

# **Review of the Education and Skills Funding Agency**

**Summary findings**

**January 2022**

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## Summary

This review of the Education and Skills Funding Agency (ESFA) was launched in July 2021 and completed in January 2022. It was conducted by a Department for Education (DfE) team led by an independent reviewer, Sir David Bell KCB DL.

Our review is part of Cabinet Office's public bodies reform programme and aligns with draft Cabinet Office guidance for the review of public bodies. Its aim is to ensure that ESFA – as an arm's length body (ALB) and an Executive Agency – remains effective, efficient, and aligned to the government's priorities, as well as being well-governed and properly accountable for what it does. DfE asked us to look in particular at the relationship between ESFA and DfE, the current arrangements for post-16 skills policy, the boundaries and accountabilities of ESFA's Academies and Maintained Schools Directorate and DfE's Regional Delivery Directorate, and how the department engages with providers and employers.

ESFA was established in April 2017 by bringing together the Skills Funding Agency (SFA) and Education Funding Agency (EFA). In its current form as an ALB, ESFA's Chief Executive Officer (CEO) is an Accounting Officer (AO), personally accountable to Parliament for the management and delivery of allocated funds. ESFA currently has its own Management Board, Audit and Risk Committee (ARC), and non-executive directors (NEDs). It also has its own relationships with the Public Accounts Committee (PAC) and the National Audit Office (NAO). The ESFA is responsible for:

- distributing £62 billion in funding to over 24,700 education and skills providers – and ensuring this public money is well spent
- developing and delivering significant programmes and projects, including Apprenticeships and Technical Education Reform programmes
- operating key services in the education and skills sectors, such as the National Careers Service and Schools Resource Management

## Context and drivers for this review

Our review has taken place alongside the Future DfE change project *Organising ourselves better to deliver locally, regionally and nationally*. The project – which continues beyond the end of this review – is looking at how the department, including ESFA, is organised. It aims to create a department that is more joined up, and which connects effectively with the systems it leads and serves. We have fed our findings and analysis into the Future DfE project throughout our work, and we have reflected its direction of travel in our recommendations. We have also sought to define, as far as possible, how functions moving from ESFA to DfE will integrate into the new organisational design. Implementation of many of our recommendations will need to be taken forward as part of this change project. The Future DfE project is likely to change the department's organisational design and outlook. There are, in addition, planned policy reforms which will impact the refocused agency's work. These include the school system reform process, which is likely to result in the agency being responsible for the funding and financial regulation of an increasing number of academies, and the move to a direct national funding formula which will simplify the job of allocating funding but at the same time potentially result in the agency becoming the point of contact for all queries regarding funding allocations for schools. Furthermore, the *Skills for Jobs* White Paper and Skills and Post-16 Education Bill will require ESFA to adjust the services it provides to align to the reform agenda. We have, again, reflected the direction of travel of these likely reforms in our recommendations. The future agency will need to have the capability and flexibility to adapt and innovate to find the most effective way to deliver new and evolving responsibilities.

Against this background, we looked for opportunities to deliver things differently, as well as more effectively and efficiently, for each functional area. We also considered whether there were opportunities to share ESFA's deep expertise, for example around funding delivery and commercial operations, more widely through the department. Our aim was to improve the experience for the department's users (including schools, colleges, training providers, and employers). In developing our recommendations, we were especially mindful that we must not put at risk the critical role played by ESFA in delivering accurate and timely funding to schools and post-16 providers. Nor should our recommendations cause disruption to delivery of the department's wider priorities.

We recognise that any review can cause uncertainty and anxiety, and that this review is only one of several changes currently impacting ESFA. We sought to minimise anxiety for ESFA staff by sharing our programme of work and interim findings, and by engaging colleagues throughout the process. We have benefitted

greatly from the constructive engagement and support of ESFA colleagues. We would like to thank in particular: ESFA's Chair, Interim Chief Executive and senior management team; ESFA's Agency Change and Transition Team; ESFA leaders at all grades who led discussions with colleagues on our emerging findings and recommendations; and ESFA staff who gave their time to respond to our surveys, meet us, provide case studies, and who joined our focus groups. We would also like to thank DfE colleagues and external stakeholders who shared their experiences and insights.

## Key findings

We assessed ESFA's performance against key Cabinet Office indicators and spoke to a range of providers about their experience of working with ESFA. Our headline finding is that ESFA performs particularly strongly on the timely and accurate allocation of funds. Apart from one COVID-related disruption in 2021, ESFA has delivered between 99.9% and 100% of expected funding payments accurately and on time since it was established in 2017. This is an impressive track record. In terms of assurance, the NAO's 2019-20 Audit Completion Report noted the risk of financial irregularity inherent in ESFA's funding activities but concluded that "the level of irregularity in grant payments is not material". Providers commented positively on the attitude, capability and responsiveness of ESFA colleagues (while highlighting some of the structural and procedural challenges they faced).

In line with Cabinet Office guidance, we considered whether ESFA should continue to operate as an ALB. We concluded that the ESFA's funding delivery functions met one of the Cabinet Office's three tests for whether an ALB should exist<sup>1</sup>; specifically, it encompassed a technical function which needed external expertise to deliver. In contrast, ESFA's current policy responsibilities do not meet any of the Cabinet Office tests. We explored a range of other possible delivery models, including the option of bringing all ESFA's functions into DfE. However, we concluded that retaining an ALB was the best way to ensure continued focused scrutiny of the £62 billion of public spending which ESFA currently manages. It also reduced the risk to users arising from any disruptions to ESFA's critical funding delivery service.

We found that ESFA is closely integrated into DfE's governance structures. ESFA's CEO, while being an AO, also sits on DfE's Leadership Team. This high level of integration means that ESFA is often treated more as a part of the core department than as an Executive Agency. This brings several risks:

- a lack of clarity in roles, responsibilities and accountabilities across ESFA and DfE, particularly where there are shared interests
- reducing ESFA's independence in choosing how to deliver its objectives
- unnecessarily complicating questions around how the wider department can draw on the capability in ESFA, and vice versa (as illustrated by the differences in approach across different functions, services and capabilities)

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<sup>1</sup> The Cabinet Office has defined three tests for an ALB: is this a technical function, which needs external expertise to deliver?; is this a function which needs to be, and be seen to be, delivered with absolute political impartiality?; is this a function that needs to be delivered independently of ministers to establish facts and/or figures with integrity?

