



Education & Skills
Funding Agency



European Union
European
Social Fund

European Social Fund (ESF): funding and performance- management rules 2014 to 2020

Version 4

This document sets out the rules for funding the 2014 to 2020 European Social Fund (ESF) Programme.

These rules apply from November 2015.

May 2018

Of interest to providers

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Introduction and purpose of the document

1. This document sets out the funding and performance-management rules for the European Social Fund (ESF) 2014 to 2020 Programme.
2. The rules apply to all providers funded by the European Social Fund through the Education and Skills Funding Agency (ESFA).
3. The funding and performance-management rules form part of the terms and conditions of the Contract for Services between the Secretary of State for Education acting through the Education and Skills Funding Agency and providers who receive European Social Funding. They must be read together with the:
 - Funding Agreement (Contract for Services)
 - ESF Service Specification
 - [Individualised Learner Record \(ILR\) Specification](#)
 - [ESF Funding Rates and Formula](#)
 - [ESF Supplementary Data Collection Guidance](#)

You can also access the [Individualised Learner Record Specification](#) and the [ESF Funding Rates and Formula](#) documents on the [ESF page](#) of GOV.UK.

4. You must operate within the terms and conditions of the funding agreement, funding and performance-management rules, appropriate ESF service specification and the ILR specification. If you break these funding and performance-management rules you are in breach of (have broken) the funding agreement with the ESFA and we will take action as set out in the funding agreement.
5. The ESFA reserves the right to make changes to the rules set out in this document. We will publish any changes on our website.

Understanding the terminology

6. The term 'we', 'our', 'us' and 'ESFA' refers to the Education and Skills Funding Agency which is an executive agency of the Department for Education and exercises functions on behalf of the Secretary of State for Education.
7. When we refer to 'you' or 'providers', this includes colleges, training organisations, local authorities and employers who receive ESF funding from us to deliver education and training. We will use the individual type of provider if the requirements apply only to that specific type of provider.
8. We use the term 'funding agreement' to include the:
 - Contract for Services – Education and Training – European Social Fund (ESF) Funding Agreement
 - ESF Service Specification
9. We use the terms 'participant' or 'learner' to cover all those who receive education or training we have funded.

How this document can help you

10. This document is divided into sections containing the funding and performance-management rules. Each section may include:
 - the context of the rule
 - the rule itself in a numbered paragraph
11. We have included a glossary to explain technical terms.

Contacting our ESF Management and Delivery Team

12. For further information or clarification regarding the ESF Funding and Performance-management Rules document, you can contact your ESF Management and Delivery adviser.

Overview of the 2014 to 2020 ESF Programme

13. The European Social Fund (ESF) is part of the European Structural and Investment Funds (ESIF) Growth Programme for England in 2014 to 2020. The European Commission (EC) owns these programmes and sets the Europe-wide ESF Programme requirements. The EC governs this Programme through its rules and regulations. In England, the Department for Work and Pensions Managing Authority manages this. The Managing Authority will deliver the Programme's priorities in England to increase labour market participation, promote social inclusion and develop the skills of the potential and existing workforce. The ESF is designed to increase sustainable economic and social inclusion in the European Union, by helping people who have difficulties finding work, and improving the skills of the workforce. You can access an overview of the programme on [GOV.UK](https://www.gov.uk).

Contracting and subcontracting

Register of Training Organisations (the Register)

14. We will only fund organisations that have a current funding agreement with us either:
 - a. as a single legal entity (college, private or public organisation), or
 - b. with other legal entities (for example a consortium) on a joint-and-several basis (this means the contract can be enforced against all or one of the legal entities)
15. All lead providers and subcontractors must register on the UK Register of Learning Providers (UKRLP) and hold a valid UK Provider Reference Number (UKPRN) to be eligible to receive funding from us, either directly or through a subcontracting arrangement. Organisations registered outside of the United Kingdom do not need to be registered on the UKRLP, however, they must complete our separate due diligence process to receive funding from us.
16. You can find the register on the UK Register of Learning Providers [website](#).
17. You can access the ESFA Register of Training Organisations on [GOV.UK](#).

Staying on the Register of Training Organisations

18. To continue to be listed on the Register of Training Organisations you and any subcontractors listed on the Register must successfully complete the Register Refresh and update your information when we ask you to. If you fail, or do not update when we ask you to, you must apply at the next opening of the Gateway. During this period you and any relevant subcontractors:
 - a. will not be listed on the Register
 - b. will not be invited to tender
 - c. will not be able to increase contract value through growth cases
19. If your organisation does not apply at the next opening of the Gateway, or you fail the application process, we will review your funding arrangements.
20. We will not agree any request for an increase in funding where you intend to increase the value of a subcontract with a subcontractor who has failed to refresh their information. If the subcontractor's application fails the Gateway, the lead provider must end their subcontract.
21. If you give false information when completing the Gateway, we will remove you from the Register.
22. If you are the subject of our [Intervention Policy](#), we will not invite you to tender or consider you for an increase in funding. We may remove or suspend you from the Register and we will review your funding arrangements.

23. You do not have the right to transfer your contract to another organisation. If you do not want to continue delivering education and training, you must inform us and we will then take a decision on the transfer of the provision.

Subcontracting

A subcontractor is a legal entity that has an agreement with you to deliver education and training funded by us.

You must take your own legal advice about the impact of the Public Contracts Regulations 2015 on your recruitment of delivery subcontractors and satisfy yourself that you are able to comply with the requirements of those regulations. You must provide a synopsis of the legal advice for inspection by us on request.

These funding and performance-management rules are intended to minimise the risks to public funding associated with subcontracting.

Best practice guidance for a relationship between prime provider and a subcontractor was produced to support providers in their supply chain management. We highly recommend that you routinely refer to this document during all stages of the contracting process. You can find it on the Association of Employment and Learning Providers (AELP) [website](#).

24. Your governing body / board of directors and your accounting officer (senior responsible person) must be satisfied that all subcontracting you undertake meets your strategic aims and enhances the quality of your offer to participants. Examples of the senior responsible person are chief executive, managing director, principal or their equivalent. The reasons for subcontracting set out in your published supply chain fees and charges policy must reflect your strategic aims. You must not subcontract to meet short-term funding objectives.
25. You must only use subcontractors if you have the appropriate knowledge, skills and experience within your organisation to successfully procure, contract with, manage those subcontractors, and evidence this with the CVs of relevant staff.
26. You must only use subcontractors who your governing body / board of directors and your accounting officer (senior responsible person) determine are of a high quality and low risk, and provide written evidence confirming this.
27. We expect you to have robust procedures in place to ensure that subcontracting does not lead to the inadvertent funding of extremist organisations.
28. We reserve the right to move subcontractors into a direct contractual relationship.
29. You are responsible for all the actions of your subcontractors connected to, or arising out of, the delivery of the services that you subcontract.

30. You must inform us if your subcontractor goes into administration or liquidation. This requirement continues to at least 31 December 2030 but you will be notified of any change to this date.
31. We can, at any time, assess your arrangements for subcontracting. We can also require you to commission an independent report on these arrangements from a third party, such as your external auditors.

