

# **State Aid Toolkit – 19+ Work Based Learning**

**CWc VYf 2010**

Of interest to providers



## **State Aid Toolkit – 19+ work based learning**

From 1 August 2010, monitoring will commence on a State Aid (Training Aid) General Block Exemption Regulation (GBER) covering 19+ work based learning. The block exemption has been applied for, since an analysis of work based learning within Employer Responsive established there was a risk that high volumes of non-entitlement Level 3's and 4's might constitute a State Aid.

The GBER will monitor and administer non-entitlement Level 3 and level 4 activity in work based programmes including Train to Gain, Apprenticeships and Joint Investment Programme and any successor programmes. This will ensure that employers understand that work based learning at higher levels, does offer them a competitive advantage compared to businesses that do not train their staff. It is therefore right and proper that a shared investment approach between the employer and government is used, with each contributing 50% towards the cost of training delivery.

Steps have been taken to minimise the perceived bureaucracy that's involved when monitoring state aid. But it's important to understand that this work is necessary, and will ensure that the Skills Funding Agency can correctly report what aid has been awarded to the European Commission and protect funding for future employer programmes.

Skills Funding Agency staff and providers should read the following information, so they understand what is involved and responsibilities for collecting, monitoring and reporting aid. Providers will need to ensure that employers are aware of their responsibilities when undertaking higher level non-entitlement skills activity. Providers will monitor and collect employer contributions, to ensure they remain compliant with the requirements of the scheme. The following information aims to answer queries relating to the administration of State Aid. This is summarised on a State Aid Process Chart which summarises when forms and actions are required.

Each company will need to be made aware that they are benefiting from a form of state aid, when they receive Skills Funding Agency funding for employees undertaking higher level skills development. Each employer is responsible for understanding their organisation's aid position, and for contributing the correct contribution towards eligible scheme costs.

Both providers and employers will need to maintain aid records for 10 years, since the European Commission can audit payments during this period of time. Providers will need to supply aid information to the Skills Funding Agency each year for the life of their contract, so that an annual State Aid return can be made to the European Commission.

Enquiries about this toolkit document should be directed to:  
[19plusgber@skillsfundingagency.bis.gov.uk](mailto:19plusgber@skillsfundingagency.bis.gov.uk).

# State Aid FAQ's

## 1. What is State Aid?

The State Aid rules are designed to limit the scope for governments to distort competition by funding favoured enterprises or business sectors, thereby giving them an unfair commercial advantage. So any payment or state subsidy made by government bodies to an enterprise engaged in commercial activities is potentially a State Aid, and there are limits on how much aid can be given to any individual business.

## 2. How is State Aid administered?

The European Commission has issued a number of regulations called "block exemptions", which enable State Aid to be granted for certain purposes and subject to certain caps, without the need to obtain clearance from the European Commission. These include the Training Aid Block Exemption and the De Minimis Block Exemption.

## 3. Why is a block exemption needed?

The BIS State Aid Branch reviewed the State Aid position for Employer Responsive provision and made recommendations for an application to be made for a General Block Exemption Regulation (GBER) for Training Aid. This is because the service has developed to offer a wider range and higher level of qualifications than when it was launched in 2006, and some of these could be considered to have State Aid implications.

## 4. Why is this affecting all 19+ skills delivery in the workplace?

It has been decided to apply for a broad 19+ work based skills Training Aid Block Exemption, to ensure that the Skills Funding Agency can correctly administer higher level skills delivery across all employer responsive provision including Apprenticeships, Train to Gain and Joint Investment Programme (JIP) and any successor programmes.

## 5. Which qualifications aren't considered to have State Aid implications?

The BIS State Aid branch has concluded that the following should not be treated as giving a State Aid when delivered in the workplace:

- Full funding for literacy and numeracy at all levels.
- Shared investment (employer and public funding) for ESOL at all levels
- Full funding for all Apprenticeships and Advanced Apprenticeships delivered to 16-18 year olds
- Co-funding for Apprenticeships
- Co-funding for first Advanced Apprenticeship
- Full funding for first full Level 2
- Full funding for Level 3 jumpers
- Full funding for first full level 3 for 19-25 year olds

## **6. What about qualifications delivered to individuals?**

State Aid regulations only apply when learning is delivered in the workplace and could potentially give some advantage to the employer. So where the learner organises and pays for their own training or learning (such as attending evening classes at a local college) there is no State Aid position.