- fragmenting oversight of ESFA. While the Permanent Secretary is formally ESFA's senior sponsor, the department has no direct mechanisms to support the sponsorship role or to oversee ESFA in a formal way.

DfE has used the additional flexibility this level of integration provides to move some policy development responsibilities from DfE to ESFA when a strong policy delivery focus was needed (for example, responsibility for key aspects of post-16 policy development were transferred in 2018). While ESFA has been able to deliver these responsibilities, the sheer breadth of its current role risks distracting from its core funding delivery role and confuses customers.

That transfer created a situation where responsibility for post-16 policy and programmes is split across DfE and ESFA. ESFA has responsibility for apprenticeships, T Level and Level 4/5 policy development and programme delivery, as well as for the National Careers Service (NCS) and WorldSkills. DfE has responsibility for other post-16 policy areas. It also means that responsibility for careers and for further education quality and oversight do not have a clear focal point. Where ESFA has responsibility for policy development, programme delivery and funding, it has realised the benefits of end-to-end delivery. However, the split of policy responsibilities across DfE and ESFA makes it more difficult to implement the government's skills reform agenda. In addition, system leaders told us that roles and responsibilities needed to be clarified, with the department taking a more strategic approach across policies and products. Furthermore, college leaders have said that dealing with the department can be confusing, sometimes having multiple disconnected and conflicting conversations.

To support the government's skills agenda – and working through the Future DfE change project – DfE has decided to create a new internal 'Further Education Higher Education and Employers' (FEHEE) Group<sup>2</sup> which will bring together all post-16 policy and operational policy in a single strategic centre. In the short term, all post-16 activity will come together in the FEHEE group and plans for post-16 regional working will be developed within the Group. The aim is to enable the department to be an excellent local and regional partner and place-shaper. Our recommendations are consistent with DfE's intent for the FEHEE Group and post-16 regional working.

Looking beyond ESFA itself, system leaders told us that there has, to date, been a lack of distinct and strategic focus across the post-16 landscape, and the regulatory system is complex and difficult to navigate. This is largely attributable to having multiple bodies to engage with. As a result, colleges and other providers often feel a cumulative and incoherent burden. Some complexity is inevitable, as FE colleges

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<sup>2</sup> This is the department's working title for the Group, and is subject to change.

operate across so many different aspects of education and training. Our recommendations, alongside the Future DfE project, would bring post-16/skills policy and delivery together in DfE enabling the department be more coherent and strategic in its approach. Nonetheless, we recognise that more could be done across the regulatory bodies to minimise the collective regulatory burden on colleges. We suggest that the department should review the level of bureaucratic burden placed on providers across regulators.

We also found that the department lacked a unified directing voice to the school system at a regional level. The Regional School Commissioners (RSCs) and ESFA work together to provide oversight of the school system; the RSCs focus on educational performance, ESFA on financial management, with both contributing to governance. This sometimes creates points of friction internally and a lack of clarity externally, which staff work hard to manage. In addition to the FEHEE Group and regional working described above, DfE is creating a pre-16 regional tier and Schools Group. Our recommendations to move more of the oversight and scrutiny of the school system into that new structure from ESFA is consistent with DfE's direction of travel.

We have also captured in our report several concerns that stakeholders raised with us which, while they fall outside our remit, provide important context for our recommendations. Several stakeholders told us that the respective roles of different bodies for dealing with safeguarding issues in academies were confusing, and hence required attention. The school system reform process is an opportunity for the department to define the arrangements for safeguarding, and to update the Secretary of State's powers in this area. We also heard a desire for a single regulator and a move towards a comprehensive and appropriate regulatory regime for trusts. Our recommendations, along with the Future DfE project, will bring together a wider and more coherent set of regulatory functions into one place (albeit alongside non-regulatory functions), while retaining ESFA's funding delivery role. This should go some way to alleviating the issues raised by stakeholders in the short to medium term.

Finally, we found that ESFA's corporate functions were effective and delivered to a high standard. Nonetheless, in a small number of areas there is a possible duplication of functions, as well as a lack of clarity on responsibilities between ESFA and DfE. Where we recommend that corporate functions are moved into the department, it will be important to consider opportunities for efficiencies.



## Key recommendations

A complete list of our recommendations is attached. We set out our key recommendations below.

We recommend that ESFA should remain an ALB. We further recommend that ESFA should refocus on its core funding delivery role, centred on the funding cycle (which in its entirety covers data – allocation – payment – contracts – financial management) as well as assurance and compliance. Holding these functions together will enable the new agency to consider (and report on) not just how funds are disbursed, but how they are used.

Flowing from our recommendation that ESFA should refocus on funding delivery, we recommend that all post-16 skills policy and implementation within ESFA should move to DfE. Apprenticeships Directorate (retaining both its budget holder and manager roles) and Professional and Technical Education Directorate (PTE) should move end-to-end into the FEHEE Group. Further Education Directorate (FED) should also move into DfE; its functions should be allocated to the FEHEE Group or to post-16 regional working, depending on broader design decisions on the purpose and form of the FEHEE Group and post-16 regional working.

We recommend that the department should have a unified directing voice at a regional level. We have contributed to the current Future DfE project which is bringing together functions in the regional tier, and which will resolve the form and nature of that directing voice.

Flowing from our recommendation that ESFA should refocus on funding delivery, we recommend that the functions in Academies and Maintained Schools Directorate (AMSD) not linked to the funding delivery role, and not required by ESFA's AO to provide assurance, should move to the new pre-16 regional tier in DfE. This covers non-financial regulatory functions for academies and the functions related to school and trust non-financial governance. Moving these functions to the pre-16 regional tier will help the department to think, act and partner much better locally and regionally and will enable more strategic conversations with the schools sector. The funding delivery functions including the compliance and assurance functions currently in AMSD should remain in ESFA to provide assurance to ESFA's AO. Nonetheless, there is an important point of principle that all substantive engagement with the schools sector should be agreed in advance and coordinated with the new regional tier, rather than carried out unilaterally by the ESFA.

