Aligning Public Funding with the 14-19 Qualifications Strategy:
Process for the withdrawal of funding eligibility for external
qualifications not on Section 96 for use by 16-18 year-old learners

Date of issue  January 2010
LSC office     National Office
Publication intent Public

Purpose

1 This document outlines the first phase of the work that the Learning and Skills Council (LSC) / Young People’s Learning Agency (YPLA) has undertaken with the Department for Children, Schools and Families (DCSF) to focus public funding for 14-19 year-old learners on nationally approved and accredited qualifications that meet the criteria of Section 96 of the Learning and Skills Act 2000\(^1\) and therefore remove from eligibility for public funding all external qualifications not listed under Section 96.

2 External Qualification not on Section 96 are not accredited by the Office of the Qualifications and Examinations Regulator (Ofqual) and not approved by the Secretary of State under Section 96. They include qualifications offered by Awarding Organisations (both recognised and not recognised by Ofqual) and also locally devised programmes accredited by Awarding Organisations.

3 This document follows on from work undertaken to review these qualifications used by 16-18 year-old learners in the context of the LSC’s Statement of Priorities\(^2\). It sets out the changes in funding that will begin from 1 August 2010 as signalled in paragraphs 35 and 36 of the 2010/11 Statement of Priorities (published on 12 January) to align these qualifications with the 14-19 Qualifications Strategy.

4 This document also puts in place arrangements for a managed transition for Awarding Organisations and includes a process whereby, on an exceptional basis, cessation of funding may be postponed by one year. This is to allow more time to enable these qualifications to become accredited and approved qualifications under Section 96 and where the early cessation of funding eligibility is likely to have a significant impact.

5 This briefing note provides details of the:
   a  background and context of the process
   b  provisional list of ineligible qualifications from 2010/11\(^3\)

\(^1\)www.dcsf.gov.uk/section96
\(^2\)The 16-19 Statement of Priorities and Investment Strategy 2010-11 is available from http://www.lsc.gov.uk/aboutus/lscstrategy/statementofpriorities/
\(^3\)Available on the LSC website at www.lsc.gov.uk/providers/funding-policy/1419qualificationsstrategy.
Background and introduction

6 Section 96 of the Learning and Skills Act 2000 deals with the approval of external qualifications for learners below the age of 19 in maintained schools, and further and work-based education and training. It makes clear that unless a qualification is approved under Section 96 the course must not be funded by an authorised body or provided by, or on behalf of, a maintained school.

7 The 14-19 Qualifications Strategy set out the Department’s intention to streamline and simplify the qualifications offer for young people. To support this, in October 2008 the Department introduced new Section 96 criteria against which the Secretary of State will assess whether qualifications should be eligible for public funding for 14-19 year olds. Criterion A4 sets out that only those qualifications that meet high quality standards should be eligible for public funding. Accreditation by Ofqual (or a regulatory body recognised by them) is expected to provide these reassurances.

8 At LSC’s inception in 2001 the LSC agreed with the former Department for Education and Skills that it would continue to fund some external qualifications not on Section 96. This decision was taken to protect learners; to protect those qualifications that were not easily able to transfer immediately onto Section 96 and to enable the National Qualifications Framework to become fully populated. LSC policy has however indicated year on year that funding for qualifications not on Section 96 should reduce in favour of nationally recognised qualifications on Section 96 and this has taken place. Awarding organisations and learning providers have therefore had a number of years in which to transfer their qualifications onto Section 96.

9 The existence of this funding route for learners below the age of 19 is now inconsistent with the new Section 96 criteria. In addition, the establishment of the Joint Advisory Committee for Qualifications Approval (JACQA) as the key delivery mechanism, responsible for making recommendations on the eligibility of 14-19 qualifications for public funding to the Secretary of State for the DCSF (in October 2008) means that all external qualifications are now required to be closely scrutinised by JACQA. These qualifications are therefore now in scope of JACQA’s remit.

10 The LSC/YPLA therefore intends to close off this funding route, ensuring that public funding is directed to qualifications used by learners below the age of 19 that are accredited and approved on Section 96.