## **7. What funding is involved in the block exemption?**

The block exemption covers Skills Funding Agency funded activity, that is delivered in the workplace.

## **8. How does this affect employers?**

Employers engaged in commercial activities are expected to make a contribution towards the delivery costs of higher level training, since the development of skills at this level contributes to increased productivity and profitability within the business. This is a shared investment approach with the government, enabling the employer to benefit from reduced training costs. However there are separate rules for certain groups of employers.

## **9. How does this affect public sector employers?**

The public sector can sometimes be outside of the scope of the State Aid regulations, when the organisation operates in a non-commercial way. However it should not be assumed that State Aid does not apply simply because the organisation is publicly funded or is a charity. An example of where State Aid would still apply, would be a charity shop – since the shop is in direct competition (for customers) with other high street businesses in its location it is operating on a commercial basis and would be required to make an employer contribution.

If there is any doubt about whether an organisation is exempt from the State Aid regulations, the onus is upon the employer organisation to review its State Aid status. It will need to make a written declaration to the training provider to confirm that an employer contribution is not required. In the event that this is later found to be incorrect, the employer will be responsible for paying back any aid which has been incorrectly awarded.

## **10. What information should be given to the employer?**

At the point that the employer expresses an interest in 19+ non-entitlement activity, they should be advised about the State Aid implications and the requirement for them to make a 50% contribution towards the eligible costs.

## **11. How will the employer make their contribution?**

The Skills Funding Agency will pay 50% of the costs to the provider as normal, to fund the delivery of activity, and the employer will pay their contribution to the provider. This will usually be a cash payment, which will need to be evidenced with an invoice. If the employer requests an in-kind contribution methodology, the provider will need to retain timesheets for every learner to prove that the required 50% contribution has been paid. It is a requirement of the European Commission that the employer maintains wage or payroll records to demonstrate how much each learner was paid, and this will need to be retained for 10 years following the activity. For Joint

Investment Programme activity only an invoiced cash payment will be permissible.

**12. What about if the activity is only for basic skills and Level 2's?**

These qualifications have been deemed to not have any State Aid implications, so monitoring activity will not be required.

**13. But what about if the planned activity includes a mix of basic skills/Level 2's and some non-entitlement Level 3's or Level 4's?**

All non-entitlement activity will need to be monitored by the provider, for State Aid purposes. So the provider will be able to develop a package of support for the employer, which can include both fully funded and shared investment activity. The provider will need to calculate the value of the non-entitlement activity, so that the employer can be advised about their required contribution.

**14. Are there any forms to be completed?**

It has been decided that each participating employer will need to complete just one form – the Company Level Data Capture Form (Training Aid). This must be completed by every employer at the point that State Aid activity is identified. The form needs to be completed and signed by the employer – they should keep a copy and the original is kept by the provider. The employer contribution is then collected in line with mainstream funding policy. Record keeping has been kept to a minimum, and detailed information only needs to be recorded under certain circumstances.

**15. How will providers monitor the block exemption?**

Once some non-entitlement activity has been identified, then the provider has to keep a record of how much aid is awarded to each employer. For small amounts of activity this can be simple records, but if the employer undertakes large amounts of 19+ activity (above £45k of non-entitlement activity each year) or is participating in Joint Investment Programme, then more detailed records must be kept.

**16. What records are needed for large scale activity/JIP?**

The provider needs to keep an accurate record of the non-entitlement activity (with records for each individual learner), that shows the total amount of aid (Skills Funding Agency funding) for each employer, and the amount of employer contribution. A monitoring form is supplied by Skills Funding Agency for recording this information.

**17. Are there any aid limits?**

Yes, each company (this covers the entire business entity, including group/branch structures) may receive a maximum of €2m of aid under this notified scheme.

**18. Does this affect other aid the employer may have received?**

No, the GBER is treated as a separately notified aid scheme, so is treated as being separate to other aid monitoring approaches such as de minimis.