Funding Directorate and Provider Market Oversight Directorate (except for its overall responsibility for the Academy Trust Handbook, which has evolved from a purely

financial document to have a broader financial and governance focus and therefore should be owned by DfE) should remain in the refocused agency. Their funding, financial assurance, compliance, specialist restructuring, and counter fraud capabilities support ESFA's core funding delivery role and the ESFA CEO in discharging their AO responsibilities.

We explored what functions and capabilities might move from DfE into the new agency. We noted the success of DfE's payment's function<sup>3</sup>, delivering payments accurately and on time. Given this, and risks of disrupting this critical service, we concluded that it should remain with DfE, though the case for moving the function into the refocused agency should be kept under review. We also concluded that, in the longer term, the department should work towards transferring responsibilities for management of the £8 billion of funding to education settings currently led by teams across DfE into the new agency. In the medium term, those teams should leverage ESFA's expertise by using their grant management platform.

We recommend that only those corporate functions central to the successful delivery of the core funding delivery role and the ESFA CEO's AO responsibilities should remain in the new agency.

We make several recommendations around governance. These seek to clarify the relationship between ESFA and DfE and establish clear lines of accountability. These include creating a dedicated sponsorship function for ESFA to provide a comprehensive mechanism for overarching performance oversight, collaborative reprioritisation, and enabling collaborative working and learning across ESFA and DfE teams. We also recommend that ESFA should review its internal governance arrangements so that they are tailored to the new agency's role and can continue to provide robust and efficient oversight.

Our focus through the review leaned more towards effectiveness than towards efficiency – while recognising that both are important. Issues of efficiency will in the main need to be addressed in implementation – our recommendations will deliver a significantly different future agency, so any efficiency assessment would have been backward looking and of limited future relevance. We also found that meaningful efficiency benchmarking to be extremely challenging within the time and resources available to us. That said, we saw no area of ESFA operations which was clearly over-resourced.

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<sup>3</sup> DfE currently makes payments totalling around £100 billion a year to education settings in England, sector bodies such as the Student Loan Company and the Office for Students, and suppliers of goods and services. Around £60 billion of this is calculated and instructed by the ESFA.

In line with the Public Sector Equality Duty (PSED), we carried out an equality impact assessment to examine whether any of our recommendations could impact individuals with protected characteristics (both ESFA's users and ESFA staff). Based on discussions with users and staff, we concluded that none of the recommendations will disproportionately impact individuals with protected characteristics. ESFA and DfE should continue to consider PSED as they implement our recommendations, in the wider context of the Future DfE change programme.

## Potential benefits and the future agency

We believe these recommendations could deliver a number of important benefits to ESFA's users (schools, colleges and other providers, and employers):

- a. **An agency focused on its critical funding delivery role.** Refocusing the agency ensures that executive and non-executive leadership will be concentrated on maintaining excellent performance in funding delivery. This will provide a strong foundation for, potentially, taking on additional funding delivery responsibilities from DfE in the future, as set out in our recommendations
- b. **A more coherent and effective approach to meeting employer and labour market needs** by bringing together all post-16 policy and delivery functions in one place within DfE
- c. **A unified departmental voice at a regional level on pre-16 issues** by supporting the creation of a new pre-16 regional tier
- d. **Reducing bureaucracy** by clarifying the roles and responsibilities of various bodies in both the school and post-16 system, and by seeking ways to minimise the collective regulatory burden
- e. **Greater transparency around what ESFA and DfE do, and why**

If our recommendations are accepted, the new agency will be more tightly focused than the current ESFA. It will comprise funding delivery, assurance and accountability functions – making sure that public funds are properly spent, and that value for money for the taxpayer is achieved, while helping to ensure the financial health and sustainability of providers. It will have tailored internal governance arrangements (built around its own AO, Management Board and NEDs) and a clearer relationship with DfE. It will be smaller (as colleagues working on post-16 skills and in other areas move into DfE); we estimate the new agency will have around 750-800 staff, but this is subject to further work and the exact figure will need to be determined in implementation. It will be essential to retain the undoubted pride that staff have in working for ESFA, with its strong, focused, and successful ability to deliver core funding and oversight functions. It will also be important to ensure that ESFA colleagues are supported through any changes arising from our recommendations (and from the wider Future DfE project), and that ESFA and DfE

colleagues are supported to work collaboratively within the new structures and boundaries set out in this report, building on existing cooperation.

## Annotated list of recommendations

Rec. Ref. No.	Recommendation	Explanatory Text
1	We recommend that there should continue to be an Arms Length Body (ALB).	ESFA currently operates as an ALB of DfE. We considered whether the ESFA met the Cabinet Office's three tests to exist as an ALB, and a range of alternate delivery models. We concluded that ESFA's core funding delivery role met at least one of the three tests, and that it should continue to operate as an ALB. This model ensures that ESFA's critical funding delivery role continues to have robust dedicated governance and direct access to specialist support. It also minimises disruption and ultimately reduces risks that end-users are adversely affected by organisational changes.
2	We recommend that a senior sponsor is appointed and a sponsorship team created as soon as practical, and at the latest by 1 April 2022. The senior sponsor and the sponsorship team should develop an action plan for agreed recommendations and monitor and champion their implementation, working closely with the Future DfE project, DfE and ESFA senior leaders and human resources colleagues. The sponsorship team should conduct a review of the implementation of agreed recommendations by 1 April 2023: this should include an assessment of how the agency has scaled back to a proportionate level, in line with recommendations.	<i>This recommendation addresses the next steps towards implementation. Detailed recommendations on sponsorship are provided in recommendations 41 onwards.</i> With the level of change proposed, alongside the recognised benefits of effective sponsorship functions, it is crucial that such a function is in place as soon as possible. The sponsorship function should oversee implementation across all our recommendations.
3	We recommend that the Government Internal Audit Agency review the risks around change implementation, including interfaces	If our recommendations are accepted, the interfaces between DfE and the new agency will be substantially different. A GIAA review would provide

