



Education & Skills
Funding Agency

Education and Skills Funding Agency (ESFA)

Framework document

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Contents

1.	Introduction	3
2.	ESFA purpose	3
3.	Governance and accountability	4
3.1.	ESFA legal origins of powers and duties	4
3.2.	Overall aims	5
3.3.	Ministerial responsibility	6
3.4.	Contact and engagement	7
3.5.	Department for Education Accounting Officer's specific accountabilities and responsibilities as Principal Accounting Officer	8
3.6.	Responsibilities of the ESFA Chief Executive as Accounting Officer	9
3.7.	Responsibilities to the ESFA Management Board	10
3.8.	ESFA Management Board	11
3.9.	Annual report and accounts	13
3.10.	Internal audit	14
3.11.	External audit	15
3.12.	Complaints and investigations	16
3.13.	LocatED sponsorship	17
4.	Management and financial responsibilities	17
4.1.	Managing Public Money and other government-wide corporate guidance and instructions	17
4.2.	Corporate governance	18
4.3.	Information assurance and security	19
4.4.	Risk management	19
4.5.	Corporate and business plans	20
4.6.	Budgeting procedures	20
4.7.	Financing and cash management	21
4.8.	Delegated authorities	22
4.9.	Financial management and reporting	23
4.10.	Reporting performance to the department	24
4.11.	Shared services	25
4.12.	Staff	27
4.13.	Review of ESFA's status	29
5.	Arrangements in the event that the ESFA is wound up	29
	Appendix 1: Government-wide corporate governance instructions	31

1. Introduction

- 1.1.1. This Framework Document has been drawn up to underpin and facilitate the relationship between the Education and Skills Funding Agency (“the ESFA”) and other parts of the Department for Education (“the department”).
- 1.1.2. The document sets out the broad framework within which the ESFA will operate. It does not convey any legal powers or responsibilities but all parties will operate within its terms. It has been signed and dated by the Permanent Secretary of the department, the Parliamentary Under Secretary of State for the Schools System, the Minister of State for Apprenticeships and Skills and the Chief Executive of the ESFA.
- 1.1.3. The ESFA or the department may propose amendments to this document at any time and it will be reviewed at least every 3 years thereafter under arrangements agreed by the Permanent Secretary, the Secretary of State and the Chief Executive. The document may be reviewed at any time if they so wish. Significant variations to the document must be cleared with HM Treasury and the Cabinet Office, and the department, as appropriate. Any questions regarding the interpretation of the document will be resolved by the Permanent Secretary or their representative after consultation with the ESFA and, as necessary with the Cabinet Office and/or HM Treasury.
- 1.1.4. The ESFA and the Permanent Secretary have made a commitment to keep the governance arrangements set out in this Framework Document under review and will take stock of them in one year’s time from the publication date. The ESFA will be subject to a ‘tailored review’ at least once in the lifetime of a Parliament, in line with the Cabinet Office [policy for the tailored reviews of public bodies](#). It is anticipated that the ESFA will be subject to a tailored review by no later than 1 April 2019.
- 1.1.5. Copies of the document have been placed in the Libraries of both Houses of Parliament and made available to members of the public on GOV.UK, as will any subsequent amendments.

2. ESFA purpose

- 2.1.1. The ESFA is an executive agency of the Department for Education, established on 1 April 2017 and replaces the Education Funding Agency and the Skills Funding Agency.

2.1.2. The ESFA has responsibility, on behalf of the Secretary of State for Education (“the Secretary of State”), to oversee and be accountable for the funding of all 3 to 16 education as well as post-16 education and training for young people, apprenticeships and funding for adult education in England, excluding higher education. It also manages and delivers school building and maintenance programmes.

2.1.3. The ESFA’s main strategic aims are to:

- be accountable for funding for the education and training sector, providing assurance that public funds are properly spent, achieves value for money for the tax payer and delivers the policies and priorities set by the Secretary of State
- regulate academies, further education and sixth-form colleges, and independent training providers, intervening where there is risk of failure or where there is evidence of mismanagement of public funds
- deliver major projects and operates key services in the education and skills sector, such as school capital programmes, the National Careers Service, the National Apprenticeship Service the Learning Records Service and oversees the operation of LocatED, the department’s arm’s length body which procures sites for free schools

2.1.4. The ESFA’s vision, mission statement, objectives and deliverables will be set out in the agency’s business plan at the beginning of each financial year and published on GOV.UK. More information about the business plan is available in the ‘Finance, Performance and Reporting’ section of this Framework Document.

3. Governance and accountability

3.1. ESFA legal origins of powers and duties

3.1.1. As an executive agency of the department, the ESFA acts on behalf of the Secretary of State in delivering its core functions.

