

Minimum Levels of Performance and Notices to Improve

Addendum to existing (2011/12) guidance for application
to the 2012/13 academic year

December 2011

Of interest to everyone involved in delivering provision funded by
the Skills Funding Agency and the Young People's Learning Agency

In partnership with

Introduction

Ministers have determined that there is to be no change to the approach to the analysis of Minimum Levels of Performance against success rates from the previous year. The guidance issued in December 2010 [Minimum Levels of Performance and Notices to Improve - Guidance applying to the 2011/12 academic year: version 2](#) therefore applies to the process for this year, other than where indicated in this addendum. All references to a particular year in the existing guidance should now be taken to mean the following year; for example, references to 2011/12 now apply to 2012/13.

The Skills Funding Agency is considering revisions to the Notice to Improve process following changes in the powers of the Chief Executive of Skills Funding due to the passage of the Education Act 2011. Further details will be published early in 2012.

Any further/future changes relating to Minimum Levels of Performance and Notices to Improve will be notified via the bulletins and published on the websites of both agencies.

Legislative Change

One of the provisions of the Education Act 2011 is to abolish the YPLA, which will cease to exist from April 2012. All notices to improve issued by the YPLA that have not been lifted by 31 March 2012, will pass to the Department for Education (DfE) or the Education Funding Agency.

The table below indicates the paragraphs that have been amended, replaced or in some other way altered, and the relevant change in each case.

December 2010 guidance paragraph reference	Replacement/additional text
Additional to paragraphs 10-11	Foundation Learning is the national suite of learning for young people working mainly at Entry Level and Level 1. Prior to 2010/11, this provision was identified separately from Learner Responsive provision, but in 2010/11 became an integral part of the Entry and Level 1 offer and will be within scope for the application of MLP this year. However, there are a number of providers that are funded for delivering Foundation Learning only and in these cases, MLP will not apply this year but may do so in future subject to the policy introduced by DfE.
Replaces paragraph 35	The National Apprenticeship Service on behalf of the Skills Funding Agency will hold challenging discussions with employers about how to bring about improvement, and will agree clear improvement actions. These could include a requirement for employers to make significant

	changes to their internal management and delivery arrangements, or to re-tender for the provision (if there is subcontracted delivery).
Replaces paragraph 37	Where a provider has subcontracted delivery (including consortia), the lead provider is responsible for all aspects of the provision that it is contracted to deliver. The provider must have a legally binding agreement with each and all of its subcontractors; in accordance with Section 7 of the 2011/12 Funding Requirements published July 2011.
Replaces paragraph 46	In most cases, the Skills Funding Agency may ask the Learning and Skills Improvement Service (LSIS) to source support for those providers for whom they are the lead agency. Options for support for Sixth Form Colleges after April 2012 are being developed by DfE and will be communicated to the sector as soon as possible.
Replaces paragraph 51	If a provider has any queries regarding data and submitting data they should contact the Data Service, Service Information Desk at servicedesk@thedata-service.org.uk
Replaces paragraph 58	Where Ofsted inspection has identified underperforming provision (as defined in the contract or Financial Memorandum), the Agencies are committed to a fair and comparable approach across providers. In the case of colleges a Notice to Improve is usually issued; for other providers, the Skills Funding Agency will usually set out a number of improvement indicators, as specified in paragraph 18.8 of the Contract for Services, or paragraph 9.7 of the Conditions of Funding for public bodies. Currently and up to 31 March the YPLA will issue Notices to Sixth Form Colleges that receive inadequate inspection judgements, thereafter existing notices still in force and new notices will become the responsibility of the DfE or the Education Funding Agency.
Replaces paragraph 62	A Notice to Improve triggered by an analysis of 2010/11 success rates against the minimum levels will be issued for the 2012/13 academic year, and Notices to Improve will be issued in early spring 2012. The YPLA may suspend automatic entitlement to the lagged learner number funding allocation approach.
Additional to paragraph 65	Until April 2012 the YPLA will work with those Sixth Form Colleges under notice on a case-by-case basis, and will monitor progress via an established programme of case conference meetings. Options for support after April 2012 are being developed by DfE and will be communicated to the sector as soon as possible.
Replaces paragraph	If you require any further information or clarity you

83	should contact the Skills Funding Agency Relationship Manager or YPLA territorial office http://skillsfundingagency.bis.gov.uk/aboutus/contactus/ http://www.ypla.gov.uk/aboutus/contactus/ .
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Reporting timetable for 2012/13 (replaces Table 3)

Type	Data source	Availability of the reports*
Apprenticeships	2010/11 Period 15 data	12 January 2012
Train to Gain**	2010/11 Period 15 data	12 January 2012
Learner-responsive	2010/11 LR05 data	15 December 2011

*subject to confirmation by the Data Service

** Provision previously known as Train to Gain ended 31 July 2011, as from the 1 August 2011 provision falling into this category will in future be known as Workplace Learning.

However, for the purpose of this addendum this provision will continue to be referred to as Train to Gain as the MLP reports apply to the 2010/11 performance.