	between DfE and ESFA, during 2022, to assure the seamless transfer of people, budgets, and accountabilities, and that the implementation of recommendations is on track.	helpful scrutiny of change implementation.
4	We recommend that ESFA should refocus on its core funding delivery role.	ESFA has a wide range of responsibilities – including post 16 policy development, and pre 16 roles on safeguarding, complaints and admissions – which go well beyond what would be expected in a funding agency. While ESFA has been able to deliver these responsibilities, the sheer breadth of its current role risks distracting from its core funding delivery role and confuses customers.
5	We recommend all post-16/skills policy and implementation within ESFA should move to DfE to sit in one portfolio.	The current split of policy responsibilities across DfE and ESFA makes a strategic overview across skills policy and products more difficult to achieve. Bringing together all post-16 policy and delivery work makes it possible for DfE to take a more coherent and effective approach to meeting employer and labour market needs.
6	We recommend that external input from people with the right expertise remains within existing programme governance for apprenticeships and T Levels. In the early stages of implementation this might conveniently involve continuing to use ESFA non-executive directors where they have the right expertise.	We recognise that the post-16 areas within ESFA have benefitted from the external scrutiny and input from ESFA audit and risk committee and ESFA management board members, particularly on apprenticeships and T Levels. It is important that these programmes continue to benefit from external scrutiny.
7	We recommend that regional/territorial teams in ESFA's Further Education Directorate should move to DfE and be brought into new post-16 regional working.	Bringing post-16 regional functions into DfE aligns with recommendation 5 that all post-16/skills policy and implementation should move to DfE. Placing both post-16 policy and delivery in DfE provides an opportunity for DfE to create a stronger connection between policy, delivery, and providers. It will also help DfE achieve a more coherent and unified voice across post-16.

8	We recommend there should be a review of post-16 regional function alongside structural design taking place as part of the Future DfE project. This review should consider DfE priorities including skills reform and levelling up.	Both internal and external stakeholders recognised the breadth of knowledge and scope required of those currently working in outward-facing roles in the post-16 area. The design of post-16 regional working as part of the Future DfE transformation programme provides a clear opportunity to align and focus regional functions to DfE priorities.
9	We recommend that sponsorship of the Institute for Apprenticeships and Technical Education (IfATE) should move to DfE. The senior sponsor role should sit with the appropriate director in the Further Education, Higher Education and Employers (FEHEE) Group.	This recommendation aligns to our recommendation to bring all post-16/ skills policy and implementation into one place within DfE.
10	We recommend that further work is done as part of school system reform to create a more strategic and shared understanding of responsibilities between DfE, ESFA, and Ofsted, and that the outcomes of this work are communicated widely.	The role of various bodies in the school system is unclear to providers. Clarifying roles and responsibilities will simplify the school system environment, reduce bureaucracy, lead to a better understanding of who does what, and enable better delivery of government objectives.
11	We recommend that the department should have a unified directing voice at a regional level. We have contributed to the current <i>Future DfE</i> project which is bringing together functions in the regional tier, and which will resolve the form and nature of that directing voice.	ESFA and Regional Schools Commissioners work together to provide oversight of the academies system. There are strong and collaborative ways of working between ESFA and the RSCs. However, whilst there are clearly many occasions when it works well, there is clearly room for improvement. The separation of functions on education performance, governance, and finance impacts on both staff and stakeholders and makes it harder for the department to look at and engage with the school system in a rounded way. Combined with the relationship between DfE, ESFA, and Ofsted as described in the previous recommendation, this creates difficulty for both the system and how DfE engages with it, creating a perception that there is a lack of a unified

		directing voice at a regional level. Our recommendation that the department should have a directing voice reflects the proposals at the heart of the Future DfE project to become a department that thinks, acts and partners much better locally and regionally.
12	We recommend that the funding delivery functions including the compliance and assurance functions currently in Academies and Maintained Schools Directorate should remain in the refocused agency to provide assurance to the Accounting Officer.	Funding delivery is a spectrum and covers functions beyond the distribution of funding such as financial assurance and compliance. There are functions that are intrinsically linked to funding delivery and allocations that are critical to ensuring value for money, overall affordability, and providing assurance that funds are spent appropriately. The Accounting Office of ESFA needs oversight of these functions and we are therefore recommending they should stay in ESFA, but with governance arrangements in place to ensure effective joint working with the new regional tier. These arrangements should be based on the principle of a single interface with the department and all substantive engagement with the schools' sector should be agreed in advance and coordinated with the regional tier.
13	We recommend that, in keeping with our finding that ESFA should focus on funding delivery, the functions in Academies and Maintained Schools Directorate not linked to the funding delivery role, and not required by ESFA's Accounting Officer to provide assurance, should move to DfE. This means that the non-financial regulatory functions for academies and the functions related to school/trust governance should move to DfE's pre-16 regional tier, as should new trust and free school activity, UTC engagement, and networking events.	Taking the academies non-financial oversight and accountability responsibility out of ESFA will enable ESFA to focus on its core funding role and will also further strengthen the unified directing voice.



14	We recommend that 12 months after implementation the Director General of the DfE regional tier and ESFA's senior sponsor should review with ESFA's Chief Executive Officer whether the pre-16 arrangements are working effectively.	The joint work between the pre-16 regional tier and ESFA will be key to ensuring the department has a unified directing voice at a regional level. The new arrangements should be reviewed following implementation to ensure that they are working effectively.
15	We recommend DfE considers bringing the complaints functions for maintained schools and academies together in a fully centralised complaints system within the department.	Complaints about schools are currently dealt with by different parts of the department depending on the type of school – the School Complaints Unit (SCU) for maintained schools and the Academies Complaints and Customer Insight UNIT (ACCIU) for academies. Work is underway to align the policy positions on complaints; bringing the functions together would underpin this emerging joint policy approach.
16	We recommend that the ESFA's Funding Directorate - including on balance its dedicated digital funding service - should remain in the refocused agency	The Funding Directorate's work will be central to the operation of the refocused agency. We weighed the benefits of the DDaT matrix model with the benefits of the ESFA CEO having certain dedicated digital and data services under their direct control. ESFA's CEO is in a unique position of having AO responsibility for funding delivery, and their ability to fulfil this responsibility is critically dependent on certain digital and data services. We concluded that both models could work. But that in order to minimise the risk to the ESFA's critical funding delivery service, it was important for ESFA's CEO to retain the right to deploy their own digital funding service capability within the agency.
17	We recommend that Funding Directorate should retain its current responsibilities for payments to apprenticeships providers and through the European Social Fund.	We highlight these areas of work as responsibility for them could follow the wider responsibilities for Apprenticeships and ESF out of ESFA. But we conclude that the risk of disrupting effective apprenticeship operations and the ESF programme as it closes, means that Funding Directorate should retain responsibility.