3.1.2. Under section 10 of the Education Act 1996, the Secretary of State has a general duty to promote the education of the people of England. The ESFA enables the Secretary of State to comply with this duty by delivering the revenue and capital funding for education and training for 3- to 19-year-olds (and higher needs students of 19 to 25), further education for those aged 19 plus, and apprenticeship training.

3.1.3. This funding is provided by way of grant funding under section 14 of the Education Act 2002 or section 100 of the Apprenticeships, Skills, Children and Learning Act 2009, or under contract (for academies this is an academy agreement under section 1 of the Academies Act 2010).

3.2. Overall aims

3.2.1. The Secretary of State has agreed that, subject to the agency's main duties set out in the section above, the aims of the ESFA should be as follows:

- make accurate and timely revenue and capital funding allocations to schools and education and training providers each year
- put in place funding agreements with ESFA-funded providers, and provide accurate and timely funding data and information to enable the department to make payments of revenue and capital funding to ESFA-funded providers each year
- ensure that capital programmes in schools and colleges are delivered efficiently and effectively, including the delivery of the Priority School Building Programme; school condition funding; school condition data collection; and working with LocatED and the department to secure and develop sites to enable new free schools to open
- support the government's reform of apprenticeships and ambition of 3 million high quality apprenticeships to start in England between May 2015 and the end of 2020, including by: ensuring that increasing numbers of employers benefit from the reforms to apprenticeships; maintaining the apprenticeship funding system; and enhancing the apprenticeship service, providing seamless, easy-to-use services for employers, apprentices and citizens, providers and other users
- champion the opportunities for learners and employers to engage in high-quality education and training opportunities, including by: maintaining the high-quality digital offer of the National Careers Service; and supporting the development and delivery of high-quality traineeships
- ensure the proper use of public funds through financial assurance, acting on behalf of the Secretary of State to ensure that ESFA-funded providers are complying with their funding agreements and relevant statutory legislation, and intervening swiftly and

proportionately where necessary

- contribute to the financial health of the education and training sector, supporting ESFA-funded providers to maintain financial health including by: assessing the financial health of all providers; supporting the effective evaluation of contracting decisions; ensuring that the provider base is sustainable and best equipped to provide high quality education and training; and promoting good financial management and financially resilient institutions
- monitor and support the implementation of the recommendations from post-16 area reviews including providing financial support for restructuring of post-16 institutions where other funding sources are not available

3.3. Ministerial responsibility

3.3.1. The ESFA will be overseen by 2 responsible ministers, who will account for business in Parliament as needed: the Minister of State for Apprenticeships and Skills; and the Parliamentary Under Secretary of State for the School System. Ministers will be responsible for signing off the strategic aims of the ESFA, and ensuring that they are being delivered, as well as its business and corporate plans.

3.3.2. The Minister of State for Apprenticeships and Skills is responsible for the following areas of the ESFA's work:

- apprenticeships and traineeships
- technical education and skills
- careers education, information and guidance
- post-16 funding (including support for young people and adult learners)
- further education colleges, sixth-form colleges and local patterns of provision
- adult education

3.3.3. The Parliamentary Under Secretary of State for the School System is responsible for the following areas of the ESFA's work:

- a strong school system (including free schools, academies, multi-academy trusts, university technical colleges and studio schools)
- school governance and underperformance

- admissions
- school capital investment (including new school places, school maintenance, land, and playing fields)

3.3.4. The Secretary of State will ultimately account for business in Parliament.

3.4. Contact and engagement

3.4.1. The Department for Education is the responsible department for the ESFA and the ESFA has no separate legal basis other than that which comes from the department.

3.4.2. The core department and the ESFA will have an open and honest, trust-based partnership supported by the principles set out in '[Partnerships between Departments and Arms Length Bodies \(ALBs\): Code of Good Practice](#)'. As such, both parties will ensure that they clearly understand each other's strategic aims and objectives. They will also commit to keeping each other informed of any significant issues and concerns.

3.4.3. The Delivery Unit in the department is the primary contact for the ESFA. They are the main source of advice to the responsible ministers on the discharge of their responsibilities in respect of the ESFA they also will also support and brief the Principle Accounting Officer (PAO) on his or her responsibilities toward the ESFA as its senior sponsor.

