

[by email]

Date 22 February 2011
Our reference DH-485-00-MF

Dear [name]

Re: Minimum Contract Levels (MCL)

This letter confirms the approach we will take to the implementation of the MCL policy for 2011/12.

It follows a very useful set of discussions I have had, including a recent meeting at the LEAFA event in Aston at which we discussed the concerns raised by those Local Authorities which are in scope for Adult Safeguarded Learning provision. It is clear that many local authorities will struggle to make new arrangements in time for the start of the 2011/12 academic year. In order to support the changes we are therefore offering an extension to the start date of MCL for local authorities through the following processes:

1. Where a local authority is entering into new contracting arrangements in order to exceed the MCL threshold, but requires more time to do so, the Agency will grant an extension beyond the existing deadline. In order to be considered for this extension you will need to request the extension in writing to us, making clear that you intend to make arrangements to meet the MCL policy no later than the end of June 2012. The Agency will accept a request for current service arrangements to roll forward in 2011/12, where there is a clear indication (i.e. supported by a documented commitment and short action plan) to move to new contracting arrangements in advance of the 2012/13 academic year.
2. The grant of such an extension is NOT a blanket 'exemption' of local authority services from the scope of MCL, although requests for exemption will be considered on a case-by-case basis, and criteria are being developed to this end. The criteria will be published in the next few weeks, following approval from DfE and BIS.

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3. The Agency will introduce a 'ring-fence' of the local authority Agency funding under any new collaborative arrangements in order to protect the geographical aspect of the funding. Whilst this funding might change in value, in line with other funding decisions, the funding will always be identifiable as being for a particular local authority area. This should therefore support arrangements whereby funding allocated within a new partnership could be transferred between local authority services, so that although there would be a 'lead' service the arrangement would, in effect, operate on the basis of equal partners.
4. The Agency's current guidance on second level sub-contracting allows it to take place where prior permission is sought and granted by the Chief Executive of Skills Funding. The Agency would need to work on a case-by-case basis but would seek to allow all partners to remain directly responsible for partnership work with e.g. community groups or sub-contractors.
5. On negotiating new arrangements with partner organisations you should consider the need for 'break' clauses in any new arrangement that would allow you to transfer your allocation into alternate arrangements if the planned collaboration fails.

Next Steps

6. The Agency wrote to all providers in January 2011 with a statement of their indicative allocation for the 2011/12 academic year. You will have used this indicative allocation when discussing new contracting arrangements with other providers. You should note that Apprenticeship; Train to Gain and Adult Learner Responsive indicative allocations will be subject to the application of 2009/10 Minimum Levels of Performance data and so the final allocation may change. You should discuss any changes as part of your contract discussions with other providers.
7. All 2011/12 contracts will be prepared for issue by 30 June 2011 following confirmation of final allocations. Any delays in the agreement of new arrangements would prevent us issuing final contracts to lead providers. It is therefore important that you maintain a dialogue with your Accounts Manager during this time.
8. The next action you need to undertake is to confirm in writing, to the Agency, your plans for contracting arrangements in 2011/12 (including any requests for additional time). This submission should be made via a template declaration of new contracting arrangements (which will be sent shortly under separate cover). This declaration needs to be returned to the Agency by **Monday 28 February 2011**.

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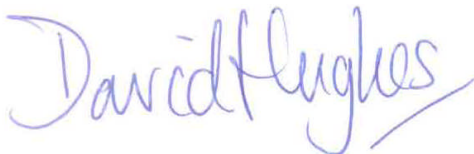
9. If you are entering a sub-contract or partnership arrangement then your contract lead will need to update their ACTOR submission (if they are an existing Agency provider) or, in the case of new organisations, register on ACTOR. The intended contract holder needs to ensure that their ACTOR submission covers all the relevant sections of the invitations to tender as well as their intention to utilise sub-contractors; the regions in which they intend to deliver and the Sector Subject Areas in which they intend to deliver. The deadline for the completion of new arrangements through ACTOR has been extended to **Friday 15 April 2011** to allow providers more time to finalise arrangements, although the earlier freeze date of Friday 11 March 2011 is also available.

Support and Guidance

10. Independent support and guidance, including fact sheets on contracting models is available from the Learning and Skills Improvement Service (LSIS) working in partnership with sector representative organisations. Further information on the support available can be obtained from their website: <http://www.excellencegateway.org.uk/MCLsupport>

If you have any questions regarding the introduction of MCL please contact your Account Manager. I trust that this will be welcome news and will support you in reaching a new arrangement so that you can continue to serve your communities.

Kind regards



David Hughes
Provider Services Director

cc Penny Lamb – NIACE
Ian Forward & Beverley Evans – LEAFEA
Bob Powell – HOLEX
Jon Gamble – Skills Funding Agency