Selection and procurement of subcontractors

32. If you have not previously subcontracted provision we fund, you must get our approval in writing before awarding a contract to a subcontractor. You can find details on our [website](#).
33. We expect that your tender allowed you to start delivery immediately and so you would have included the partners that you need. If you need new partners / subcontractors, you must select subcontractors through a procurement competition following the Managing Authority [procurement guidelines](#).
34. If you add new subcontractors during the life of your contract, you must submit an updated subcontractor declaration form.
35. When appointing subcontractors, you must avoid conflicts of interest and you must:
 - a. tell us, in writing, about any circumstances (for example, where you and your proposed subcontractor have common directors or ownership) which might lead to an actual or perceived conflict of interest
 - b. not award the contract without our permission in writing
 - c. send your request to your ESF Management and Delivery adviser and keep as evidence both your request and our reply
36. You must carry out your own due diligence checks when appointing subcontractors and have both the process and the results available for inspection by us. You must not use a delivery subcontractor's presence on the Register of Training Organisations, or any other public register or database, as a substitute for carrying out your own due diligence checks.
37. You must not appoint any subcontractors with a contract value of £100,000 or greater for each funding year unless they are listed on the Register of Training Organisations first.
38. This also applies if the subcontract from you would take the total value of subcontracts that the subcontractor holds to deliver education and training funded by us to £100,000 or greater.
39. You must obtain this information from each proposed subcontractor and refer to the latest published List of Declared Subcontractors and Register of Training Organisations on [GOV.UK](#).
40. If a subcontractor you are using exceeds the £100,000 threshold and is not listed on the Register of Training Organisations, you must immediately end your

subcontract with that organisation. This applies regardless of whether you were the provider whose contract took the subcontractor over the threshold.

41. We expect you to make sure any subcontractor you appoint continues to meet the Register of Training Organisations' requirements and that they receive all the necessary support from you.
42. If any of the following circumstances apply, you must not enter into new subcontracting arrangements or increase the value of your existing arrangements. These conditions will continue until we are satisfied that the concerns have been addressed and the circumstances below no longer apply.
 - a. If Ofsted has given you a rating of inadequate.
 - b. If you do not meet our [Minimum Standards](#).
 - c. If the outcome of your annual financial health assessment we carry out is inadequate.

Entering into a subcontract

43. All participants who are provided with education and training under a subcontract remain your responsibility. If your subcontractor fails to deliver, you will be responsible for making alternative arrangements for the delivery of education and training, protecting the audit trail and/or repaying Education and Skills Funding Agency or ESF funding.
44. You must only award contracts for delivering funded provision to legal entities. If the legal entity is a registered company, it must be recorded as 'active' on the Companies House database.
45. You must not award a subcontract to any organisation if:
 - a. it has an above-average risk warning from a credit agency,
 - b. it has passed a resolution (or the court has made an order) to wind up or liquidate the company, or administrators have been appointed, or
 - c. its statutory accounts are overdue.
46. You must make sure that participants and employers supported through subcontracting arrangements know about your roles and responsibilities and your subcontractor's roles and responsibilities in providing the learning.
47. You must have a legally binding contract with each subcontractor that includes all the content set out below in paragraphs 51 to 64.
48. You must have a contingency plan in place for participants in the event that:
 - a. you need to withdraw from a subcontract arrangement
 - b. a subcontractor withdraws from the arrangement, or
 - c. a subcontractor goes into liquidation or administration

49. We need assurance that education and training provided by subcontractors will keep to our funding and performance-management rules. You must make sure that the terms of your subcontracts allow you to:
 - a. monitor the subcontractor's activity
 - b. have control over your subcontractors
 - c. monitor the quality of education and training provided by subcontractors

Terms that must be included in contracts with subcontractors

50. We do not provide a template for subcontracts, but you must make sure your subcontracts include the contents of this section. You must take your own legal advice on the wider terms and conditions of contracts you enter into with subcontractors.
51. Subcontractors must comply with these funding and performance-management rules.
52. Subcontractors must provide you with ILR and supplementary data so your data returns to us accurately reflect your subcontractor's delivery information.
53. Subcontractors must give us, and any other person nominated by us, access to their premises and all documents relating to ESF provision.
54. Subcontractors must give you sufficient evidence to allow you to:
 - a. assess their performance against Ofsted's Common Inspection Framework
 - b. incorporate the evidence they provide into your self-assessment report
 - c. guide the judgements and grades within your self-assessment report
55. Subcontractors must always have suitably qualified staff available to provide the education and training we fund.
56. Subcontractors must co-operate with the lead provider to make sure that there is continuity of learning if the subcontract ends for any reason.
57. Subcontractors must tell you if evidence of any irregular financial or delivery activity arises. Irregular activity could include, but is not limited to:
 - a. non-delivery of training when funds have been paid
 - b. sanctions imposed on the subcontractor by an awarding organisation
 - c. an inadequate Ofsted grade
 - d. complaints or allegations by participants, people working for the subcontractor or other relevant parties
 - e. allegations of fraud
58. You must ensure that the subcontractor's evidence meets the contractual evidence requirements in these funding rules and carry out checks to ensure this is the case.

59. You must ensure that your subcontractors maintain the evidence and audit trail in these funding rules, and provide access to it, until at least 31 December 2030, but you will be notified of any change to this date.
60. All clauses from your funding agreement with us must be included in the subcontract.
61. Sub-contractors must comply with the [European Social Fund cross-cutting themes guidance for sustainable development and equality programme guidance - GOV.UK](#)
62. Subcontractors must not use our funding to make bids for, or claims from, any European funding on their own behalf or on our behalf.
63. Subcontractors must not use payments made through this funding agreement as match funding for ESF direct bid projects.
64. All contract documentation remains the property of the Secretary of State. If the subcontractor ceases trading you must recover all contract paperwork and then reconcile your claims to us against the recovered paperwork.

Subcontractor monitoring

65. You must robustly manage and monitor all of your subcontractors to ensure that high-quality delivery is taking place that meets the specific funding requirements for each programme being delivered.
66. You must carry out a regular and substantial programme of quality-assurance checks on the education and training provided by subcontractors, including visits at short notice and face-to-face interviews with staff and participants. The programme must:
 - a. cover whether the participants exist and are eligible
 - b. involve direct observation of initial guidance
 - c. involve direct observation of assessment
 - d. involve direct observation of the delivery of learning programmes
67. The findings of your assurance checks must be consistent with your expectations and the subcontractor's records.
68. You must ensure your subcontractor's evidence meets the requirements of these funding rules and is maintained and is accessible until at least 31 December 2030, but you will be notified of any change to this date.

Second-level subcontracting

69. You must not agree the use of any delivery subcontractor where this would require you to subcontract training provision to a second level. All of your delivery subcontractors must be contracted directly to you. The restrictions on the level of subcontracting is in place to ensure:

- a. that lead providers retain clear and transparent accountability for the quality of training provision
- b. that proper and appropriate controls are in place to manage the learner experience
- c. that value for money is achieved by mitigating funding being utilised for multiple tiers of subcontracting management

Reporting subcontracting arrangements

70. You must provide a fully completed Subcontractor Declaration Form by the exact dates we will give you. This will be at least twice during the funding year. If you do not return the form on time, we will suspend your payments. If you do not subcontract, you must still provide a nil return form to confirm this.
71. You must also update and return your Subcontractor Declaration Form if your subcontracting arrangements change during the year.
72. You must report all subcontracted learning in the ILR and supplementary data if appropriate.

Distributing income between you and your subcontractors

By law, we must make the best use of resources when securing the provision of education and training. We will monitor the fees and charges associated with subcontracting to make sure enough funding is being allocated for providing high-quality education and training.

73. Your supply-chain fees and charges policy must be reviewed and signed by your governing body / board of directors and your accounting officer.
74. You must publish your supply-chain fees and charges policy on your website before entering into any subcontracting agreements for the current funding year.
75. Your fees and charges policy must only include 'provision subcontracting'. Provision subcontracting is when you subcontract the delivery of full programmes or frameworks. It is not subcontracting the delivery of a service as part of the delivery of a programme (for example, buying the delivery of part of an apprenticeship framework or outreach support). If you are not sure whether your subcontracting arrangements are defined as 'provision subcontracting', please discuss this with your ESF Management and Delivery adviser.
76. You must, as a minimum, include the following in your supply-chain fees and charges policy.
 - a. Your reason for subcontracting.
 - b. Your contribution to improving your and your subcontractor's quality of teaching and learning.

