

Digital Economy Act 2017
Debt and Fraud Data Sharing Business Case
ESFA/HMRC Pilot

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DEA: Information Sharing Business Case

1 Business Case

Is this information sharing arrangement for the purposes of managing debt, combating fraud or both?	Combating fraud
Which public authority or service provider do you represent?	Education and Skills Funding Agency (ESFA)
Please confirm that the other party/parties to this information arrangement also represent a public authority or service provider included in the Act	Yes
Who will disclose information	Her Majesty's Revenue and Customs [HMRC] – Paragraph 14, Schedule 8
Who will receive information	Education and Skills Funding Agency (ESFA) – Executive Agency of Department for Education, Paragraph 5, Schedule 8
Lawful Basis	Digital Economy Act 2017, Section 56, specifically for the purposes of (a) preventing fraud of that kind; (b) detecting fraud of that kind; and (c) investigating fraud of that kind; being (a) fraud by false representation, (b) fraud by failing to disclose information; and (c) fraud by abuse of position
If your information sharing arrangement includes a service provider, please refer to paragraphs 41 and 42 of the Code of Practice	
Please confirm if this is an initial submission for an informal review or the fully completed submission for Ministerial consideration	Formal (Full) Submission
Please provide an outline of the information share. Note: you need not detail the counter fraud operations of partners	

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Summarise the current process and why information sharing will help. A map describing the business process in which the fraud or debt sits might be useful - this can be added as an annex.

The Education and Skills Funding Agency (ESFA) is an executive agency of the Department for Education accountable for funding education and skills for children, young people and adults.

ESFA fund Learning Providers to deliver training to apprentices. Learning Providers are paid per apprentice registered. Funding is paid in monthly instalments, Funding is calculated data held in an Individual Learner Record (ILR) submitted to the ESFA by the Learning Provider.

A Learning Provider can fraudulently misrepresent the number of apprentices it is providing training to by providing fictitious or cloned identity details. When a Learning Provider initially creates an ILR record with ESFA, they undertake all identity checks on behalf of ESFA. No further independent checks are undertaken to verify the identity details provided by the Learning Provider.

Payments continue if the Learning Provider periodically submits updates of the ILR to the ESFA. If a Learner discontinues their training course it is the responsibility of the Learning Provider to notify ESFA to cease funding. At this point there may also be opportunity for a Learning Provider to fraudulently fail to disclose course termination and claim further funding by continuing to submit updates to the Learners Record which would release funds.

Checks and Controls:

- ESFA ask the Learning Provider to check apprenticeship eligibility (and collect, but not record, evidence of eligibility) No further independent identity checks are completed;
- ESFA check whether the Learning Provider is accredited
- ESFA check if the Employer Identification number reported by the provider is valid
- ESFA ensure data quality by doing completeness checks
- ESFA pull in third party data (Companies House and FAME) to check connected companies, employer size and location;
- ESFA undertake anomaly analysis on internal data to identify patterns that might indicate gaming.

ESFA spend c.£2bn on apprenticeship learning each year. Between August 2017 and July 2018 (the 17/18 academic year) there were 375,800 apprenticeship starts in England. At any one time there are estimated to be around 800,000 apprentices in learning. ESFA have evidence that this type of fraud is occurring. A whistleblowing investigation has identified fraud at a learning provider with over £5m in funding for 400,000 apprentices since 2015 at risk. The investigation identified links between 8 employers used for the apprentices, and the learning provider. Analysis undertaken by ESFA has shown that the number of apprentices withdrawn from a scheme but still subject to funding could be as high as 6%.

HMRC are the only organisation with the data available to undertake verification of both identity and employment status. HMRC data could be used to confirm the identity of the Apprentice and the validity of the National Insurance Number. HMRC employment data could be used to confirm employment status and indicate whether the apprentice has received a

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wage from the declared employer in the time declared. This pilot will begin to enable ESFA to say with certainty what the extent of fraudulent behaviour is.