3.4.4. In addition to routine and policy lead contact between the department and the ESFA, meetings will take place at the following frequency, or when needed between:

- the Secretary of State, the ESFA Chief Executive Officer (CEO) and ESFA Management Board Chair (at least twice yearly)
- the CEO and other responsible ministers on a bi-monthly basis
- The ESFA CEO as a member of the department's Board and Management Committee will submit for discussion, an *Efficiency and Effectiveness Statement* once a year to the Board, and every 6 months to Management Committee
- the Permanent Secretary and the ESFA CEO, Chair of the ESFA Management Board and any relevant ESFA directors for a formal performance review (quarterly) - other directors from the core department may attend when necessary

3.4.5. Any disputes between the core department and the ESFA will be resolved by an internal process overseen by the Permanent Secretary of the

Department for Education, in consultation with the Secretary of State. In any case where there is a dispute arising between the agency and the department about a particular course of action or between the Chief Executive and the Chair of the ESFA Management Board, the dispute will be referred to the PAO for a decision. The PAO will review the information provided and make a decision informing the Chief Executive and the ESFA Management Board of the outcome.

3.5. Department for Education Accounting Officer's specific accountabilities and responsibilities as Principal Accounting Officer

3.5.1. The PAO of the department has designated the Chief Executive of ESFA as its Accounting Officer (AO). The respective responsibilities of the PAO and AO for executive agencies is set out in Box 3.1 in chapter 3 of '[Managing Public Money](#)' (published by HM Treasury), which is sent to the AO on appointment.

3.5.2. The PAO is accountable to Parliament for the issue of supply financing to the ESFA. The PAO is also responsible for advising the responsible ministers on:

- an appropriate framework of objectives and targets for the ESFA in light of the department's wider strategic aims and priorities
- an appropriate budget for the ESFA in light of the department's overall public expenditure
- how well the ESFA is achieving its strategic objectives and whether it is delivering value for money

3.5.3. The PAO is also responsible for ensuring arrangements are in place in order to:

- monitor the ESFA's activities
- address significant problems in the ESFA, making such interventions as are judged necessary
- periodically carry out an assessment of the risks both to the department and the ESFA's objectives and activities
- inform the ESFA of relevant government policy in a timely manner
- bring concerns about the activities of the ESFA to the ESFA Management Board, and, as appropriate to the department's Board requiring explanations and assurances that appropriate action has

been taken

3.5.4. The Permanent Secretary is the senior departmental sponsor for the ESFA and their team in the department is the primary contact for the ESFA on a day-to-day basis. The 'sponsor' team in the Permanent Secretary's office are the main source of advice to ministers and the Permanent Secretary on the discharge of their responsibilities in respect of the ESFA. They will also support the Permanent Secretary in their responsibilities toward the ESFA as senior sponsor, and will provide briefing to enable effective support, challenge and monitoring at quarterly performance and ministerial meetings.

3.6. Responsibilities of the ESFA Chief Executive as Accounting Officer

3.6.1. The Chief Executive as AO is personally responsible for safeguarding the public funds for which they have charge; for ensuring propriety, regularity, value for money and feasibility in the handling of those public funds; and for the day-to-day operations and management of the ESFA. In addition, they should ensure that the ESFA as a whole is run on the basis of the standards, in terms of governance, decision-making and financial management that are set out in 3.3 of 'Managing Public Money'.

3.6.2. The AO's accountabilities to Parliament include:

- signing the ESFA's accounts and ensuring that proper records are kept relating to the accounts and that the accounts are properly prepared and presented in accordance with any directions issued by the Secretary of State
- preparing and signing an annual governance statement covering corporate governance, risk management and oversight of any local responsibilities, for inclusion in the annual report and accounts
- ensuring that effective procedures for handling complaints about the ESFA are established and made widely known within the ESFA and to the wider public
- acting in accordance with the terms of this Framework Document, 'Managing Public Money' and other instructions and guidance issued from time to time by the department, HM Treasury and Cabinet Office
- giving evidence, normally with the PAO, when summoned before the Public Accounts Committee on the ESFA's stewardship of public funds

- 3.6.3. The AO or nominated representative, will advise ministers on Parliamentary Questions (PQs) and Parliamentary correspondence addressed to ministers as required on all operational matters related to the responsibilities of the ESFA. Where appropriate, the ESFA and departmental policy teams will work closely on responses to PQs and other Parliamentary correspondence. The Secretary of State can direct the Chief Executive to write to Members of Parliament or Lords in respect of their PQs or Parliamentary correspondence.
- 3.6.4. More detailed arrangements for ESFA reporting to the department, PAO and responsible ministers can be found in the 'Reporting Performance to the Department' section in this document.
- 3.6.5. The AO will have responsibility for making sure that the ESFA can safeguard and account for its assets.
- 3.6.6. The AO's responsibilities to the department include:
- establishing, in agreement with the department and ministers, the ESFA's corporate and business plans in the light of the department's wider strategic aims and agreed priorities
 - informing the department of progress in helping to achieve the department's policy objectives and in demonstrating how resources are being used to achieve those objectives
 - ensuring that timely forecasts and monitoring information on performance and finance are provided to the department; that the department is notified promptly if over or under spends are likely and that corrective action is taken; and that any significant problems whether financial or otherwise, and whether detected by internal audit or by other means, are notified to the department in a timely fashion