**19. What about if there is more than one episode of training activity, with the same employer?**

Every time the employer decides to access funding for new learners, the provider will need to assess whether the proposed levels of training have any State Aid implications. This means that activity with an employer needs to be monitored on an ongoing basis, to ensure that any new non-entitlement activity is factored into State Aid calculations of employer contributions.

**20. What happens if learners fail to complete their planned activity?**

If a learner fails to complete their planned activity (due to leaving their employment, leaving the course or failing to achieve the qualification) this will normally not give an employer any material advantage. Records should be kept as normal (including the record of employer contribution), but this episode of training will not be treated as State Aid.

**21. What happens when an employer works with more than one provider?**

For every episode of training, the State Aid position of the company needs to be reviewed. If the employer commences activity under the Joint Investment Programme then full monitoring is required by each of the providers involved.

For other work based learning, once the annual amount (for the company as a whole) reaches £45k of non-entitlement activity then more detailed records must be kept by each of the providers involved. This is because State Aid is monitored and reported on an annual company basis.

**22. What should be done with the State Aid information that is collected?**

The original Company Level Data Capture Form (Training Aid) should be signed by the employer and retained by the provider. The employer should keep a photocopy of the form.

The Training Aid Data Capture Summary form should be used to record the higher levels of non-entitlement employer activity (above £45k). This form should be e-mailed to: [19plusgber@skillsfundingagency.bis.gov.uk](mailto:19plusgber@skillsfundingagency.bis.gov.uk) at the Skills Funding Agency every 6 months (at the end of July and end of January each year). State Aid is monitored on an annual calendar basis so the 31 July return is an interim return. The 31 January is an end of year return, and should update the information contained within the 31 July return.

This information should be retained by the provider and be made available should there be an audit of the activity by the European Commission.

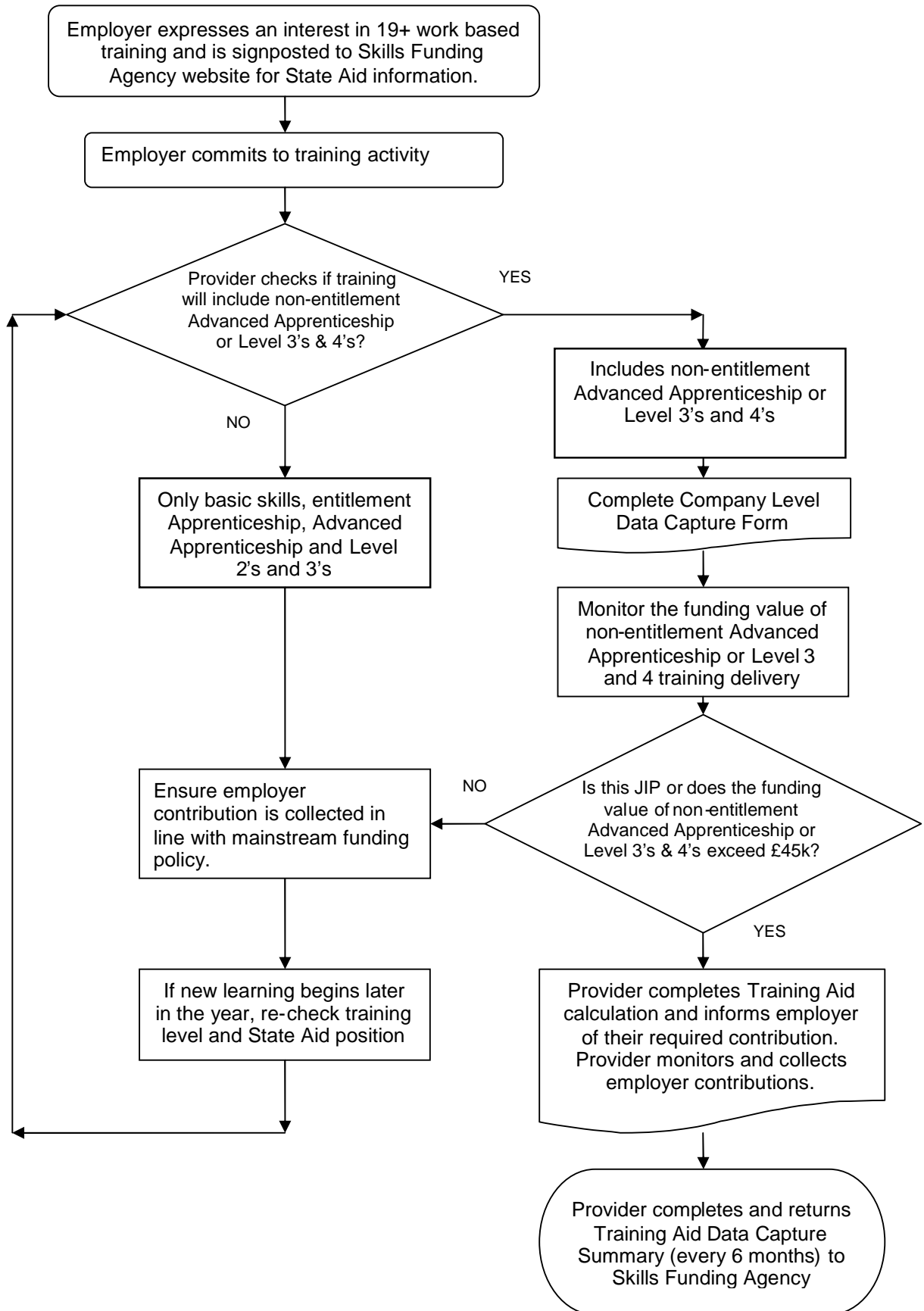
**23. How long should State Aid information be retained?**