- c. The typical percentage range of fees you retain to manage subcontractors, and how you calculate this range.
 - d. The support subcontractors will receive in return for the fee you charge.
 - e. If appropriate, the reason for any differences in fees charged for, or support provided to, different subcontractors.
 - f. Payment terms between you and your subcontractors; timing of payments in relation to delivering provision and timescale for paying invoices and claims for funding received.
 - g. How and when the policy is communicated to, and discussed with, current and potential subcontractors.
 - h. Timing for policy review.
 - i. Where the policy is published.
77. You must also tell us the actual level of funding paid and retained for each of your delivery subcontractors. You must email this information to your ESF Management and Delivery adviser using a template we will supply to you. We will let you know the date by when you must do this. We will publish the information on our website.
78. The actual level of funding paid and retained must only include 'provision subcontracting', which is defined in paragraph 75.
79. You must, as a minimum, include the following in your published supply-chain fees and charges.
- a. Name of each subcontractor.
 - b. The UKPRN number of each subcontractor.
 - c. Contract start and end date.
 - d. Funding we have paid to you for ESF provision delivered by each delivery subcontractor in that funding year.
 - e. Funding you have paid to your subcontractor for provision delivered in that funding year.
 - f. Funding you have retained in relation to each subcontractor for that funding year.
 - g. If appropriate, funding your subcontractor has paid to you for services or support you have provided in connection with the subcontracted provision.
80. You must publish this information on actual fees and charges alongside your supply-chain fees and charges policy.

Subcontracting evidence

81. You must hold and retain the following.

- Minutes of governing body / board of directors' meetings and written evidence of accounting officer (senior responsible person) sign-off. The strategic aim must reflect the reasons for subcontracting set out in the published fees and charges policy.
- Curriculum vitae of staff procuring, contracting with and managing subcontractors.
- Written evidence from the accounting officer confirming that appointed subcontractors are of a high quality and low risk.
- A request to subcontract, including an external audit report from an independent and qualified external auditor, and a copy of approval from us.
- Written details of anything that could be considered to give rise to a conflict of interests, and a copy of the response from us.
- Evidence that the subcontractor is on the Register of Training Organisations (where appropriate) and the UK Register of Learning Providers (UKRLP), and their UK Provider Registration Number (UKPRN).
- Copies of the process you follow and checks you carry out when appointing subcontractors.
- Copies of your subcontracts with each subcontractor.
- An up-to-date and fully filled-in Subcontractor Declaration Form.
- Evidence of a published supply-chain fees and charges policy, as set out in these funding and performance-management rules.
- Evidence of funding paid and retained in relation to supply-chain fees and charges, as set out in these funding and performance-management rules.

European Social Fund programme rules

Eligibility

The ESF Programme is governed by European Regulations, notably [1303/2013](#) and [1304/2013](#), and [England Managing Authority Operational Programme](#), requirements and guidance. These documents lay out the scope of the ESF programme and who is eligible for support.

European Social Fund support has no upper age limit. However, European Social Fund support is for individuals who will contribute to the growth of the economy through employment or increased skills levels.

Asylum seekers are individuals who are seeking international protection who claim they are unwilling or unable to avail themselves to the protection of the authorities in their home or habitual country of residence. Refugees are people who have been granted international protection and have been given permission to stay. Asylum seekers are not usually eligible for European Social Fund support, but refugees are. Further details on eligibility for these groups is set out in the Managing Authority [eligibility guidance](#).

On the 2014 to 2020 European Social Fund Programme, the place where the activity is taking place – that is, where the provision is – will be where the European Social Fund support is counted as occurring for eligibility purposes.

Employment status and eligibility for ESF is decided by referring to a participant's status on the day they begin their programme of learning. If a participant leaves or changes to another ESF-funded project, their eligibility is based on their status when they start the new programme of learning.

Any work with employers must be in line with EU competition law and adhere to State Aid rules.

The European Social Fund will not fund provision linked to statutory/legislative training for any participants or statutory/legislative employer requirements (including licence to practice), to employed participants.

82. You, your subcontractor and grant recipients must only engage participants and employers who meet the service-specific eligibility criteria set out in the relevant service specification.
83. To be eligible for funding from the European Social Fund, you must only support individuals who are:
 - a. legally resident in the UK
 - b. able to take paid employment in a European Union member state
 - c. 15 years old (at risk of NEET only) or older
84. To be eligible for funding from the European Social Fund, you must only support employers in line with EU competition law and State Aid principles.

85. You must show that participants will contribute to the growth of the economy through employment or increased skills levels (except where the participant is 15 years old, at risk of becoming NEET and still at school).
86. You must have documentary evidence of a participant's eligibility.
87. You will allow any eligible individual with reasonable access to the opportunity to be supported. Any specific geographic priorities are set out in the relevant service specification and your delivery location must be within these areas for the delivery to be eligible.
88. Each specification is targeted at a single category of region (less developed, more developed and transition) and your delivery location must be within that type of region.
 - a. Less developed: Cornwall and Isles of Scilly
 - b. More developed: all other areas not less developed or transition areas
 - c. Transition, see table below

Local Enterprise Partnership (LEP) area	Transition area(s) Unitary/District
Cumbria	All of the LEP area Carlisle Allerdale Copeland South Lakeland Eden Barrow-in-Furness
Tees Valley	All of the LEP area Darlington Hartlepool Middlesbrough Redcar and Cleveland Stockton-on-Tees
North Eastern	County Durham only
Liverpool City Region	Knowsley Liverpool Sefton St. Helens Wirral
York and North Yorkshire	East Riding of Yorkshire
Humber	All of the LEP area East Riding of Yorkshire Kingston upon Hull, city of North Lincolnshire North East Lincolnshire
Sheffield City Region	Rotherham Sheffield Barnsley

	Doncaster
Leeds City Region	Barnsley
Greater Lincolnshire	All of the LEP area West Lindsey Lincoln East Lindsey North Kesteven Boston South Kesteven South Holland North Lincolnshire North East Lincolnshire
Heart of the South West	West Devon South Hams Teignbridge Exeter East Devon Mid Devon North Devon Plymouth Torrige Torbay
Stoke-on-Trent and Staffordshire	All of the LEP area Staffordshire Moorlands Stoke-on-Trent Stafford South Staffordshire Cannock Chase Newcastle-under-Lyme East Staffordshire Lichfield Tamworth
Lancashire	All of the LEP area Blackpool Burnley Chorley Fylde Hyndburn Lancaster Pendle Preston Ribble Valley Rossendale South Ribble West Lancashire Wyre Blackburn with Darwen
Greater Birmingham and Solihull	East Staffordshire Lichfield

	Cannock Chase Tamworth
The Marches	Telford and Wrekin Shropshire

89. Eligible activity for each service is set out in the relevant service specification
90. ESF provision must not displace government policy. If government policy changes, the change may be reflected in your contract. This includes provision for young people that must take into account mainstream provision funded by the Education and Skills Funding Agency.
- a. Traineeships 16 to 24 (inclusive).
 - b. 16 to 18 apprenticeships.
 - c. 16 to 19 study programmes.
 - d. 16 to 24 supported internships.
91. For services to young people, you must fully adhere to the principles of re-engagement provision as set out in the Statutory Guidance for Raising of the Participation Age.
92. Unless otherwise defined in the specification, you will allow participants to receive any number of learning aims to ensure they progress, however, you must manage this within the budget constraints of the learning funding lines so that all participants have adequate learning.

Publicity

The ESF Programme has strict requirements on publicity that will be audited and failure to adhere to these will lead to financial penalties. You can find these publicity requirements on GOV.UK.

The requirements are different for the 2014 to 2020 Programme; please do not reuse 2007 to 2013 Programme publicity materials.