Specifically, ESFA would like to explore if HMRC data matching could provide evidence of the existence of fraud, and where it does exist provide confirmation of

- Identity details to validate the identity provided by the Learning Provider is genuine (using NINO as a proxy indicator)
- Whether the apprentice was in receipt of a wage from the declared employer during the period of provided learning; and
- Whether the apprentice commenced new employment during the period of provided learning (an indication of course withdrawal or change of circumstance).

The Cabinet Office will receive an anonymous version of this file under s.74 of the Digital Economy Act for the purposes of assurance, and will work alongside ESFA to develop the fraud risk analytics.

Costs to be incurred by ESFA from HMRC are not expected exceed £7,000.

ESFA are exploring whether conducting network analysis would be beneficial. It is proposed that this would look at whether there are undisclosed links between learning providers and employers who are providing apprentices to them. They will also look at the value in conducting a risk analysis on employer and provider size by accessing basic corporate information on turnover and number of employees.

ESFA are exploring working with Experian to conduct this analysis only where the HMRC data requires enhancing or does not provide matches for Learners. Under this proposal no HMRC data would be disclosed to Experian and legal advice indicates that the DEA would not be required (disclosures would take place as part of a separate process managed under the Serious Crime Act 2007).

ESFA will return to the review board with a variations request, if i) a decision to proceed is taken; and ii) the data processing requires it. ESFA will also seek the relevant internal data controller and legal approval before embarking on data sharing with Experian or any other Credit Reference Agency.

ESFA will conduct a compliance exercise; writing to Learning Providers identified as at risk of committing fraud.

Under the Digital Economy Act 2017 (DEA), Chapter 4 provides statutory powers that let data to be shared for the purposes of taking of action in connection with fraud. Section 56 of DEA 2017 creates a gateway enabling 'specified persons' namely the Secretary of State and HMRC to take action in connection with fraud against a public authority, that includes (a) preventing fraud; (b) detecting fraud (c) investigating fraud; (d) prosecuting fraud; (e) bringing civil proceedings as a result of fraud; and (f) taking administrative action as a result of fraud, and therefore I agree the legal gateway can be through section 56 DEA 2017 for sharing data with HMRC.

This supports the policy objective of ESFA to "provide assurance that funding is used for its agreed purposes, and act swiftly and effectively in cases of suspected fraud and irregularity",

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thereby supporting the overarching objective to “Act on behalf of the Secretary of State to assure the proper use of public funds” (ESFA Business Plan 2019-20).

How will the data will be used (no more than 400 words) – It may be helpful to think about chronology. A data flow diagram can be attached as an annex.

The data will be used to evaluate existing business processes and inform a series of risk indicators. Data will be subject to compliance and investigative processes.

A statistically significant sample (proportionate random stratified) of 10,000 Individual Learner Records (ILR) for Apprenticeships will be extracted from data held on the ESFA Management System. The ILR’s will be extracted for apprentices who participated in learning on an apprenticeship programme in the 2018/19 funding year (1 August 2018 to 31 July 2019). The sample has been structured so as to be representative of apprenticeship delivery with confidence intervals of $\pm 5\%$ (two-tailed, at the 95% level).

ESFA will then structure the sample for transfer to HMRC. The sample will be transferred by SFTP (Secure File Transfer Protocol). The transfer will occur under Digital Economy Act 2017 Section 56.

HMRC will receive the sample and conduct data matching. Where there are definite matches, HMRC will then overlay data on identity, employment status and employer.

HMRC will then disclose the enriched data file back to ESFA, along with a match rate. This disclosure will occur under the Digital Economy Act 2017, specifically sections 4 (a)(b) and (c). The data file will be transferred by SFTP (Secure File Transfer Protocol). HMRC will destroy the ESFA file upon confirmation of receipt.

For individuals where there are definite matches and definite differentiations, ESFA will conduct analysis to understand where there are differences, and will examine compliance in areas of concern in line with ESFA policy.