18	<p>We recommend that the payments function should remain within DfE. This position may change as part of future changes to the current operating environment, and should therefore be reviewed periodically</p>	<p>The DfE payments function is critical to ESFA fulfilling its core funding delivery role. We considered the case for moving the function into ESFA but concluded that this risked disrupting a function that is delivering payments accurately and on time across the department. However, we note that the situation may change in the future, hence the recommendation to keep under review.</p>
19	<p>We recommend that the payments service level agreement between ESFA and DfE should be revisited in line with best practice and also in light of the structural changes within the refocused agency. Specifically, the management and oversight of the service level agreement should be strengthened to clarify expectations and set out areas of responsibility for both ESFA and DfE, during the entire payments' life cycle.</p>	<p>The payments SLA underpins the critical funding delivery service; it should be revisited to reflect the changes flowing from our review.</p>
20	<p>We recommend that, in the medium-term, DfE teams currently responsible for the £8 billion of funding to education settings should leverage ESFA's expertise by using the agency's grant management platform. However, our view is that in the longer term, DfE should work towards transferring the responsibility for this funding to the agency.</p>	<p>The approach to grant management across DfE can be inconsistent; the department should utilise ESFA's expertise in this area. DfE teams are responsible for a large number of smaller grants; transferring these to ESFA will be a complex and gradual process.</p>
21	<p>We recommend that the Provider Market Oversight Directorate's financial assurance, compliance, specialist restructuring, counter-fraud, and supporting planning and reporting functions should remain in the refocused agency.</p>	<p>This comprises all the PMO functions – with the exception of responsibility for the Academy Trust Handbook (see below). These specialist functions support ESFA's core funding delivery role and the ESFA CEO in discharging their AO responsibilities and should therefore remain in the refocused agency.</p>

22	<p>We recommend that ownership of the Academy Trust Handbook should move to DfE's School Systems, Academies and Reform Directorate, unless the focus of the Handbook is narrowed back towards a tool for financial management only.</p>	<p>The Handbook has already evolved from a purely financial document to have a broader financial and governance focus. Its future is linked to wider school system reform, hence this recommendation. The agency will continue to provide much of the content of the Handbook, if necessary at pace. It must therefore be part of decision-making about the Handbook's content and use.</p>
23	<p>We recommend that only those corporate functions central to the successful delivery of the core funding role and ESFA's Chief Executive Accounting Officer responsibilities should remain in ESFA. Other corporate functions should be moved out and put together with equivalent functions in wider DfE. A shared services model should be the default.</p>	<p>The nature and scale of corporate functions within the refocused agency should correspond to its core funding delivery role and the CEO's responsibilities as an Accounting Officer, and be proportionate to the agency's smaller size.</p> <p>A consistently applied shared services model will help clarify the lines of responsibility between ESFA and DfE. and offers the potential for greater effectiveness and efficiency.</p>
24	<p>We recommend that DfE and ESFA should review the shared services that DfE provides and how those services are managed, in the light of our recommendations to refocus ESFA and clarify its relationship with DfE (and other factors such as financial system changes). In some cases, it will be appropriate to formalise these arrangements through service level agreements.</p>	<p>Arrangements for the provision of some corporate services have developed in an informal and ad hoc way; though these can be effective, there is a risk that arrangements degrade over time. Both ESFA and DfE colleagues highlighted the value of more formal arrangements such as service level agreements.</p>
25	<p>We recommend that embedded operational communication and campaigns functions should follow their directorates/teams into their respective organisation, both in the case of those remaining in the new agency (Funding, PMO and, where relevant, AMSD) and those moving into DfE; and</p> <p>the new agency should continue to operate an internal and external</p>	<p>ESFA's directorates have their own embedded operational communications and campaigns functions. Where these directorates move into DfE, to ensure that they continue to receive the communications support they require and to minimise disruption, their embedded communications functions should also move into DfE. We note that professional communicators being embedded in policy teams is more the exception than the rule within the</p>

	<p>corporate communications function. The agency's corporate communications capability should be reduced in size and scope, reflecting the tighter focus and smaller size of the agency.</p>	<p>department. This will be for the department to reflect on further.</p> <p>The new agency will continue to require certain internal and external corporate communications functions, such as disseminating CEO newsletters, updating agency-specific intranet pages, managing the agency's social media presence and working with DfE central comms and press office on external publications and media issues regarding the agency and its reputation. However, consistent with the principle that there should be a single voice, the agency should not routinely be communicating with providers on other matters. These functions should be proportionate to the agency's tighter focus and smaller size.</p>
26	<p>We recommend on balance that ESFA's Chief Executive should retain the right to deploy their own digital funding service delivery, data science, and data protection and cyber security functions within the agency in support of their core funding delivery role, in order to ensure maximum control over these critical capabilities. All other Customer Experience, Digital and Data functions should move into DfE.</p>	<p>We weighed the benefits of the DDaT matrix model with the benefits of the ESFA CEO having certain dedicated digital and data services under their direct control. ESFA's CEO is in a unique position of having AO responsibility for funding delivery, and their ability to fulfil this responsibility is critically dependent on certain digital and data services. We concluded that both models could work. But that in order to minimise the risk to the ESFA's critical funding delivery service, it was important for ESFA's CEO to retain the right to deploy their own digital funding service, data science, and data protection and cyber security capabilities within the agency.</p>
27	<p>We recommend that the financial planning responsibilities should remain within the refocused agency, albeit its sizing should be reviewed to reflect the smaller remit of the agency and the impending</p>	<p>This function will be central to the refocused agency – though it should be reviewed to reflect the agency's smaller remit, and its adoption of DfE's financial system.</p>

