1 June 2008. Letters of Intent can be arranged for providers whose contracts have been delayed in the system and who need such a document to enable them to start work. Providers who start without a Letter of Intent or a contract will do so at their own risk.