

# Technical Briefing Note

## **State Aid Requirements for workplace learning**

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### **State Aid explained**

1. State Aid is aid given using state resources such as funding provided by the Chief Executive of Skills Funding (the Chief Executive) to an undertaking engaged in commercial activities which favours certain undertakings and distorts competition. Any aid which falls within this definition is unlawful unless it has been notified to the European Commission and an exemption given or it falls within a “Block Exemption”.
2. Block Exemptions are regulations made by the European Commission, which enable State Aid to be granted for certain purposes and subject to certain caps, without the need to notify the European Commission. These include the Training Aid Block Exemption and the De Minimis Block Exemption.

### **State Aid and Skills Funding Agency provision**

3. The majority of learning that is funded by the Chief Executive including Apprenticeships is not generally regarded as State Aid. The Skills Funding Agency (the Agency) has worked closely with the Department for Business Innovation and Skills to identify the type of provision that is the exception to this and the funding of which could constitute State Aid. This is learning, delivered in the workplace, which is outside of the statutory entitlements as set out in the Apprenticeships, Skills, Children and Learning Act 2009. As such funding for the following provision delivered in the workplace could constitute State Aid:
  - i. Level 3 or higher learning aims where the learner is aged 25 years or greater
  - ii. Level 3 or higher learning aim for learner aged 19 years or greater, where the learner’s prior attainment is at Level 3 or higher
  - iii. All non-apprenticeship Joint Investment Programme (JIP) activity.

### **Skills Funding Agency**

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An agency of the Department for Business, Innovation & Skills

4. However, due the application of a General Block Exemption Regulation (GBER) the provision of in-scope activity is unrestricted up to €2 million per employer and has to be monitored by the Agency if it exceeds £45,000 for an employer in a calendar year.

### **State Aid responsibility and accounting**

5. It is important that employers recognise that the State Aid regulations apply to them and that the funding that their employees receive comes from the state. Each time an in-scope learner is recruited, and starts their learning after 1 August 2010, the employer of that individual should be aware of the consequences of using state funding to train their employee.
6. All monitoring will be done based on a calendar year (January-December) as this is the time reference period used by the European Union in monitoring activity.
7. Only fully delivered and achieved aims are being monitored. However, it is important that an employer is aware at the start of learning of any implication of State Aid.
8. At the start of learning the [Employer/Provider State Aid Form](#) should be completed. This shows the learner details, aim details, the value of state funding and the amount of contribution that the employer must make. When the learner achieves their aim this must be updated to show the actual amount of state funding received and the contribution received from the employer. This contribution must be equal to or greater than the state contribution. In practice this is 50% or more of the rate for the aim. The contribution towards learning costs that an employer must make is mandatory for 'in-scope' learners and can be made up of both cash and in-kind contributions. The Joint Investment Programme is an exception to this and requires the employer contribution to be in cash. This form does not have to be sent to the Agency, but a copy should be held by both the provider and employer
9. Where the level of funding received, for 'in-scope' provision as shown in paragraph 3, by the provider for an individual employer is in excess of £45,000 in a single calendar year, the [Employer/Provider State Aid Return](#) will also need to be completed. This form is a record of activity within a calendar year and should be completed by the provider and a copy given to the employer.
10. The [Employer/Provider State Aid Return](#) must be sent to the Agency on 31 July and 31 January of each year, with the former relating to the activity for the first six months of the year and the latter to the previous full year. This return details the number of learners who have achieved and the funding and employer contributions relating to those learners. Only where state funding has been received by a single employer in excess of £45,000 in a year should their details be included on the return. If the level of state funding is not £45,000 or more in a year then a return for the employer is not required.
11. The [Employer/Provider State Aid return](#) must be sent by email to [19plusgber@skillsfundingagency.bis.gov.uk](mailto:19plusgber@skillsfundingagency.bis.gov.uk). This email address can also

be used for queries and questions relating to State Aid monitoring by the Skills Funding Agency.

12. Where an employer is working with more than one college or training organisation funded by the Chief Executive, it is the employer's responsibility to ensure that the [Employer/Provider State Aid Form](#) and [Employer/Provider State Aid Return](#) accurately record all applicable State Aid.
13. Providers and employers must maintain State Aid records for 10 years, as the European Commission can audit payments during this period. Providers will need to supply State Aid information to the Agency each year that they hold a contract, so that a cumulative annual State Aid return can be made to the European Commission. If provision is sub-contracted to a third party then the main contractor must ensure that these requirements are met in full.
14. Although the Agency monitors activity, it is the responsibility of both the provider and the employer to take advice about state funding and State Aid from wherever they see fit.

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