Where, through the compliance exercise, Learning Providers question the accuracy of the data held by HMRC or ESFA, representatives of the project team will convene to discuss the merit of the claim. Where it is decided that uncovered differences reflect actual error, then data inaccuracies will be corrected according with typical process. In the case of HMRC, this may require writing to the employer to request investigation or correction.

ESFA will produce an evaluation report.

ESFA will destroy the data file once the pilot has completed.

Please note that the Cabinet Office will be providing consultancy on this pilot, and will have sighting of anonymised data in order to support and quality assure solution design and project evaluation.

How long the information share pilot will last (from authorisation to final report) (no more than 400 words).

The information share pilot will last for approximately 4 months. The following bullets detail the key project milestones:

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Estimate

- November: Project inception meeting
- November - December: further project planning and resource allocation
- December: Review Board for advice
- January: Review Board
- January: Ministerial approval
- **January/February: Data extraction and sample structuring at ESFA commences. Transfer of data to HMRC**
- February: HMRC data matching and enrichment. Transfer of data file back to ESFA. HMRC destroy data file upon notification of receipt.
- March: Compliance exercise undertaken by ESFA
- March: evaluation report produced
- **April: HMRC data are destroyed by ESFA.**
- May: Return to Review Board with final metrics.

An outline of what types of data will be used and the data security arrangements to be put in place (no more than 400 words).

The data being processed relates to Apprentices participating in learning during the 2018/19 funding year. No special category data are being processed.

Data security:

- ESFA and HMRC are ISO accredited.
- Data to be transferred securely between HMRC and ESFA via Secure File Transfer Protocol.
- Only authorised persons within ESFA, appointed by organisational leads, will have access to the data which will be retained in a secure file location.
- Any persons given access to the data will be GDPR trained.
- HMRC/ESFA will not be disclosed to any other party.
- All data received by ESFA from HMRC will be destroyed 6 months of pilot completion unless it is informing an active counter fraud investigation and on agreement from both parties.
- All parties agree to move, process and destroy data securely i.e. in line with the principles set out in HM Government [Security Policy Framework](#), issued by the Cabinet Office, when handling, transferring, storing, accessing or destroying information.

Please provide details of how the benefits of the information share will be measured.

The potential benefits the information share could bring (no more than 400 words)

- It will assist ESFA to explore the potential risk of fraud and error within its existing business processes.
- The pilot will assist ESFA in identifying commonalities in fraudulent behaviour, and consequently establish risk indicators.
- In preventing fraudulent applications for Apprenticeship funding, ESFA will be able to present a more accurate reflection of national take-up of apprenticeships.
- The pilot will help to demonstrate the cross government use and value of HMRC data and its potential benefits in counter fraud data analytics.

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- The pilot may indicate the need to embed data sharing as business as usual, which will enable ESFA to more easily validate Apprentice circumstances. In streamlining the application process, benefits will be realised in customer experience.

The success criteria for the data share and the methodology you will use to measure success (no more than 400 words).

Success criteria and associated **metrics (in bold)** for this pilot are:

- Identifying the number and quality of matches between ESFA Apprenticeship Learning funding applicants and equivalent data held at HMRC (**match rate**).
- Identifying whether there is any fraud in the ESFA Apprenticeship Learning Funding process, as well as the extent of any found fraud (**fraud rate and associated cost to ESFA, found through pilot and estimated if scaled up**).
- Identifying whether there is any error in the ESFA business process, as well as the extent of any found error (**false positive rate**).
- Qualifying the nature of any fraud and error found in the Apprenticeship Learning Funding process

FOR ALL INFORMATION SHARES

ESFA agree that to adhere to the Digital Economy Act (2017) Information Sharing Code of Practice and have ensured that all participating personnel have received a brief of the lawful basis and have access to the Code of Practice. In particular, ESFA have assured the use of data processors and have included a register below.

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