3.7. Responsibilities to the ESFA Management Board

- 3.7.1. The AO is responsible for:
- advising the ESFA Management Board on the discharge of the ESFA's responsibilities as set out in this document, in the founding legislation and in any other relevant instructions and guidance that may be issued from time to time
 - advising the ESFA Management Board on the ESFA's performance compared with its aims and objectives

- ensuring that financial considerations are taken fully into account by the ESFA Management Board at all stages in reaching and executing its decisions, and that financial appraisal techniques are followed
- if the ESFA Management Board, or its Chair, is recommending a course of action which the Chief Executive considers would infringe their responsibilities as AO, ensuring that the Chief Executive can refer the matter up to the PAO for a decision and to consider whether it is necessary to seek a ministerial direction

3.7.2. The AO will report directly to the department's PAO, who will also act as the line manager of the AO. The PAO is responsible for evaluating the performance of the AO, in consultation with the ESFA Management Board Chair and ministers, and advising the Secretary of State on how the ESFA is performing.

3.8. ESFA Management Board

3.8.1. The ESFA Management Board will advise the ESFA Chief Executive to ensure that effective arrangements are in place to provide assurance on risk management, governance and internal control. The ESFA Management Board will set up an ESFA Audit and Risk Committee chaired by an independent non-executive Chair, who will also be a member of the ESFA Management Board, to provide independent advice and assurance on risk management, governance and internal controls. The ESFA Management Board is expected to assure itself of the effectiveness of the internal control and risk management systems.

3.8.2. The full roles and responsibilities of the ESFA Management Board and the Chair will be set out in a terms of reference agreed by both the department and the agency. The ESFA Management Board is specifically responsible for:

- establishing and taking forward the strategic aims and objectives of the ESFA consistent with its overall strategic direction and within the policy and resources framework determined by the Secretary of State
- ensuring that the ESFA Management Board receives and reviews regular financial information concerning the management of the ESFA; is informed in a timely manner about any concerns about the activities of the ESFA; and provides positive assurance to the department that appropriate action has been taken on such concerns

- demonstrating high standards of corporate governance at all times, including by using the ESFA Audit and Risk Committee to help the ESFA Management Board to address key financial and other risks
- developing a 3-year Efficiency and Effectiveness Plan for the ESFA, and signing off the twice-yearly Effectiveness Statement to the department's Management Committee, as well as monitoring and challenging progress against the plan

The role of the Chair of the ESFA Management Board

- 3.8.3. The Chair of the ESFA Management Board will report to the PAO and ministers. They are responsible for advising the Chief Executive to ensure that policies and actions undertaken by the ESFA support the responsible ministers' wider strategic policies and that its affairs are conducted with probity. Where appropriate, these policies and actions should be clearly communicated and disseminated throughout the ESFA.
- 3.8.4. As the senior departmental sponsor, the PAO will review the Chair's performance at least once a year at a formal performance review meeting. The Chair is responsible for giving any feedback on the performance of the Chief Executive to the PAO, which will be considered during the Chief Executive's quarterly performance reviews, and will support the PAO in discharging their role in respect of the agency and in advising ministers on its performance.
- 3.8.5. In addition, the Chair of the ESFA Management Board is responsible for:
- formulating the ESFA Management Board's strategy
 - ensuring that the ESFA Management Board, in reaching decisions, takes proper account of guidance provided by the responsible minister or the department
 - delivering high standards of regularity and propriety
 - providing additional scrutiny of the agency's performance and risks and escalating any issues to the PAO or ministers as deemed appropriate
- 3.8.6. The Chair of the ESFA Management Board also has an obligation to ensure that:
- the work of the ESFA Management Board and its members are reviewed and working effectively
 - the ESFA Management Board has a balance of skills appropriate to

directing the ESFA's business, as set out in the Cabinet Office '[Code of Good Practice for Corporate Governance](#)'

- ESFA Management Board members are fully briefed on terms of appointment, duties, rights and responsibilities
- they, together with the other ESFA Management Board members, receive appropriate training on financial management and reporting requirements and on any differences that may exist between private and public sector practice
- the responsible ministers are advised of the ESFA's needs when ESFA Management Board vacancies arise
- they assess the performance of individual ESFA Management Board members when being considered for re-appointment
- there is a ESFA Management Board terms of reference in place setting out the role and responsibilities of the ESFA Management Board consistent with the 'Code of Good Practice for Corporate Governance'
- there is a code of practice for ESFA Management Board members in place, consistent with the Cabinet Office '[Code of Conduct for Board Members of Public Bodies](#)'