93. You, your subcontractors and grant recipients must adhere to the [ERDF and ESF publicity](#) requirements above.
94. The publicity requirements include:
- a. displaying at least one poster with information about the project at a location readily visible to the public
 - b. ensuring that all printed documents and publications produced acknowledge and reference the funding received by displaying the correct logo and ensuring it is visible in a prominent position

- c. websites developed specifically for a project funded by the ESF, the ESF logo must be displayed on the main page, whereas if the project is on the organisations main website the ESF logo needs to be placed on the main project page, the ESF logo must be immediately visible on these landing pages without the need to scroll down and may also be placed on the organisations home page
- d. ensuring all electronic materials produced for projects acknowledge and reference the funding received by displaying the appropriate logo
- e. ensuring all materials and documents produced for an event in advance, on the day and after the event including invitations, tickets, press releases, exhibition stands, and presentation slides, acknowledge and reference the funding received by displaying the appropriate logo
- f. ensuring that all participants who are taking part in activities associated with the project are informed about the support from the specific fund and the European Union at the start of their activity (this can be evidenced by learners signing forms with the ESF logo on); online videos are available from the EC [website](#)

Horizontal principles

The objectives of the ESF Programme will be pursued in line with the principle of sustainable development, including the aim of preserving, protecting and improving the quality of the environment as well as the need to prepare for expected changes to the environment and climate.

The programme will promote equal opportunities and non-discrimination. The Managing Authority and all delivery partners will adhere to the principles and processes set out in EU and UK equality legislation.

These areas are detailed in the [European Social Fund Operational Programme page](#) of GOV.UK. and in the following guidance: [Horizontal Principles Guidance](#)

- 95. You must have sustainable development governance, policies and implementation plans in place within two months of the start of the contract which explain:
 - a. your commitment to promoting sustainable development and complying with relevant EU and domestic environmental legislation
 - b. how the commitment will be turned into action at project level (we will put in place a monitoring mechanism to assess implementation and compliance during the delivery of the service)
- 96. You must ensure that the principle of equal opportunities is embedded in your service delivery and that you promote gender equality. You must ensure that

your activities are fully accessible to disabled people in line with your duty under the 2010 Equality Act.

97. You must monitor the impact of your equality opportunities policies across the provision you are delivering in line with the wider ESF programme targets detailed in the Operational Programme. This will include details of any actions to address increased participation from under-represented groups and evaluation of the success of any such initiatives.
98. You must promote the ESF Gender Equality/Equal Opportunities and Sustainable Development Awards held during Festival of Learning week both internally and to subcontractors.

State Aid

Where support is made to individuals in employment and/or their employers then you must adhere to EU competition law and State Aid rules for the provision to be eligible. State Aid is any advantage granted by public authorities through state resources on a selective basis to any organisations that could potentially distort competition and trade in the European Union.

The definition of State Aid is very broad because 'an advantage' can take many forms. It is anything that an undertaking (an organisation engaged in economic activity) could not get on the open market.

State Aid rules can (amongst other things) apply to the following:

- Grants.
- Loans.
- Tax breaks.
- The use or sale of a state asset for free or at less-than-market price.

The rules can apply to funding given to charities, public authorities and other non-profit-making bodies where they are involved in commercial activities.

You can find guidance on State Aid on [GOV.UK](https://www.gov.uk).

99. Where the rules on State Aid apply, you must assess the employer for the State Aid they have received.
100. Where an employer has exceeded the de minimis threshold, you must contact the ESFA to obtain written guidance on how to proceed.
101. We may require you to obtain a contribution towards the cost of the services delivered under this funding agreement from the employer of any participant. Where a contribution is required, we will confirm to you in writing the exact percentage of the contribution.

102. Where we require you to obtain a contribution towards the cost of the services in this funding agreement, you must provide evidence that the contribution has been received.
103. In the event that any funding paid under this contract is deemed to constitute unlawful State Aid, the ESFA reserves the right to require immediate repayment of any such funding.

Programme rules evidence required

104. You must hold and retain the following:

- Learner and employer eligibility declaration.
- ESF-branded materials.
- Photo of your ESF poster in your premises.
- Induction narrative outlining the contribution from the ESF.
- Documentation with the ESF logo on it signed by the participant to show they are aware of the ESF funding.
- Sustainable development policy and implementation plan.
- Equal opportunities policy and evidence of its implementation.
- Evidence of promoting gender equality.
- State Aid de minimis assessment.
- State Aid Block Exemption form, if de minimis is not suitable, including evidence of employer contribution.

Reporting and evidence rules

The ESFA will reclaim ESF funds paid to providers from the EC and the EC or their agents will audit these claims. It is vital that your data and information is correct, and the audit trail behind them is complete and unchanged, so that the claims made by the ESFA to the EC will also be correct and can be audited successfully.

As well as the data collection requirements outlined in the contract, ESF providers must be aware of the use of their data in our claims process and the need for it to be accurate when it is submitted. Late changes to data can incur audit penalties. Unlike our cumulative mainstream programmes, the ESF programme operates on a quarterly basis and so data must be complete and correct when it is submitted.

The data is used by the EC to report on the performance of the programme and they can only use complete data sets. Although the ILR specification allows for 'unknowns' these will impact on the data quality supplied to the EC and you should avoid them. The ILR and supplementary data must be as complete as possible.

If your audit trail is not in place to evidence the data submissions you have made then we will recover the funds we paid to you. Errors found in a sample of your data could be extrapolated to give an error over your whole ESF contract.

Principles of evidence for learning

105. You need to provide evidence to assure us that you have delivered education and training in line with our funding agreement and the funding and performance-management rules.
106. Some evidence will come from specific business processes, and some as part of your day-to-day working. Evidence can be naturally occurring.
107. You must hold evidence:
 - a. that the learner exists
 - b. that the learner is eligible for funding, and at the rate of funding being claimed
 - c. that the education and training being delivered is eligible for funding
 - d. that the learning activity is taking place or has taken place
 - e. that the achievement of learning aims is certified, if applicable (that is, a certificate has been issued by an awarding organisation)
 - f. of why other funding has been claimed, such as progressions into employment or further training, sustained progressions and any additional actual costs
108. You must have evidence that the learner exists and is eligible on the first day of funding.

109. You must have evidence to show the learning is taking or has taken place. This will depend on the methods you use and could include registers, reviews, online software and so on. Attendance at a location, such as a classroom or training centre, is not sufficient on its own to evidence learning has taken place.
110. If a learner withdraws from learning without achieving their learning aim, you must only claim funding up to the last date where you have evidence that the learner was still in learning.

Learning agreement

111. A learning agreement can be a single document or a collection of information brought together to form a single point of reference relating to the learning that is taking place.
112. It may be in paper, electronic or a mixture of formats. It could include enrolment forms, data-capture forms, induction checklists, initial assessments, training plans, confirmation letters to learners, self-declarations, attendance records, copies of certificates, result forms and so on. This collection of documents could also include employment records held by the employer. It is your responsibility to ensure that the evidence is retained and accessible when required.
113. The learning agreement must show the evidence needed to support the funding claimed and must be available to us if we need it.
114. You and the learner must confirm that the information in the learning agreement is correct and, therefore, the information you have reported to us in the ILR and supplementary data is correct.
115. If the time spent in learning is short, the level of evidence we would require will reflect this.
116. It is good practice for the learning agreement to confirm at least the following:
 - a. All information reported to us in the ILR, and if it applies, supplementary data and the supporting evidence of the data being reported.
 - b. The assessment of eligibility for funding and a record that you have seen evidence provided by the learner.
 - c. All initial, basic skills and diagnostic assessments.
 - d. For recognition of prior learning and entry or exit requirements.
 - e. For 'personalised learning programmes', for example, non-regulated learning, full details of all the aspects of the learning to be carried out, including the planned hours.
 - f. A description of how you will deliver the learning and skills and how the learner will achieve.

- g. The reason why the learner has been given the level of funding that they have, and details of any learner or employer contribution resulting from State Aid.
 - h. Additional programme costs and actual costs need to be identified through the learner's initial assessment and how these will be met including evidence of delivery.
 - i. Records of learning (including evidence of attendance and participation in a work placement).
 - j. A learner's self-declarations on their status relating to benefits, unemployment and gaining a job.
 - k. All records and evidence of achievement of learning aims.
117. If a subcontractor delivers any provision to the learner, it must clearly give your name as well as theirs in the learning agreement, and the learner must know this. This must match the subcontractor information reported to us in the ILR and supplementary data if applicable.

