

Update on YPLA Statutory Intervention Policy and Statutory Guidance to Local Authorities on Intervention in Sixth Form Colleges

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Agenda item	6

Introduction

1. The YPLA is required under the ASCL Act to have two statutory documents:
 - i) a policy statement in two parts: a) on the use of its own powers of intervention in local authorities if they fail or are at risk of failing in their commissioning duties and b) in the event these powers are exercised, a statement about the use of intervention powers in sixth form colleges should YPLA directly commission provision from one or more of these colleges; and,
 - ii) guidance to local authorities on the use of their intervention powers in respect of sixth form colleges. This will include a restatement of part (b) of the YPLA's intervention policy.
2. Consultation is required on both documents. Representations must be considered and the final documents must be approved by the Secretary of State.

Progress so far

3. Some progress has been made in producing draft documents but as the powers are assigned to the YPLA itself, it was not deemed to be appropriate to undertake consultation, in its name, by predecessor organisations or its sponsor Department before the YPLA's inception. In respect of the YPLA's intervention policy, the powers and final decisions will rest with the Board itself and not be delegated below it.

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4. That said progress has included:

- some principles on which the policies would be based were set out in the consultation by the DCSF on the National Commissioning Framework (NCF)
- the LSC's Young People's Learning Advisory Committee (YPLAC) saw a draft of the Intervention policy in March and provided comments
- subsequent to the YPLAC meeting, some informal consultation was undertaken on the draft version presented to YPLAC, although under a tight timeline for respondents. Those consulted were: the Association of Directors of Children's Services (ADCS), the Local Government Association (LGA), the Association of Colleges (AoC), the Sixth Form Colleges' Forum (SFCF) and the Association of School and College Leaders (ASCL).

5. Latest drafts of each document are attached. These were produced subsequent to the version presented to YPLAC in March but do not take account of the most recent comments below.

Informal comments received

6. Comments on content about use of YPLA's powers in respect of local authorities have included the need to:

- a. set out more clearly relationships with the DCSF, at both national and regional level, particularly the Children and Learners Strategic Advisers (CLSA);
- b. describe how other key role holders/stakeholders would be engaged in the process before intervention: Council leaders; Directors of Children's Services (DCS); the local authorities section 151 (Local Government Act 1972) officer, who has responsibility for financial management and control;
- c. demonstrate recognition of the context in which local authorities work to offer a range of services and the wider context of improvement and support that already exists. Particularly, this should include the National and Regional Improvement and Efficiency Strategies, the assessment through the joint inspectorates' Comprehensive Area Assessment (CAA), Local Area Agreements, and self improvement and peer support;
- d. be more specific and factual in the sort of action that will be taken and support that might be offered before the intervention process is triggered; and,
- e. keep the policy under continual review particularly in the light of any actual experience.

7. Comments about guidance on intervention powers relating to sixth form colleges included the need to emphasise that any governing body members

appointed by the local authority (or YPLA) need not be elected members of the Local Authority, although they could be. More appropriately appointees would need to bring an expertise to assist in specific areas driving the identified underperformance.

8. Comments were also received about setting the tone for YPLA in its communications more generally. Given the nature of intervention, it would be helpful to set these documents in the wider context of YPLA's remit and emphasise the requirement on it to have such documents in place quickly rather than as any preference on its part to promote these powers in early communications.

Next steps and timing

9. To meet its statutory responsibilities, YPLA needs to get these documents in place as quickly as possible. However, it also needs to get these documents right in tone and content. Given that Cabinet Office precludes agencies from undertaking formal consultations in a pre-election period, this provides an opportunity to continue informal consultation and improve the draft consultation document. It is, therefore, proposed that:

Timing	Action
April-May	YPLA continues to work with key stakeholders on the drafts
June	YPLA Board receive final draft documents for agreement
July-October	YPLA undertakes a single consultation on both documents (this provides for Cabinet office guidelines of at least 12 weeks consultation excluding August). Consultation will close end October
November	YPLA Board receives an evaluation of the responses to the consultation and the final draft documents
November	Seek agreement of Secretary of State to the final documents

10. The DCSF has indicated that, as YPLA is taking the steps to meet its statutory duties under current legislation and that the Secretary of State has final approval of the statements, it was unlikely that Ministers would need to see the consultation documents. Officials will, however, be kept up to date on iterative changes and, particularly, the views of Government Offices.

Holding position

11. It is highly unlikely that the YPLA will have to call on these policies before the final statements are in place in November. However, the DCSF as YPLA's sponsoring Department intend to ask Ministers to agree that, if required, the formal consultation documents can stand as the interim statements until final documents are agreed by the Secretary of State.

Recommendations

12. The YPLA Board is recommended to note the comments received so far and agree to:
- a. further informal consultation during April/May; and
 - b. receive the final drafts for agreement prior to formal consultation at its meeting in June.

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