It is a Skills Funding Agency contractual requirement that this information should be retained by the provider and employer, for 10 years following the end of any successful activity.

## 19+ work based learning training aid process

1. Employer expresses an interest in 19+ work based learning.
2. Employer is referred to the Skills Funding Agency website to ensure they understand their State Aid obligations.
3. Provider checks on the required level of training.
4. If all of the training delivery will be for entitlements, no further action is required.
5. If the training delivery includes non-entitlements of Advanced Apprenticeship or Levels 3 and 4, then a [Company Level Data Capture Form \(Training Aid\)](#) should be completed by the employer and held by the provider.
6. The provider should calculate the overall value of the Skills Funding Agency funding for the delivery of non-entitlement Advanced Apprenticeship or Levels 3 and 4, and ensure the employer evidences their contribution in line with mainstream funding policy.
7. If the activity is part of Train to Gain or Apprenticeships and the funding value is below £45k in a calendar year, then the provider should monitor further activity during the calendar year to see if it reaches the £45k threshold.
8. When non-entitlement Advanced Apprenticeship or Level 3 and 4 training delivery is for Joint Investment Programme or reaches £45k, then the provider should commence formal state aid monitoring for that employer.
9. The state aid monitoring information should be recorded on the Skills Funding Agency supplied [State Aid data capture spreadsheet](#). This records:
  - the amount of Skills Funding Agency funding
  - the percentage of public support (State Aid) to be provided.
  - the amount of required employer contribution (as a percentage of the Skills Funding Agency funding amount).
10. The provider should inform the employer of the amount of employer contribution which will be required to satisfy the employing organisation's State Aid obligations.
11. The provider should collect and record employer contributions during each calendar year.
12. At the end of each calendar year, providers should send the Training Aid Data Capture Summary form to the Skills Funding Agency summarising all employers that have received above £45k of funding for non-entitlement Advanced Apprenticeship or NVQ Level 3's and 4's during that calendar year.
13. The Training Aid Data Capture Summary form should be e-mailed to: [19plusgber@skillsfundingagency.bis.gov.uk](mailto:19plusgber@skillsfundingagency.bis.gov.uk), at Skills Funding Agency every 6 months (at the end of July and end of January each year). State Aid is monitored on an annual calendar basis so the 31 July return is an interim return. The 31 January is an end of year return and should update the information if already contained within the 31 July return.
14. In line with contractual requirements monitoring information should be kept by the provider and the employer for a period of 10 years, to satisfy the audit requirements of the European Commission.

## 19+ Work Based Learning State Aid Process Chart



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