Confirmation and signatures

118. You must record evidence of the learner's and employer's confirmation of information. This can include, but is not restricted to, electronic formats, such as electronic platforms, scanned data and digital signatures. When you collect a signature, we accept either handwritten or suitable electronic format.
119. Digital signatures, electronic evidence and the wider systems of control must give your management team assurance that learners are eligible for funding and that they exist. You must make sure you have systems in place to monitor learner activity, including that they are continuing to learn and achieve. Good electronic signature systems would offer:
- Authentication – linking the originator to the information
 - Integrity – allowing any changes to the information provided to be easily detected
 - Non-repudiation – ensuring satisfaction (in a legal sense) about where the electronic signature has come from
120. You must make sure you keep effective and reliable evidence to support funding claims. You are responsible for making the evidence you hold easily available to us when we need it.

Starting, participating and achieving

121. The start date for a learner on the ESF Programme is the start date of the ST01 Participant Assessment and Plan deliverable.

122. The start date for a specific learning aim is when activity directly related to the learning aim has begun. We do not consider pre-work such as enrolment, induction, prior assessment, diagnostic testing or similar activity to be the start of a learning aim as this is captured under the separate deliverable, ST01.
123. You must provide evidence of learning reported in the ILR. If you do not have any evidence of learning taking place and you have claimed funding, we have the right to make you repay that funding.
124. You must apply for, and give to learners, the certificates that awarding organisations issue for achieving a learning aim. You must evidence in the learning agreement that this has happened.
125. You must ensure that 16-18 learners who are entitled to free meals meet the eligibility criteria described in [16 to 18 education: free meals in further education guidance](#).

Individualised Learner Record (ILR)

126. The ILR data reported to us is not evidence but is the basis on which our payments are made to you. The information contained in the learning agreement must support the ILR data you have reported. The ways in which you collect data may form part of your evidence. For example, you may include forms used to collect ILR data, such as enrolment forms, in the learning agreement.
127. You must accurately complete all ILR fields as required in the ILR Specification, even if they are not used for funding. We will use the ILR and ESF Supplementary Data (see paragraph 03) to monitor your compliance with the funding and performance-management rules. Where we find that your data does not support your funding claim, we will take action to get this corrected, which could include us reclaiming funding.

Supplementary data

128. If your contract includes the deliverables that cannot be paid through an ILR submission (AC01 Actual Costs, CG01 Community Grant Payment, CG02 Community Grant Management Cost or SD01-SD10 Specification Defined Deliverables) you will be required to submit ESF Supplementary Data. You will also need to use this data collection where funding needs to be adjusted for information that cannot be processed through our funding calculations using the ILR, with agreement from us. Where we find that your supplementary data does not support your funding claim, we will take action to get this corrected, which could include us reclaiming funding.

Self-declarations by learners

129. Any learner self-declarations must confirm the learner's details and describe what the learner is confirming. This can be in electronic format.
130. Where the self-declaration relates to prior attainment you must check this against any information held in the personal learning record (PLR). If the PLR contradicts the self-declaration, you must challenge the information supplied by the learner. The PLR will not automatically override the learner's self-declaration.

Control systems

The ESF regulations require that the funding you receive is 'regular and legal' that means that you and we have to maintain an audit trail for the funding you receive and the participant activity. You have to maintain the evidence for each deliverable and make that available for audit. Failure to maintain the audit trail will lead to funding being recovered. Your control systems will be an important element in the management of your audit trail.

131. You must put in place adequate control systems to ensure that the ILR and ESF Supplementary Data submissions you make to us are accurate, complete and have a complete audit trail to justify them. Your control systems must allow you to recover evidence for audit quickly and accurately. Your control systems must extend to your subcontractors.
132. You must regularly test your control systems and your subcontractor's control systems and the learner evidence that they maintain and provide evidence to us that your systems operate correctly.
133. At the start of the contract, you must supply examples of your learning paperwork and processes that meet the evidence criteria set out below for the deliverables in your contract.

Deliverables evidence

134. When requested, you must provide us with the evidence described in the [ESF Specifications Deliverables Evidence Requirements](#) for each deliverable on your contract.
135. At the start of the contract you must provide us with evidence examples for us to review their appropriateness.
136. Initial progressions must be within four weeks of completing the final learning aim.

Higher Level Skills

137. Where the delivery of higher level skills are included as eligible activity in your contract, you may deliver them from the set of regulated Level 3 and above qualifications and their components that are flagged for ESF funding in Learning Aims Reference Service (LARS).
138. The higher level aims that will be flagged as available for ESF funding will be:
- regulated qualifications and their components at Level 3 and above that are under 15 credits or 150 guided learning hours and meet Education and Skills Funding Agency [eligibility principles](#)
 - non-regulated aims at notional Level 3 and above that allow the reporting of delivery up to 150 hours (101-196 hours aims) and meet eligibility rules set out in the [funding rules](#) 155 to 155.5 only, you must evidence you have delivered less than 150 guided learning hours
139. ESF funded delivery must not be used where either the legal entitlements apply or where the learner could obtain an Advanced Learner Loan to fund the learning. The number of units that you deliver to each participant must not make up the whole qualification that should be funded through loans or legal entitlements. We would not expect large number of units to be delivered to each learner. You must not use non-regulated qualifications to deliver regulated activity that should be funded through loans or legal entitlements. You must not use ESF offer to deliver qualifications that are no longer available as part of legal entitlements to 19 to 23 year old participants who have not yet attained a first qualification at level 3 (see AEB funding rules).

Evidencing actual costs expenditure

The majority of the ESF deliverables will be paid on contract costs, the value of the learning aim and a unit price for the progression and sustained progression deliverables.

Where appropriate, you will be paid on actual costs and the evidence criteria as set out below.

Claims based on actual eligible expenditure can cover staff, participants and other costs. There is a distinction between direct and indirect costs.

Direct costs are those costs which are directly related to activity supported by an ESF project, for example, salaries of staff directly engaged on ESF activity, participant costs such as allowances and childcare costs and other costs such as stationery and consumables.

Indirect costs are shared organisational costs and so cannot be connected directly to project activity and which are difficult to attribute to the project, for example, telephone costs, gas, electricity and water.

140. Your actual costs claims must be for funds that have been spent before your claim is made.
141. Expenditure declared must be justified by supporting paid invoices or other appropriate accounting documents.
142. You will cost items either in direct or indirect costs; the same item must not appear in both.
143. You must calculate staff costs and indirect costs using the methods in this document.
144. The claim must be based on actual salary costs relating to time spent on ESF activity. Your staff costs can include employer's national insurance and superannuation costs. Staff costs may include those costs covered in a person's contract of employment that are taxable incentives linked to pay and pension contributions.
145. Staff employed wholly or for a specific part of their duty on ESF-related activity must have a letter of appointment and job description that clearly states starting and finishing dates (if appropriate) and makes clear that they will be wholly employed, either entirely or for a specific part of their duties, on ESF-related activity.
146. Staff who also do work that is not related to the ESF must record their time spent on a time sheet, diary, recording system or other method of noting time spent.
147. Sick or maternity pay must be claimed in line with the organisation's staff policy or on the individual's contract of employment. Alternatively, an organisation may claim for replacement staff costs, but only if maternity or sick pay is not being claimed. If an organisation is entitled to claim statutory sick pay back from HMRC it must do so and offset any such payments received against its claim for ESF.
148. If a staff member is working full-time for the organisation, but only working part of their time on ESF, you must use the following calculations. Work out how many hours they work in a year and their hourly rate. This is 52 weeks multiplied by five days, less the number of days of annual and public holidays they are entitled to, multiplied by the number of hours they work each day; and divide their annual salary and on-costs by the number of hours worked as above to establish their hourly rate. Claims for ESF must then be based on the number of hours worked on ESF multiplied by the hourly rate.
149. Staff costs evidence will include the payroll to confirm salaries.
150. The costs of training in connection with ESF activity can be claimed, although it is expected that all organisations who submit an application are in a position to deliver the project. Staff training costs can be claimed only if an individual has specific needs for training that could not have been identified before the project began. This needs to relate to the acquiring of specialist knowledge.
151. Where a building which is wholly used for ESF activity is rented or leased, the rental or lease costs can be claimed as eligible expenditure.