The role of ESFA Management Board members

3.8.7. Individual ESFA Management Board members should:

- comply at all times with the 'Code of Conduct for Board Members of Public Bodies' and with the rules relating to the use of public funds and to conflicts of interest
- not misuse information gained in the course of their public service for personal gain or for political profit, nor seek to use the opportunity of public service to promote their private interests or those of connected persons or organisations
- comply with the ESFA Management Board's rules on the acceptance of gifts and hospitality, and of business appointments

3.9. Annual report and accounts

3.9.1. The ESFA Management Board must publish an annual report of its activities together with its audited accounts after the end of each financial year. The ESFA shall provide the department its finalised accounts following an agreed timetable each year in order for the accounts to be

consolidated within the department's annual report and accounts.

3.9.2. The ESFA annual report must:

- cover any corporate, subsidiary or joint ventures under its control
- comply with the Treasury's 'Financial Reporting Manual' (FrEM)
- outline main activities and performance during the previous financial year and set out in summary form forward plans

3.9.3. The annual accounts of academies and academy trusts will be consolidated in a separate Sector Annual Report and Accounts (SARA), which the department is responsible for producing on behalf of the ESFA. The first SARA will report on the academic year from 1 September 2015 to 31 August 2016 and is due to be published by the department at the end of October 2017.

3.9.4. Information on performance against key financial targets is within the scope of the audit and should be included in the notes to the accounts. The ESFA annual report and accounts shall be laid in Parliament and made available on GOV.UK, in accordance with the guidance in the FrEM. A draft of the report should be submitted to the department at least 2 weeks before the proposed publication date. The accounts should be prepared in accordance with the relevant statutes and specific accounts direction issued by the department as well as the FrEM.

3.10. Internal audit

3.10.1. The ESFA will receive internal audit and assurance services from the Government Internal Audit Agency (GIAA). GIAA will also provide independent and objective assurance to the ESFA AO and the ESFA Management Board on the adequacy and effectiveness of the ESFA governance, risk management and control. This will support the AO's annual governance statement.

3.10.2. The ESFA shall:

- ensure that the department's internal audit team have complete access to all relevant records
- set up an Audit and Risk Committee of its Management Board in accordance with the 'Code of Good Practice for Corporate Governance' and the '[Audit Committee Handbook](#)', and be represented on the department's Audit and Risk Committee
- forward the audit strategy, periodic audit plans and annual audit

report, including the GIAA's opinion on risk management, control and governance as soon as possible to the department

- keep records of, and prepare and forward to the department an annual report on fraud and theft suffered by the ESFA and notify the department of any unusual or major incidents as soon as possible

3.10.3. The internal audit service has a right of access to all documents, including where the service is contracted out.

ESFA Audit and Risk Committee

3.10.4. The ESFA's Audit and Risk Committee (ARC) will report to the ESFA Management Board and advise the ESFA Chief Executive and the department's ARC on the adequacy and effectiveness of the operation of the system of internal control within the ESFA.

3.10.5. The ARC Chair and other independent non-executives will be appointed with agreement from the Permanent Secretary and following the Cabinet Office '[Governance Code for Public Appointments](#)'. Such appointments will comply with the Commissioner for Public Appointments' '[Guidance for Ministerial Appointments to Public Bodies](#)'. The Chair of the ARC will be a member of the ESFA Management Board, and of the department's ARC to which it will also provide assurance.

3.10.6. Others that will attend ARC meetings include the ESFA Chief Executive, a director from the department's Insight, Resources and Transformation Directorate, an observer from the National Audit Office (NAO) and an observer from the GIAA. ESFA directors will be requested to attend ARC meetings when necessary.

3.10.7. The ESFA ARC will report at least twice a year to the department's ARC, and approach the department's ARC at any point during the year should emerging issues or heightened risks warrant it. The ESFA ARC will also report at least once a year to the Permanent Secretary as PAO and senior sponsor.

3.11. External audit

3.11.1. The Comptroller and Auditor General (C&AG) passes the audited accounts to the Secretary of State who will lay the accounts together with the C&AG's report before Parliament.