	changes to departmental finance systems by April 2022.	
28	We recommend that the finance business partnering responsibilities attached to functions in the refocused agency should remain within the agency. However, finance business partnering responsibilities attached to all functions moving out of the agency should move with them into DfE.	The department's operating model attaches finance business partners to individual functions. Finance business partners work closely with colleagues across DfE and its ALBs to provide financial support, analysis and advice to assist in decision making. Our recommendation retains this operating model.
29	We recommend that the functions in ESFA's management accounts team that are aligned to supporting the Chief Executive responsibilities to Parliament, should remain within the refocused agency and be proportionate to its size and scope. Where finance business partners are moving into DfE, the supporting management accounts should also move.	ESFA's management accounts team works with finance business partners and various DfE teams to ensure that its monthly financial position is correctly reported within the ESFA and to DfE, and in its annual report and accounts. Elements of the ESFA's management accounts function which support the refocused agency and the Chief Executive's Accounting Officer responsibilities should remain, but its sizing should be reviewed to reflect the smaller size of the agency.
30	We recommend that the responsibility for producing annual report and accounts, which is currently sat within the ESFA's governance arm, should be more closely aligned with its financial management and assurance function.	Closer alignment of these functions will allow easier collaboration between the agency and DfE and make the process around producing the agency's annual report and accounts more efficient.
31	We recommend that the financial assurance responsibilities should remain within the refocused agency.	The financial assurance function is instrumental in ensuring that the agency acts in accordance with <i>Managing Public Money</i> . The function also provides substantial support for the Chief Executive's Accounting Officer role.
32	We recommend that ESFA's finance capability functions should move into DfE's counterpart function, and that the agency should access DfE's finance change functions.	Rationalising ESFA's financial capability function with its counterpart function in DfE, aligns with the move of many finance professionals into DfE, improves efficiency and minimises risk of duplication. The agency's transition

		to the departmental finance system means it is unlikely to need to develop and implement distinct finance changes (separate from DfE).
33	We recommend that ESFA's Investment Gateway should be discontinued, given the significant reduction in commercial activity in the refocused agency. Remaining commercial activity ranging between £1 million and £20 million within the agency, should be routed through DfE-led joint assurance committees, using learning and best practice from ESFA's Investment Gateway.	Much of the Investment Gateway's business is related to activity which is transferring out of the agency and into DfE (for example on Apprenticeships and T Levels). This work continues to be important but needs to be led by DfE's existing commercial structures.
34	We recommend that the approach adopted in ESFA's Investment Gateway should be applied more widely across the department's joint assurance committee structures, drawing on the best practice established in the Gateway itself.	We have heard excellent feedback from across the department on the effectiveness of the ESFA Investment Gateway, which has managed the ESFA's business cases from £1 million to £20 million. Although the Gateway itself would no longer be needed in the agency (as above), the department should benefit from the best practice that has been established through its operation and we recommend that this is taken forward through joint assurance committees across DfE.
35	We recommend that ESFA should access DfE's shared service on commercial capabilities.	Commercial activities will be significantly reduced in the agency when post-16 policy functions are moved into DfE. Therefore, it will be important for ESFA to access DfE's existing service on commercial capabilities.
36	We recommend that the level of resourcing in ESFA's central people function should be comparable to other parts of the department of a similar size and scale, with no designated HR specialist roles.	The nature and scale of corporate functions within the refocused agency should correspond to its core funding delivery role, the ESFA CEO's responsibilities as an Accounting Officer, and the reduced size of the agency. ESFA will continue to use the HR shared services model.

37	We recommend that ESFA's directorate support teams should be reviewed to reflect the future size and shape of the directorates, and not include any designated HR specialist roles. The sizing of all directorate support teams (including those moving into DfE), should be further reviewed when DfE's review of its learning and development model is finalised.	The nature and scale of corporate functions within the refocused agency should correspond to its core funding delivery role, the ESFA CEO's responsibilities as an Accounting Officer, and be in proportion to the agency's tighter focus and smaller size.
38	We recommend that the ESFA board and audit and risk committee should continue, with representation from independent non-executive directors.	Both forums are necessary and proportionate, given the ESFA's status as an ALB and executive agency and the level and criticality of funding it delivers. The forums provide comprehensive assurance. They will need to evolve to reflect and align to the refocused agency's remit.
39	We recommend that the ESFA Chair should remain a standing member of DfE's board, and the ESFA audit and risk committee Chair should remain a standing member of DfE's audit and risk committee.	This approach works effectively. We considered the approach of standing down ESFA's Chair role from DfE's board to enable clear separation of governance at all levels. On balance, our view is that the current arrangement is warranted given the level and criticality of funding that ESFA delivers.
40	We recommend that the ESFA Chief Executive should not be a permanent member of DfE senior Leadership Team but should join on an invited basis. This will help clarify lines of accountability. The new agency no longer needs to be represented through standing membership of DfE executive governance, but should be engaged as needed through the senior sponsor.	The ESFA is currently closely integrated into DfE's governance structures. The current level of integration creates ambiguity in the formal relationship between DfE and ESFA and leads to fragmented oversight as well as some duplication between governance structures.
41	We recommend that DfE should create a dedicated sponsorship function for ESFA. This function should respect autonomy of ESFA, be centred on honest constructive and trust-based strategic relationships, and enable, and not	The Permanent Secretary is currently the senior departmental sponsor for ESFA and is the primary contact for ESFA on a day-to-day basis. There is no specific resource dedicated to fulfilling the sponsor function. DfE oversees ESFA though ESFA's