152. Any asset, including a building, must have a fixed useful life. The length of a building's life varies according to its type and purpose. An organisation's accounting policies must set out the period of time and the way in which the amount of depreciation claimed has been calculated. Any depreciation claimed must be in line with the organisation's policy on calculating depreciation. Depreciation costs are ineligible if the cost of the building has already received EU support. Generally, we expect that a permanent building used for training purposes would depreciate in the range of 2% to 5% each year on a straight-line basis (the same amount each year), reflecting a uniform life of between 20 and 50 years. A list of the assets for which depreciation will be claimed, and the basis on which depreciation will be applied, must be provided in the ESF application.
153. Where equipment is used exclusively by ESF participants the actual costs of leasing such equipment, including VAT, where this applies, is eligible for the period of time covered by ESF activity.
154. Finance leases: these are similar to hire-purchase agreements. The lessee (the person who leases the equipment from someone else) is responsible not just for maintaining the equipment but also for insurance, repairs and so on. At the end of the lease the equipment becomes the property of the lessee. The costs of leasing equipment under a finance lease are not eligible. Rather, the item leased must be treated as a fixed asset and depreciated (the loss in its value) in line with the organisation's accounting policy.
155. Operating leases: under this type of lease, the equipment remains the property of the lessor (the person who leases the equipment). The costs of operating leases can be claimed if it can be shown that the costs of the lease are competitive and are similar to the rates charged in the market place. However, if a leasing charge for equipment (in any one year) goes over, or closely matches, the full cost of buying the item, it would be seen as an attempt to introduce capital expenditure as an eligible item under a different heading, and capital expenditure (over £1,000) is not eligible.
156. The calculation of depreciation must be in line with the organisation's accounting policy. Claims must be based on the actual costs of equipment owned. Depreciation can be claimed on second-hand equipment provided it has not previously been claimed for. Depreciation can be calculated in many different ways, the most common being straight-line and reducing-balance methods (depreciation is calculated each year on the value of the assets in the books at the start of the year). It is normally expected that the fewest number of years over which an item can be depreciated is three years.
157. If an organisation has received capital grants towards the costs of fixed assets, these grants must be deducted from the costs before calculating depreciation costs for ESF. Where deferred credits are used to offset depreciation costs, the amount of the deferred credit must be deducted from the depreciation costs for ESF purposes. An accountant will be able to advise if deferred credits have been used.
158. Working papers must be kept to show how depreciation costs have been calculated for the ESF project. These must include the costs and descriptions of the items purchased, when they were purchased, how the depreciation was

calculated, how long the items were in use, where they are now, and an estimate of their current value. When applying for ESF it will be necessary to provide a list of items to be depreciated and details of how the depreciation costs together are to be calculated.

159. VAT is an eligible item of expenditure only if it cannot be reclaimed by the organisation. The treatment of VAT will vary depending on the status of the organisation, so it is very important for your VAT status to be agreed with HMRC. Evidence of VAT status will be required to reclaim VAT as an item of ESF expenditure.
160. Computer software must be treated in line with the usual accounting policy of the organisation.
161. The ESF National Eligibility Rules precludes: 'the purchase of furniture, equipment, vehicles, infrastructure, real estate and land'. It is recognised that there might be a need to purchase small items of equipment in the form of non-capital items.
162. No single item can cost £1,000 or more (this is the full cost of the item including VAT). There is no set limit to the number of small items of equipment under £1,000 which can be claimed, but the total expenditure on small items of equipment will be taken into account when assessing the project's value for money, bearing in mind that ESF is not a capital programme.
163. Indirect costs, as with direct costs, must meet eligibility rules. Indirect costs are costs which cannot be connected directly to ESF and where it is difficult to attribute expenditure and so are apportioned. Indirect costs are defined as:
 - a. central/support staff and personnel costs - where the ESF element of their duties cannot be extracted from general duties and put on timesheets – for example, reception, central finance
 - b. equipment (no single item can cost £1,000 or more see para 1497) and premises costs where these are not used wholly for ESF activity
 - c. telephone and postage costs
 - d. electricity, gas and water
 - e. insurance.
164. Higher-management salary costs must not be included in flat-rate calculations – activities at this level are expected to be costed under direct costs and be supported by timesheets.
165. You will apportion indirect costs by using the ratio of ESF staff time against total available staff time in the organisation for the given period.
166. Where you include personal information in an actual cost claim, you must inform the individual that their information is being used to evidence your claims and may be audited by the Education and Skills Funding Agency and other auditors. You must inform them that the data will be held for audit purposes until at least 31 December 2030, but you will be notified of any change to this date.

Use of certain non-regulated aims

On the 2014 to 2020 ESF Programme we will use specific unregulated learning aims to capture elements of an unemployed/employed or NEET support programme and to capture tasters of regulated learning that do not lead to a regulated qualification. For example, support for independent living or community learning will be captured under a non-regulated Preparation for Work aim whilst employability skills will be captured under Foundations for Learning & Life.

Other non-regulated aims could be used on a programme. The full range of regulated and non-regulated aims that you can use on ESF is available on [the Hub](#).

You can find the list of regulated aims (qualifications and units) for 2017 to 2018 in the Learning Aims Reference Service (LARS). You will be able to search for the aims using the 'Learning Aims' search on [the Hub](#) (using a new check box in the validity categories section). Alternatively, you will be able to search using the downloadable databases from the downloads section.

167. You must use the following aims for:

- a. wrap-around support at any level
- b. work placements that are not a progression
- c. taster sessions for mixed-sector subject areas

The term PW in the table below refers to Programme Weighting.

Learning aim reference	Wrap-around support aim title
Z0009063	Non regulated ESFA formula funded provision, No defined level, Preparation for Work, Up to 2 hrs, PW A
Z0009064	Non regulated ESFA formula funded provision, No defined level, Preparation for Work, 3 to 4 hrs, PW A
Z0009065	Non regulated ESFA formula funded provision, No defined level, Preparation for Work, 5 to 6 hrs, PW A
Z0009066	Non regulated ESFA formula funded provision, No defined level, Preparation for Work, 7 to 12 hrs, PW A
Z0007873	Non-regulated ESFA formula funded provision, no defined level, Preparation for Work, 13 to 20 hours, PW A
Z0007874	Non-regulated ESFA formula funded provision, no defined level, Preparation for Work, 21 to 44 hours, PW A
Z0007875	Non-regulated ESFA formula funded provision, no defined level, Preparation for Work, 45 to 68 hours, PW A