3.11.2. The C&AG:

- will consult the department and the ESFA on whom – the NAO or a

commercial auditor – shall undertake the audit(s) on their behalf, though the final decision rests with the C&AG

- has a statutory right of access to relevant documents, including by virtue of section 25(8) of the Government Resources and Accounts Act 2000, held by another party in receipt of payments or grants from the ESFA
- will share with the department information identified during the audit process and the audit report (together with any other outputs) at the end of the audit, in particular on issues impacting on the department's responsibilities in relation to financial systems within the ESFA
- will, where asked, provide departments and other relevant bodies with Regulatory Compliance Reports and other similar reports which departments may request at the commencement of the audit and which are compatible with the independent auditor's role

3.11.3. The C&AG may carry out examinations into the economy, efficiency and effectiveness with which the ESFA has used its resources in discharging its functions. For the purpose of these examinations the C&AG has statutory access to documents as provided for under section 8 of the National Audit Act 1983. In addition, the ESFA shall provide, in conditions to grants and contracts, for the C&AG to exercise such access to documents held by grant recipients and contractors and sub-contractors as may be required for these examinations; and shall use its best endeavours to secure access for the C&AG to any other documents required by the C&AG which are held by other bodies.

3.11.4. The department has the right of access to all ESFA records and personnel for any purpose including, for example, audits and operational investigations.

3.12. Complaints and investigations

3.12.1. The ESFA will publish its complaints procedures on GOV.UK for investigating any allegations of fraud or impropriety made against the ESFA or organisations that the ESFA funds.

3.12.2. The ESFA is subject to the jurisdiction of the Parliamentary and Health Service Ombudsman (PHSO). Cases may be referred to the PHSO by a Member of Parliament once the ESFA complaints procedure has been exhausted.

3.12.3. The department's PAO is the department's Principal Officer for the

purposes of PHSO referrals, but will delegate responsibility for handling any matters concerning the ESFA to the Chief Executive as appropriate.

3.13. LocatED sponsorship

- 3.13.1. LocatED is a non-departmental public body (NDPB) established to acquire the sites required to deliver new free schools. Its duties and powers are specified in its Articles of Association and Framework Document, as agreed with the Department for Education. LocatED's priorities and performance measures are set by the department in light of the Secretary of State's powers to own land and invest in education.
- 3.13.2. The department is responsible for decisions related to its funding and control of LocatED in relation to the provision of the services provided to the department by LocatED.
- 3.13.3. The LocatED sponsorship team in the ESFA is the primary departmental contact for LocatED. This team provides the main source of advice to the Secretary of State on the discharge of their responsibilities in respect of LocatED. They also support the department's PAO on their responsibilities toward LocatED.
- 3.13.4. The senior sponsor (the ESFA Director of Capital) and the LocatED Chief Executive will meet quarterly, or more frequently as necessary, to discuss delivery and performance.
- 3.13.5. Quarterly performance reviews will take place between the LocatED sponsorship team and LocatED to review LocatED's performance against its plans, achievements against its targets and its expenditure against its budget allocation. Issues will be escalated to the senior sponsor and the responsible minister as necessary.
- 3.13.6. LocatED must maintain proper accounts and prepare an annual statement of accounts. The annual accounts of LocatED are fully consolidated into the Department for Education's accounts.

4. Management and financial responsibilities

4.1. Managing Public Money and other government-wide corporate guidance and instructions

- 4.1.1. Unless agreed by the department and, as necessary, HM Treasury, the ESFA shall follow the principles, rules, guidance and advice in 'Managing Public Money', referring any difficulties or potential bids for exceptions to

the Insight, Resources and Transformation Directorate in the department in the first instance. A list of guidance and instructions with which the ESFA should comply is in Appendix 1.

4.1.2. Once the budget has been approved by the department, and subject to any restrictions imposed by statute, the responsible ministers' instructions, or this Framework Document, the ESFA shall have authority to incur expenditure approved in the budget without further reference to the department, on the conditions that:

- the ESFA shall comply with the budgetary and spending delegations set out the letter(s) of delegated authority received from the department at the beginning of each financial year, and these delegations shall not be altered without the prior agreement of the department
- the ESFA shall comply with 'Managing Public Money' regarding novel, contentious or repercussive proposals
- All cases or proposals that need AO and HM Treasury formal approval under the terms of 'Managing Public Money' and the department's delegated authorities framework will first be referred to the department's Corporate Governance and Finance Policy Team for consideration
- inclusion of any planned and approved expenditure in the budget shall not remove the need to seek formal departmental approval where any proposed expenditure is outside the delegated limits or is for new schemes not previously agreed
- the ESFA shall provide the department with such information about its operations, performance individual projects or other expenditure as the department may reasonably require

4.2. Corporate governance

Appointments

4.2.1. The ESFA Management Board Chair and non-executive board members are appointed by the responsible ministers. Such appointments will comply with the Commissioner for Public Appointments' ['Guidance for Ministerial Appointments to Public Bodies'](#).