	hinder, the direct relationships or access to DfE teams, the Permanent Secretary and ministers.	participation in multiple DfE governance structures. A strengthened sponsorship function is a strategic and proportionate way to enable DfE to provide assurance to the Permanent Secretary and ministers, facilitate clearer arrangements between the department and ESFA, and increase ESFA's responsiveness to DfE priorities and user need. This approach will also align more comprehensively with Cabinet Office guidance.
42	We recommend that the sponsorship function is held at director general level within DfE to enable the robust challenge and strategic oversight which are fundamental to high quality sponsorship. The senior departmental sponsor should be the Chief Operating Officer to align to ESFA's core funding delivery role.	The Chief Operating Officer is best placed to undertake the senior departmental sponsor role. Corporate functions across the Operations Group in DfE will be critical to the future agency, particularly finance and digital services.
43	We recommend that the sponsor team should be independent from teams that provide services to ESFA, to achieve a level of objectivity whilst remaining closely linked to the core ESFA role.	A level of objectivity is important in a sponsorship function which aims to be strategic and pursue a partnership approach with the agency. We also recommend that the sponsorship function will have an oversight role in the delivery of shared corporate services by DfE. Independence will be required to avoid conflicts of interest.
44	We recommend that the <i>Framework Document</i> which governs relations between DfE and ESFA should be refreshed urgently to reflect the recommendations of this review.	The Framework Document is crucial for governing the relationship between DfE and ESFA. Given the level of change proposed, it is important that this is urgently updated so it can clearly articulate the distinction for decision making and oversight responsibilities between ESFA and DfE. It should also provide clear ways of working.
45	We recommend that the sponsorship function should have an oversight role in the delivery of shared corporate services by DfE, as well as oversight of the level of	Arrangements for the provision of some corporate services have developed in an informal and ad-hoc way. Both ESFA and DfE colleagues highlighted the value of more formal



	<p>corporate function in ESFA, acting as an escalation point if needed. This includes brokering formal arrangements, including service level agreements, where needed.</p>	<p>arrangements such as service level agreements. A sponsor team with a level of independence can effectively broker such arrangements. It is crucially important these corporate services support and underpin the Chief Executive's AO role.</p>
46	<p>We recommend that ESFA should review its internal governance arrangements to ensure alignment to the future refocused role of the agency. The skillset and experience of future ESFA Non-Executive Director's should align to the refocused delivery role of ESFA.</p>	<p>Refocusing ESFA means a clearer purpose and role for the agency. To fully realise these benefits, governance within ESFA should be reviewed to ensure alignment to the future refocused role and to ensure all governance layers remain proportionate and effective. The exact future internal governance arrangements within ESFA should be for the Chair of ESFA to decide in discussion with the Chief Executive and in agreement with the PAO. They should ensure they are in line with Cabinet Office guidance.</p>

# **Annex A – Terms of reference**

## **Background**

The Education and Skills Funding Agency (ESFA) was formed on 1 April 2017 to create a single agency accountable for funding education and skills for children, young people and adults. The ESFA is an Executive Agency of the Department for Education. Commencement of a programme of Arm's Length Bodies reviews is one of the actions in the Declaration on Government's Reform.

## **Purpose, objectives and scope**

The aim of the review is to examine the ESFA, in line with how the department overall can achieve the best possible operating model for the future. The review will take account of ESFA's position as part of a much wider delivery system and identify opportunities for improvement, as well as areas of strength which can be built upon.

The review will consider specifically:

- The ESFA's form, function and delivery model
- Corporate governance and assurance mechanisms
- Clarity of accountability, roles and responsibilities within the ESFA and between ESFA and DfE
- The impact of the ESFA in relation to Government objectives
- Efficiency comparisons versus peer organisations, and in the context of wider DfE

## **Timescales**

The review is expected to run from July 2021 to January 2022.

## **Review team**

The review will be led by an Independent Lead Reviewer, Sir David Bell KCB DB, Vice Chancellor of the University of Sunderland. He will be supported by a team of civil servants, and will have access to a Challenge Panel, the members of which will provide insight and feedback drawing on their personal experience and expertise. The review team will work closely with, but be independent of, the ESFA.

## **Deliverables**

A summary of key findings will be published at the conclusion of the review.

## Annex B – List of Stakeholders consulted

### Senior interlocutors

Name	Role	Organisation
Lucy Heller	Chief Executive	Ark
David Hughes	Chief Executive	Association of Colleges
Julian Gravatt	Deputy Chief Executive (Policy, Curriculum and Funding)	Association of Colleges
Representative members	Various	Association of Colleges
Representative members	Various	Association of Directors of Children's Services
Jane Hickie	Chief Executive	Association of Employment and Learning Providers
Representative members	Various	Association of Employment and Learning Providers
Anne Murdoch OBE	Senior Advisor, College Leadership	Association of Schools and College Leaders
Geoff Barton	General Secretary	Association of Schools and College Leaders
Julia Harnden	Funding Specialist	Association of Schools and College Leaders
Representative members	Various	Association of Schools and College Leaders
Anthony Impey	Chief Executive	Be the Business as well as Chair of Apprenticeship Ambassador Network
Chris Carr	Director	Better Regulation, BEIS
Bev Robinson	Principal and Chief Executive	Blackpool and The Fylde College
David Foley	Director Public Bodies	Cabinet Office
Jack Goodwin	Deputy Director Public Bodies Governance	Cabinet Office
Lord Agnew	Minister of State	Cabinet Office and Her Majesty's Treasury

Leora Cruddas	Chief Executive	Confederation of School Trusts
Representative members	Various	Confederation of School Trusts
Marc Jordan	Chief Executive	Creative Education Academies Trust
Simon Tse	Chief Executive	Crown Commercial Services
Ellen Thinnesen	Chief Executive	Education Partnership North East
Alex Marsh	Director Academies and School Reform	Department for Education
Andrew McCully	Director General Early Years and Schools Group	Department for Education
Baroness Barran	Academies Minister	Department for Education
Baroness Berridge	Former Academies Minister	Department for Education
Claire Burton	Regional Schools Commissioner	Department for Education
Clare Benham	Director Commercial	Department for Education
Dominic Herrington	National Schools Commissioner Director	Department for Education
Emma Stace	Director for Transformation and Digital, and Chief Digital Officer	Department for Education
Frances Wadsworth	Interim Further Education Commissioner Until October 2021	Department for Education
Hannah Woodhouse	Regional Schools Commissioner	Department for Education
Iain King	Director-Operational Finance - Financial Assurance	Department for Education
Iain Mansfield	Special Adviser	Department for Education
Ian Ferguson	Non-Executive Director	Department for Education
Indra Morris	Director General Children's Services, Communications and Strategy Group	Department for Education