Z0007876	Non-regulated ESFA formula funded provision, no defined level, Preparation for Work, 69 to 92 hours, PW A
Z0007877	Non-regulated ESFA formula funded provision, no defined level, Preparation for Work, 93 to 100 hours, PW A
Z0007878	Non-regulated ESFA formula funded provision, no defined level, Preparation for Work, 101 to 196 hours, PW A
Z0007879	Non-regulated ESFA formula funded provision, no defined level, Preparation for Work, 197 to 292 hours, PW A
Z0007880	Non-regulated ESFA formula funded provision, no defined level, Preparation for Work, 293 to 388 hours, PW A
Z0007881	Non regulated ESFA formula funded provision, no defined level, Preparation for Work, 389 to 580 hrs, PW A
Z0007882	Non regulated ESFA formula funded provision, no defined level, Preparation for Work, 581 to 1060 hrs, PW A
Z0007883	Non regulated ESFA formula funded provision, no defined level, Preparation for Work, 1061 + hrs, PW A
Z0009059	Non regulated ESFA formula funded provision, No defined level, Foundations for Learning and Life, Up to 2 hrs, PW A
Z0009060	Non regulated ESFA formula funded provision, No defined level, Foundations for Learning and Life, 3 to 4 hrs, PW A
Z0009061	Non regulated ESFA formula funded provision, No defined level, Foundations for Learning and Life, 5 to 6 hrs, PW A
Z0009062	Non regulated ESFA formula funded provision, No defined level, Foundations for Learning and Life, 7 to 12 hrs, PW A
Z0007885	Non regulated ESFA formula funded provision, no defined level, Foundations for Learning and Life, 13 to 20 hrs, PW A
Z0007886	Non regulated ESFA formula funded provision, no defined level, Foundations for Learning and Life, 21 to 44 hrs, PW A
Z0007887	Non regulated ESFA formula funded provision, no defined level, Foundations for Learning and Life, 45 to 68 hrs, PW A
Z0007888	Non regulated ESFA formula funded provision, no defined level, Foundations for Learning and Life, 69 to 92 hrs, PW A
Z0007889	Non regulated ESFA formula funded provision, no defined level, Foundations for Learning and Life, 93 to 100 hrs, PW A
Z0007890	Non regulated ESFA formula funded provision, no defined level, Foundations for Learning and Life, 101 to 196 hrs, PW A
Z0007891	Non regulated ESFA formula funded provision, no defined level, Foundations for Learning and Life, 197 to 292 hrs, PW A
Z0007892	Non regulated ESFA formula funded provision, no defined level, Foundations for Learning and Life, 293 to 388 hrs, PW A
Z0007893	Non regulated ESFA formula funded provision, no defined level, Foundations for Learning and Life, 389 to 580 hrs, PW A
Z0007894	Non regulated ESFA formula funded provision, no defined level, Foundations for Learning and Life, 581 to 1060 hrs, PW A
Z0007895	Non regulated ESFA formula funded provision, no defined level, Foundations for Learning and Life, 1061 + hrs, PW A

Learning aim reference	Work experience aim title
Z0009067	Work experience/placement, Up to 2 hrs, PW A (ESF funding only)
Z0009068	Work experience/placement, 3 to 4 hrs, PW A (ESF funding only)
Z0009069	Work experience/placement, 5 to 6 hrs, PW A (ESF funding only)
Z0009070	Work experience/placement, 7 to 12 hrs, PW A (ESF funding only)
Z0007861	Work experience/placement, 13 to 20 hrs, PW A
Z0007862	Work experience/placement, 21 to 44 hrs, PW A
Z0007863	Work experience/placement, 45 to 68 hrs, PW A
Z0007864	Work experience/placement, 69 to 92 hrs, PW A
Z0007865	Work experience/placement, 93 to 100 hrs, PW A
Z0007866	Work experience/placement, 101 to 196 hrs, PW A
Z0007867	Work experience/placement, 197 to 292 hrs, PW A
Z0007868	Work experience/placement, 293 to 388 hrs, PW A
Z0007869	Work experience/placement, 389 to 580 hrs, PW A
Z0007870	Work experience/placement, 581 to 1060 hrs, PW A
Z0007871	Work experience/placement, 1061 + hrs, PW A

Learning aim reference	Tasters aim title
Z0007848	Non-regulated ESFA formula funded provision, mixed-sector subject areas, up to 12 hrs
Z0007849	Non-regulated ESFA formula funded provision, Mixed Sector Subject Areas, 13 to 20 hrs
Z0007850	Non-regulated ESFA formula funded provision, Mixed Sector Subject Areas, 21 to 44 hrs
Z0007851	Non-regulated ESFA formula funded provision, Mixed Sector Subject Areas, 45 to 68 hrs
Z0007852	Non-regulated ESFA formula funded provision, Mixed Sector Subject Areas, 69 to 92 hrs
Z0007853	Non-regulated ESFA formula funded provision, Mixed Sector Subject Areas, 93 to 100 hrs
Z0007854	Non-regulated ESFA formula funded provision, Mixed Sector Subject Areas, 101 to 196 hrs
Z0007855	Non-regulated ESFA formula funded provision, Mixed Sector Subject Areas, 197 to 292 hrs
Z0007856	Non-regulated ESFA formula funded provision, Mixed Sector Subject Areas, 293 to 388 hrs
Z0007857	Non-regulated ESFA formula funded provision, Mixed Sector Subject Areas, 389 to 580 hrs

Z0007858	Non-regulated ESFA formula funded provision, Mixed Sector Subject Areas, 581 to 1060 hrs
Z0007859	Non-regulated ESFA formula funded provision, Mixed Sector Subject Areas, 1061 + hrs

N.B. For learners who complete their learning aim in less or more hours than originally forecast, the Learning Aim Reference must be amended to reflect the hours completed.

Contract closure and reconciliation

168. You will prepare for contract closure in the last three months of the contract. This will include ensuring:
- a. ILR and supplementary data submissions are reconciled and accurate
 - b. the audit trail for all of the deliverables claimed is in place
 - c. the further evidence requirements detailed in this document are in place
 - d. you are preparing to archive the delivery evidence
169. You will provide the final submission of ILR and supplementary data by the second collection after the contract end-date. We will reconcile and close the contract on the data available in this collection.
170. We will take into account any recoveries from audits, compliance checks and any identified ineligible activity when we reconcile your contract.
171. We will correct any audit errors found from the audits and ensure all necessary action has been taken.

Retention of documents

The EC or other programme authorities will audit your ESF contract. You must ensure that evidence is available to support the payments we have made to you. The main audits happen on a calendar-year basis so in the normal course of the programme you may be audited more than 18 months after we paid you. Additionally, the European Court of Auditors could audit you up to 2030.

All supporting documentation evidencing the delivery of the ESF project must be kept for a period of three years from 31 December following the submission of the accounts in which the expenditure of the programme is included. The retention of Documents date is currently 31 December 2030, but you will be notified of any change to this date.

172. You must maintain original invoices, delivery evidence, management information returns and all other documents necessary to verify the services in relation to this contract until at least 31 December 2030, but you will be notified of any change to this date. You must maintain the documents for yourself, your

subcontractors and grant recipients. Documents must be stored in line with the following guidance: [ESF Guidance on Document Retention](#)

173. You must notify us in writing at the end of the contract where you have archived the contract documents and your processes for retrieving them.
174. At any time during the delivery of the services under this contract, where you are unable to provide the required evidence for any deliverable (as set out in this document) you must write to us. You must provide the reason(s) why you are unable to comply with the evidence requirements and give full details of alternative evidence to be considered. We will review the request and notify you in writing of any revisions to the evidence requirements which shall form part of the terms and conditions of the contract, if we decide to accept the alternate evidence. In all such reviews, our decision shall be final.

Evaluation, surveys and annual implementation reporting

175. To enable us to report on our ESF activity for evaluations, surveys and the Managing Authority's Annual Implementation Report, you must, when asked, be able to give us examples of:
 - a. measures taken to provide information and publicise the services
 - b. putting the horizontal principles of equal opportunities and sustainable development into practice
 - c. case studies of good-practice projects
 - d. a summary of the project, its achievements and lessons learned

Reporting and evidence

176. You are required to hold and retain the following:
 - Evidence according to the evidence requirements in [ESF Specifications Deliverables Evidence Requirements](#).
 - Evidence of control system checks for you and your subcontractors.
 - Example evidence for the deliverables in your contract.
 - Actual cost evidence.
 - Archiving plans.
 - Publicity material, case studies and good news stories.
 - Project evaluation.

Performance-management rules

General

177. We will pay you on the basis of your actual delivery each month. We will work out the value of your actual delivery using the latest validated ILR and ESF supplementary data you provide.
178. We will not pay for any delivery above the value of the individual deliverable line shown in your funding agreement unless we agree an increase to the value of the contract in accordance with these rules.
179. We will set out any agreed changes to your contract in a contract variation which must be signed by you and us before we can implement any increase. This must take place before your funding agreement ends.