16-19 Statement of Priorities and Investment Strategy 2010-11

11 The 16-19 Statement of Priorities 2010-11 published on 12 January signalled in paragraph 35 that funding for external qualifications used by young people will cease from August 2010 where they are not approved under Section 96. Paragraph 36 confirms that the decision to remove funding was taken following an initial impact assessment.

---

4 Only qualifications that meet high-quality standards shall be eligible for public funding. Accreditation by Ofqual (or a regulatory body recognised by them) will be expected to provide these assurances.
The impact assessment of these qualifications not on Section 96 (using 2007/08 and 2008/09 data) took into account the following criteria:

- where there is alternative provision in the NQF or QCF;
- where there is no alternative provision in the National Qualifications Framework (NQF) or on the Qualifications and Credit Framework (QCF) but the Awarding Organisation is Ofqual recognised and therefore could move the provision to section 96;
- where there is no alternative provision in the NQF or QCF and the Awarding Organisation is not recognised by Ofqual;
- where the provision is specialist or niche provision;
- where qualifications attract large numbers of learners; and,
- where provision impacts on one provider or one group of learners.

The impact assessment only considered those qualifications that had more than one learner enrolment. There were a significant number of aims that were eligible but which had no 16-18 enrolments. Following consideration of the results of this impact assessment, funding will be withdrawn from 31 July 2010 for all external qualifications not on Section 96 but which are currently listed as eligible on the Learning Aims Database. This will include the 1,000 qualifications signalled as ineligible for funding in the Statement of Priorities that are currently eligible for funding.

The statement of Priorities stated that a list of ineligible qualifications will be published on the LSC’s website in January 2010. In exceptional circumstances (for example, where there is no alternative provision on the National Qualifications Framework or the Qualifications and Credit Framework) there will be an opportunity for awarding organisations to make a case for continued eligibility for funding until 31 July 2011. Details of this process are provided below in paragraphs 21 to 23.

Aligning Public Funding to the 14-19 Qualifications Strategy

Details of those qualifications which the LSC/YPLA is proposing to remove from funding eligibility from 31 July 2010 (which is the result of the work the LSC/YPLA has undertaken to review these aims in the context of its Annual Statement of Priorities) are available on the LSC website at www.lsc.gov.uk/providers/funding-policy/1419qualificationsstrategy.

From 1 August 2010 the YPLA will start to prioritise funding on:

a. those qualifications that meet the criteria of Section 96 of the Learning and Skills Act 2000 and are listed under it;6
b. those qualification which meet the YPLA’s programme eligibility for funding.

The LSC/YPLA recognises that in exceptional circumstances, which are substantiated by a business case and robust evidence, it may be beneficial to delay the cessation of funding to 31 July 2011. The exceptional circumstances are where:

- there is no alternative provision on Section 96 and it would not be possible to gain Ofqual accreditation and meet the Section 96 criteria within the timeframe;

---

5 See http://www.dcsf.gov.uk/section96/index.shtml
6 See paragraphs 293 – 323 LSC Funding Guidance 2008/09: Principles, Rules and Regulations
the cessation of funding would cause significant disadvantage or cause significant financial difficulties for the provider (where there is a single provider);

the loss of funding would destabilise and/or narrow the provider base in a particular region or sector;

the cessation of funding would impact negatively on a particular group of learners or learner cohort; and where,

there would be a negative impact on the planning and quality of delivery in 2010/11, for example limited availability of curriculum material to support delivery of new qualifications or the replacement qualification is not available in time to plan for delivery.

18 The LSC/YPLA does not expect to grant an extension to funding eligibility where there is alternative provision available on Section 96.

Continuing Learners

19 Funding will be removed for new learner enrolments from 1 August 2010. Learners who enrolled on these qualifications before 1 August 2010 will continue to be funded in order for them to complete their learning programme.

Next Steps

20 The provisional list of qualifications not on Section 96 which will not be eligible for public funding from 1 August 2010 for new 16-18 year-old learners is available on the internet: www.lsc.gov.uk/providers/funding-policy/1419qualificationsstrategy.