4.2.2. The Chief Executive is appointed by the Secretary of State in consultation with the responsible ministers and the department's PAO.

Composition of the ESFA Management Board

4.2.3. In line with the Cabinet Office Code of Good Practice for Corporate Governance, the ESFA Management Board will consist of a non-executive Chair, together with at least 7 executive members that have a balance of skills and experience appropriate to directing the ESFA's business. There should be members represented who have experience of its business, operational delivery, corporate services such as HR, finance and performance management. The ESFA Management Board should include at least 3 additional independent non-executive members to ensure that executive members are supported, and constructively challenged, in their role.

4.3. Information assurance and security

4.3.1. The ESFA will have in place an information security policy and processes that provide assurance on the appropriate management and treatment of information across the ESFA. It will comply with departmental policies on information assurance and security.

4.4. Risk management

4.4.1. The ESFA shall ensure that the risks that it faces are dealt with in an appropriate manner, in accordance with relevant aspects of best practice in corporate governance, and develop a risk management strategy, in accordance with the HM Treasury guidance '[Management of Risk Principles and Concepts](#)'. It should adopt and implement policies and practices to safeguard itself against fraud and theft, in line with HM Treasury guidance. It should also take all reasonable steps to appraise the financial standing of any firm or other body with which it intends to enter into a contract or to give grant or grant-in-aid.

4.4.2. The ESFA will share risk information with the PAO and notify the department via the department's ARC of risks that need or may need action. The ESFA's ARC will provide independent advice on risk management to the PAO and the ESFA Management Board.

4.4.3. The ESFA will respond to departmental commissions for information on performance and risk as appropriate to support the sponsor in carrying out their role.

4.4.4. The ESFA will maintain robust contingency and business continuity plans and will review and test these frequently.

4.5. Corporate and business plans

- 4.5.1. At the beginning of each financial year the ESFA shall submit its business plan to the department. The draft should be submitted before April each year. The ESFA shall agree with the department, and where appropriate ministers, the issues to be addressed in the plan and the timetable for its preparation. The ESFA Management Board will also develop a 3-year efficiency and effectiveness plan for the ESFA, and a twice-yearly effectiveness statement to DfE Management Committee, setting out progress against the plan.
- 4.5.2. The business plan shall reflect the ESFA's statutory and/or other duties and, within those duties, the priorities set from time to time by the responsible ministers (including decisions taken on policy and resources in the light of wider public expenditure decisions). The plan shall demonstrate how the ESFA contributes to the achievement of the department's priorities.
- 4.5.3. The business plan shall be updated to include key targets and milestones for the year immediately ahead and shall be linked to budgeting information so that resources allocated to achieve specific objectives can readily be identified by the department. Subject to any commercial considerations, the business plan should be published by the ESFA on GOV.UK and separately be made available to staff.
- 4.5.4. The following key matters that should be included in the plan will be:
- key objectives and associated key performance targets for the forward years, and the strategy for achieving those objectives
 - key non-financial performance targets
 - a review of performance in the preceding financial year, together with comparable outturns for the previous 2 to 5 years, and an estimate of performance in the current year
 - alternative scenarios and an assessment of the risk factors that may significantly affect the execution of the plan but that cannot be accurately forecast
 - other matters as agreed between the department and the ESFA

4.6. Budgeting procedures

- 4.6.1. Once business planning and prioritisation decisions have been taken by the department and ministers, the department will send the ESFA the

following items before the start of the financial year:

- a formal statement of the annual budgetary provision and spending authority allocated by the department, including forecast income approved by the department
- a document outlining the budgetary, commercial and spend authority delegated from the department to the ESFA in order for it to deliver its objectives (see section 4.8)
- a statement of any planned change in policies affecting the ESFA

4.6.2. At every stage of the budget process, the department's and the ESFA's finance and policy teams will act openly and transparently. They will ensure the Chief Executive, the department and the department's PAO are fully apprised of all aspects of the plans for the ESFA's budgets, both prior to and after HM Treasury has agreed a delegated expenditure limit with the department.

4.6.3. There will be a quarterly, detailed financial review of the forecast and budgets across the department, which will be used to inform the department's Management Committee discussions on managing the department's finances and for reporting to HMT. The mid-year review (end September) will form the basis of the Supplementary Estimate, the only opportunity to change departmental spending limits before the end of the year. New delegation letters will be issued to confirm the revised ESFA budgetary limits when the Supplementary Estimate is approved by Parliament.

4.7. Financing and cash management

4.7.1. Any financing provided by the department to the ESFA for the year in question will be voted in the department's Supply Estimate and be subject to Parliamentary control, this financing forms part of the department's overall net cash requirements.