First six months

180. We will measure your performance against the delivery profiles we have agreed with you and against the wider 'deliverables' set out in your funding agreement. Where we identify under-performance in the first six months of your contract, you must produce an action plan setting out how you will improve your performance. We will agree with you the format of the action plan and the time period it must cover.

Reducing your contract value

181. From January 2018, we will not be seeking to make reductions to contracts, unless instructed by you. Reductions to contract values may occur as part of the contract closure process. You must discuss your intention to request changes with us in advance and provide a proposed profile of delivery in the same format as the one in your contract, plus a robust business case in support of your request. You must submit your request by the notified dates when these are confirmed. We will not accept any requests that are sent after the deadlines. These will be done in April 2018, July 2018, September 2018, November 2018 and January 2019 based on a robust business case and associated re-profile template.

Neutral changes to your contract value

182. In January 2018, we will undertake an internal exercise to address the immediate capping issues on deliverable lines, where it is possible to do this with the funds available in your contract.
183. From April 2018, you will be able to request changes to the mix of deliverables in your contract at the performance-management points in April 2018, July 2018, September 2018, November 2018 and January 2019. These changes must reflect

the specification requirements and be consistent with the ratios in your current contract (for example, the proportion of learner achievements to learner starts). These changes must be cost-neutral, that is, your proposed changes must not change the value of your contract or the unit value of the deliverable(s).

184. You must discuss your intention to request changes with us in advance and provide a proposed profile of delivery in the same format as the one in your contract, plus a robust business case in support of your request. You must submit your request by the published dates when these are confirmed. We will not accept any requests that are sent after the deadlines..

Increasing your contract value

185. From April 2018, you can ask for an increase to your contract value where this has been supported by the LEP and following confirmation of the extension exercise as to what you are permitted to do with your contract, whether it be extend in time only or extend and grow. The points at which growth can be requested are April 2018, July 2018, September 2018, November 2018 and January 2019. Your request for growth must reflect the specification requirements and keep to the same ratios or better than in your original contract. (For example, if your original contract specifies a minimum of 60% of learners must achieve their learning aim, you can request to increase this but we will not agree to reduce it.)
186. You must discuss your intention to request changes with us in advance and provide a proposed profile of delivery in the same format as the one in your contract, plus a robust business case in support of your request. You must submit your request by the notified dates when these are confirmed. We will not accept any requests that are sent after the deadlines.
187. You must not request growth for a subcontractor if:
- a. it would take the total value of the subcontracts that that subcontractor holds to deliver education and training funded by us to £100,000 or more
 - b. the subcontractor is not on the Register of Training Organisations
188. Contract values within a LEP area can only be increased using the LEP's existing ESF allocation with us for that priority and type of region. ('Type of region' is explained in the Glossary to this document and set out in paragraph 759.) That is, if all the funding available to us has been contracted, there have to be under-spends from other contracts in the same LEP area for the same priority and type of region that can be redistributed to fund an increase to your contract.
189. We will increase your contract value if:
- a. funds are available within the LEP's existing ESF allocation with us for that priority and type of region
 - b. you are listed on the Register of Training Organisations and have completed the capacity and capability questions successfully
 - c. you have a good track record

- d. you can prove there is evidence of demand from the intended participants of your ESF contract
- e. you are not under notice for Failure of Inspection, Financial Health or Financial Control
- f. we are confident that awarding an increase to your contract value is a good use of public funds

Working with LEPs

- 190. We will report your contract performance to the local area ESIF committee and its LEP. You must co-operate with the LEP in any reviews that it undertakes.
- 191. You must co-operate with the commissioning LEPs during the delivery of the service and provide narrative reports to support the performance information. We recommend you have a Data Sharing Agreement with the commissioning LEP.
- 192. If the LEP asks you for data about learners or their learning you must adhere to data protection legislation.

Glossary

Term	Description
Annual Implementation Report	This is a report produced by the Managing Authority that provides a narrative on how the Programme is progressing.
Direct costs	These are costs directly incurred by delivering ESF-funded activity.
ESF	European Social Fund .
ESIF Committee	Part of the ESF Programme governance. Advises the Managing Authority on local aspects of the Programme.
European Regulations	The rules that govern the ESF Programme.
Horizontal Principles	These are sustainability and equal opportunities themes that run through all activity on the ESF Programme.
ILR	Individualised Learning Record , data about the learners used for funding and management information.
Indirect costs	These are overheads or apportioned costs that cannot be attributed 100% to ESF funding.
LEP	Local Enterprise Partnership .
Non-regulated Aims	An aim is a learning activity or qualification. A non-regulated aim is not controlled by an awarding body and the contents can be defined by the provider delivering the aim.
Operational Programme	The document that describes what the ESF Programme in England will buy and who it will support.
Progression	This is moving off the ESF-funded activity and into an apprenticeship, for example. The Programme does not fund the job or learning that has been progressed into.
PW Programme Weighting	The aims have a programme weighting that can uplift the value of the aim.
Regulated Aims	An aim is a learning activity or qualification. Regulated aims are those controlled by an awarding body.
ESF Supplementary Data	Data about delivery that cannot be captured in the ILR.
The Register of Training Providers	The ESFA register of providers who have met minimum due diligence requirements
Types of Region	Three types of region separated by the contribution to Gross Domestic Product. These are less developed, more developed and those that are in transition.
UKLRP	UK Register of Learning Providers .

Summary of changes

Version 3	Change	Version 4	Change
Subcontracting	Paragraph added	Subcontracting	Added You must take your own legal advice about the impact of the Public Contracts Regulations 2015 on your recruitment of delivery subcontractors and satisfy yourself that you are able to comply with the requirements of those regulations. You must provide a synopsis of the legal advice for inspection by us on request.
Subcontracting	Common Accord and Supply Chain Management	Subcontracting	Best Practice Guidance for a Relationship between Prime Provider and a Subcontractor
42a	Leadership and management removed		
		61 added	Sub-contractors must comply with the European Social Fund cross-cutting themes guidance for sustainable development and equality programme guidance - GOV.UK
68	Now 69	69	You must not agree the use of any delivery subcontractor where this would require you to subcontract training provision to a second level. All of your delivery subcontractors must be contracted directly to you. The restrictions on the level of subcontracting is in place to ensure:
77	amended	77	You must also tell us the actual level of funding paid and retained for each of your delivery subcontractors. You must email this information to your ESF Management and

			Delivery adviser using a template we will supply to you. We will let you know the date by when you must do this. We will publish the information on our website.
Eligibility	Paragraph added	Eligibility	The European Social Fund will not fund provision linked to statutory/legislative training for any participants or statutory/legislative employer requirements (including licence to practice), to employed participants.
83c	15 years old or older	83c	15 years old (at risk of NEET only) or older.
94	Additional clause added	94c	Websites developed specifically for a project funded by the ESF, the ESF logo must be displayed on the main page, whereas if the project is on the organisations main website the ESF logo needs to be placed on the main project page. The ESF logo must be immediately visible on these landing pages without the need to scroll down. The ESF logo may also be placed on the organisations home page.
Use of certain non-regulated aims	Amended from: On the 2014 to 2020 ESF Programme we will use specific unregulated learning aims to capture elements of an unemployed/employed or NEET support	Use of certain non-regulated aims	Amended to: On the 2014 to 2020 ESF Programme we will use specific unregulated learning aims to capture elements of an unemployed/employed or NEET support programme and to capture tasters of regulated learning that do not lead to a regulated qualification. For example, support for independent living or

	<p>programme and to capture tasters of regulated learning that do not lead to a regulated qualification. For example, wrap-around support such as advice sessions, help with CV writing and softer outcomes will be captured under a non-regulated Preparation for Work aim, or a Foundations for Learning & Life if a learner is still at school or employed.</p>		<p>community learning will be captured under a non-regulated Preparation for Work aim whilst employability skills will be captured under Foundations for Learning & Life.</p>
Performance Management Rules	changed	Performance Management Rules	changed

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