James Cox	Director Communications	Department for Education
Jane Hill	Director Legal Advisers Office	Department for Education
Jonathan Clear	Director Planning, Performance & Risk	Department for Education
Jonathan Duff	Director Regional Delivery Directorate (Services, Operations and Transformation)	Department for Education
Julia Kinniburgh	Director General COVID-19 Response and Schools Recovery	Department for Education
Kate Dixon	Director School Quality and Safeguarding Directorate	Department for Education
Keith Smith	Director for Post-16 and Skills Strategy Directorate	Department for Education
Mark Lehain	Special Adviser	Department for Education
Mike Green	Director General of the Operations Group	Department for Education
Minister Burghart	Under Secretary of State	Department for Education
Minister Donelan	Minister of State for Higher and Further Education	Department for Education
Minister Keegan	Former Parliamentary Under Secretary of State for Apprenticeships and Skills	Department for Education
Minister Williamson	Former Secretary of State	Department for Education
Minister Zahawi	Secretary of State	Department for Education
Neil McIvor	Director, Chief Data Officer and Chief Statistician	Department for Education
Paul Kett	Director General for Higher Education and Further Education	Department for Education
Richard Pennycook	Lead Non-Executive Director	Department for Education
Roger Cotes	Acting Director Careers and Further Education Directorate	Department for Education

Shelagh Legrave	Further Education Commissioner	Department for Education
Simon Fryer	Director HR	Department for Education
Simon Parker	Director Transformation and Digital	Department for Education
Sinead O'Sullivan	Director Labour Market Skills and Funding Directorate	Department for Education
Sir John Holman	Independent Strategic Adviser on Careers to Secretary of State for Education	Department for Education
Sue Baldwin	Regional Schools Commissioner	Department for Education
Susan Acland-Hood	Permanent Secretary	Department for Education
Toby Peyton-Jones	Non-Executive Director	Department for Education
Tony Foot	Director Strategic Finance	Department for Education
Zamila Bunglawala	Director International and EU Exit Directorate	Department for Education
Charlotte Briscall	Director Customer Experience, Experience, Digital and Data Directorate	ESFA
Dame Irene Lucas-Hays DBE	Chair	ESFA
Eileen Milner	Former Chief Executive and Accounting Officer	ESFA
John Edwards	Interim Chief Executive and Accounting Officer	ESFA
Kirsty Evans	Director Further Education Directorate	ESFA
Matt Atkinson	Director Provider Market Oversight Directorate	ESFA
Owen Jenkins	Acting Director Funding Directorate	ESFA
Peter Mucklow	Director Apprenticeships Directorate	ESFA
Sarah Whitehead	Director Finance	ESFA

Stuart Proud	Interim Finance Director	ESFA
Sue Lovelock	Director Professional and Technical Education (PTE) Directorate	ESFA
Warwick Sharp	Director Academies and Maintained Schools	ESFA
Rebecca George	Former Managing Partner; Current Chair of DfE Skills Reform Board	Formerly Deloitte
Gemma Marsh	Assistant Director Skills	Greater Manchester Combined Authority
Louise Love	Head of Internal Audit ESFA	Government Internal Audit Agency
Jane Hadfield	National Programme Manager for Apprenticeships	Health Education England
Ceri Morgan	Director of Education for Herefordshire	Herefordshire Council
Philippa Davies	Director for Public Services	HM Treasury
Susan Pember	Policy Director	HOLEX
Jonathan Simons	Independent	In a personal capacity
Beth Chaudhary	Strategy Director	Institute for Apprenticeships and Technical Education (IfATE)
Jennifer Coupland	Chief Executive	Institute for Apprenticeships and Technical Education (IfATE)
Baroness Alison Wolf CBE	Professor of Public Sector Management	Kings College London
Kathryn Marshall	Apprenticeships Lead and Apprenticeship Ambassador	Lloyds Banking Group
Mark Holmes	Deputy Chairman	Mace Group
Paul Whiteman	General Secretary	National Association of Headteachers (NAHT)
Jill Coyle	Apprenticeship Manager and Apprenticeship Ambassador	Nestlé UK&I
Lesley Powell	Chief Executive	North East Learning Trust
Graham Russell	Chief Executive	Office for Product Safety and Standards, BEIS

Rachel de Souza	Children's Commissioner	Office of the Children's Commissioner
Catherine Large	Executive Director for Vocational and Technical Qualifications	Ofqual
Jo Saxton	Chief Regulator	Ofqual
Amanda Spielman	Chief Inspector	Ofsted
Chris Jones	Director For Corporate Strategy	Ofsted
Gill Jones	Deputy Director for Early Education	Ofsted
Matthew Coffey	Chief Executive Officer	Ofsted
Paul Joyce	Deputy Director for Further Education and Skills	Ofsted
Paul Caldwell	Chief Executive	Rural Payments Agency
Charlotte Ramsden	Strategic Director for People and President of the Association of Directors of Children's Services	Salford City Council
Peter Lauener	Chair	Student Loans Company
Gill Alton	FE College Principal and CEO	TEC Partnership
Siobhán Duffy	Director	UK Government Investments (UKGI)
Gillian Hillier	Chief Executive	Standards and Testing Agency
Jon Coles	Chief Executive	United Learning
Representative members	Various	Universities UK (UUK)
Ray Olive	Assistant Director of People and Organisational Development	University Hospitals of Morecambe Bay NHS Trust
Jatinder Sharma	FE College Principal and CEO	Walsall College
Julie Nugent	Director of Skills and Productivity	West Midlands Combined Authority (WMCA)
Lesley Bamber	Apprenticeship Manager	Willis Towers Watson



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