21 Organisations or individuals wishing to submit a business case and evidence for an extension for funding eligibility have until 30 April 2010 to do so. The business case and evidence should be on the grounds set out in paragraph 17 above; in summary that the removal of funding will have an adverse, unreasonable or uneven impact on an individual and/or organisation in 2010/11.

22 Details of the draft process for the submission of a business case and evidence are outlined in Annex A. There will only be two opportunities for making a case for an extension:

a By Friday 26 February 2010 to be considered by the panel during March 2010

b By Friday 30 April 2010 to be considered by the panel during May 2010.

23 There will be no further opportunity after 30 April 2010 to submit a business case and evidence to postpone decisions taking effect from 1 August 2010. This is to enable the final list of external qualifications not on Section 96 for which funding is no longer available from 2010/11 to be published in June 2010. The final list will reflect the decisions made following the submission of business cases and evidence.

24 The LSC/YPLA will take into account the timing of any funding changes so that learners and providers are not disadvantaged and will normally ensure that such changes are not implemented in-year.

25 We will continue to work with those Awarding Organisations affected by this funding change in order to support them to become Ofqual recognised, where appropriate, and/or to develop the provision to be approved by the Secretary of State under Section 96.
Annex A: the process for applying for an extension to funding eligibility

Purpose
26 This note is for Awarding Organisations, providers and others affected by the decision to remove the eligibility for public funding from external qualifications not on Section 96. It sets out the process for the submission of a business case and evidence for an extension for the eligibility for one or more qualifications for new starts in 2010/11 as set out in the document above.

Grounds for requesting an Extension to Funding Eligibility
27 Business cases and evidence can be submitted by individuals or organisations on the grounds that the loss of public funding for a particular qualification will have an adverse, unreasonable or uneven impact on an individual and/or organisation in 2010/11 and therefore funding will be stopped from 2011/12.
28 An adverse, unreasonable or uneven impact on an individual and/or organisation may be where:
   • there is no alternative provision on Section 96 and it would not be possible to gain Ofqual accreditation and meet the Section 96 criteria within the timeframe;
   • the cessation of funding would significant disadvantage or cause significant financial difficulties for the provider (where there is a single provider);
   • the loss of funding will destabilise and/or narrow the provider base in a particular region or sector;
   • the cessation of funding would impact negatively on a particular group of learners or learner cohort; and where,
   • there would be a negative impact on the planning and quality of delivery in 2010/11, for example limited availability of curriculum material to support delivery of new qualifications or the replacement qualification is not available in time to plan for delivery.
29 The criteria above will be used by the LSC/YPLA to determine whether business cases and evidence made to the LSC/YPLA are on reasonable grounds. The LSC/YPLA does not expect to grant an extension to funding eligibility where there is alternative provision available on Section 96.
30 A business case and evidence can only be made on the grounds described above therefore the following areas will be out of scope; concerns around the:
   • structure of the qualification;
   • qualifications approval system; and
   • accreditation or regulation of the qualification.

Submitting a Business Case and Evidence
31 An overview of the process for submitting a business case and evidence is outlined in Annex B.
32 A business case and supporting evidence must be submitted in writing by the individual(s) or organisation(s) affected by the decision (the submitter) to Andrew Lambe, Young People's Learning Division, Learning and Skills Council, Chelmsmore House, Quinton Road, Coventry, CV1 2WT or Andrew.Lambe@lsc.gov.uk using the form provided in Annex C.

33 The business case must include details of the grounds for the extension and have attached robust supporting evidence. In the process, the form is extremely important in helping the panel understand the submitter’s position and as much detail as possible should be given as the panel can only consider the evidence submitted and will not be able to seek additional information?

34 There will be two opportunities to make a case for an extension for funding eligibility to 31 July 2011:

a) The first date to submit a business case (which includes the completed form and robust supporting evidence) is Friday 26 February 2010 to be considered by the panel during March 2010.

b) The second and final date to submit a business case (which includes the completed form and robust supporting evidence) is Friday 30 April 2010 to be considered by the panel during May 2009. Please note there will be no further opportunity to submit a business case after 30 April 2010.

35 All forms and supporting evidence must be submitted to the LSC/YPLA by either Friday 26 February 2010 or Friday 30 April 2010. Late submission of the form, evidence or other supporting information will mean that the submission may not be considered by the panel for decisions taking effect from 1 August 2010.

36 Upon receiving the business case the LSC/YPLA will review the documentation to ensure that the case is made on valid grounds. The submitter will receive within 10 working days a written acknowledgement confirming whether there are valid grounds for a case. If there are valid grounds for a case, an indication will be given of when the panel will review the submission and when a decision will be communicated to the submitter.

37 The panel will be convened in March 2010 to consider cases submitted by 26 February 2010 and will be convened in May 2010 to consider business cases and evidence submitted by 30 April 2010.

The Panel

38 All cases will be considered by a panel. The panel will be chaired by a person who is independent (therefore not a LSC or YPLA employee) and will have members with technical and qualification expertise drawn from the LSC/YPLA; the Association of Colleges; the Association of Learning Providers; the Alliance of Sector Skills Councils; and other stakeholders as appropriate. The panel will ensure that no member has a conflict of interest with cases being heard by the panel.

39 Attendance by the submitter providing evidence is not required at panel meetings.

40 The panel will meet twice (March and May 2010) to hear any case that the LSC/YPLA receive for decisions effective from 1 August 2010.

41 The panel will review the evidence to decide whether the decision to withdraw public funding for a qualification is valid but should be postponed for a year (i.e. until 31 July 2011).
Outcome of the Business Case

42 The panel will make recommendations to Rob Wye, Strategic Director of Strategy and Implementation who is the accountable official to make the final decision on behalf of the LSC/YPLA. The submitter will be informed of the decision by letter within 10 working days of the recommendation being made to the Director by the panel.

43 The decision is final and there are no further grounds for extension. Submitters who are dissatisfied with the way in which their case has been handled may complain using the procedure for dealing with complaints about the LSC/YPLA.
Annex B: Overview of the process for the submission of business cases and evidence

A provisional list of non-Section 96 external qualifications whose funding will cease for new starts in 2010/11 is published in January 2010.

A case for an extension to funding eligibility is submitted by an individual(s), organisation(s) or group(s).

Case is reviewed by the LSC/YPLA to determine that it is valid.

Valid

Submitter is informed that the case will be forwarded to the panel for consideration and timescales will be provided for when a decision will be made.

Not valid

Submitter is informed that the grounds for appeal were not valid.

Panel is convened to review and consider the evidence from the submitter and Awarding Organisation and/or other appropriate bodies.

On the basis of the evidence presented to the panel, the panel recommends to the LSC/YPLA to reinstate funding for the qualification for one further year, after which funding will be turned off for that qualification.

Recommendations of the panel are presented to a Director at the LSC/YPLA who is the accountable officer to make the final decision on behalf of the LSC/YPLA.

Submitter is informed of the final decision.

Final list published in June 2010.
Annex C: Form for the Submission of Business Cases and Evidence

1. Name of Submitter:

______________________________________________________________

2. Organisation the Submitter is representing (if appropriate):

______________________________________________________________

3. Submitter’s name, address, contact telephone number and e-mail address:

______________________________________________________________

______________________________________________________________

______________________________________________________________

______________________________________________________________

4. Please confirm that the business case is being made on the grounds that there is an adverse, unreasonable or uneven impact on an individual and/or organisation in 2010/11. Please outline the details for the grounds for your case referencing additional supporting information:

Continue on separate sheet if necessary, please number and securely attach any additional pages.

7 Please see Annex A for guidance on this section
6. Please list any additional documents that you have attached to the form to support your case:


Please return the form and the additional supporting information to Andrew Lambe either by post or e-mail:

Andrew Lambe
Young People’s Learning Division
Learning and Skills Council
Cheylesmore House
Quinton Road
Coventry
CV1 2WT

or:

Andrew.Lambe@lsc.gov.uk