4.7.2. The cash funding will normally be paid in monthly instalments on the basis of written applications showing evidence of need. The ESFA will comply with the general principle, that there is no payment in advance of need. This will be supported by a monthly cash forecast which the department will use to prepare the departmental cash management return. Changes to forecasts will be provided to agreed deadlines to ensure the department does not exceed the daily payment and monthly cash flow targets set by HM Treasury. Cash balances accumulated during the course of the year from funding or other Exchequer funds shall be kept to a minimum level

consistent with the efficient operation of the ESFA. Funding not drawn down by the end of the financial year shall lapse. Cash funding should follow the principles set out by HM Treasury in Annex 5.6 of 'Managing Public Money'.

- 4.7.3. Subject to approval by Parliament of the relevant Estimates provision, where funding is delayed to avoid excess cash balances at the year-end, the department will make available in the next financial year any funding that is required to meet any liabilities at the year end, such as creditors. To ensure the cash financing is available, the ESFA will supply estimates of the movement in the working capital so that the department can include additional cash funding in the Supply Estimate.

4.8. Delegated authorities

- 4.8.1. The PAO will delegate budgetary and commercial authority in writing to the Chief Executive, setting out responsibility for all financial matters relating to the delivery of ESFA outcomes. Director General(s) from the department's directorates responsible for each policy area under which work is delivered by the ESFA will also write to the AO to set out the delegated spending authority against specific programme and capital budgets.
- 4.8.2. The ESFA AO is accountable for the effective spend and management of budgets allocated to the ESFA. This includes ensuring commercial policy, standards and controls are adhered to. The ESFA will have effective financial management and governance arrangements agreed by the AO and consistent with the department's controls, through which expenditure is managed.
- 4.8.3. The ESFA shall obtain the department's prior written approval before:
- entering into any undertaking to incur any expenditure that falls outside the delegations or which is not provided for in the ESFA's annual budget as approved by the department
 - incurring expenditure for any purpose that is or might be considered novel or contentious, or which has or could have significant future cost implications
 - making any significant change in the scale of operation or funding of any initiative or particular scheme previously approved by the department
 - making any change of policy or practice which has wider financial

implications that might prove repercussive or which might significantly affect the future level of resources required

- carrying out policies that go against the principles, rules, guidance and advice in 'Managing Public Money'

4.8.4. The AO may delegate delivery responsibility to a named senior civil servant, but remains accountable and responsible for providing the PAO with assurance, through the AO's annual governance statement, of effective spend on commercial activity. A written scheme of delegation will record these delegations and be reviewed on a regular basis.

4.9. Financial management and reporting

4.9.1. The ESFA is subject to public expenditure controls as well as the rules and policies laid down by the department and by HM Treasury in: 'Managing Public Money'; 'Consolidated Budgeting Guidance'; the 'Financial Reporting Manual'; and other accounting instructions that are issued from time to time.

4.9.2. The ESFA Chief Executive, as AO, is responsible for value for money as set out in 'Managing Public Money'. This includes ensuring that ESFA spend is systematically evaluated to provide confidence about suitability, effectiveness, prudence, quality and good value.

4.9.3. The ESFA has responsibility for: setting detailed budgets to deliver intended policy outcomes; monitoring and forecasting expenditure against budgets and reporting against budgets to the ESFA Management Board and the department.

4.9.4. The ESFA will provide information on its expenditure and its income to the department and to HM Treasury every month. It will also share financial management information with its delivery partners where appropriate.

4.9.5. The ESFA Management Board will undertake a detailed quarterly review of financial performance. The CEO and ESFA directors will also meet to review financial reporting and performance monthly at ESFA Executive Committee meetings, escalating key financial issues and risks to the department as needed.

4.9.6. The Chief Executive is responsible for raising concerns with the PAO should the ESFA's financial management information and accounting systems not allow for detailed and effective control over its use of resources. The department's Operational and Strategic Finance Director will work with the ESFA Chief Executive and directors to ensure the ESFA

can comply with its financial responsibilities.

- 4.9.7. For more information about reporting financial matters to the department, please see the section below.

4.10. Reporting performance to the department

- 4.10.1. The ESFA shall operate management, information and accounting systems that enable it to review in a timely and effective manner its financial and non-financial performance against the budgets and targets set out in the corporate and business plans. The ESFA shall inform the department of any changes that make achievement of objectives more or less difficult.
- 4.10.2. It shall report financial and non-financial performance, including performance in helping to deliver ministers' policies, and the achievement of key objectives to the department's Performance Committee each month.
- 4.10.3. The responsible ministers will meet the ESFA Chief Executive every 2 months to review the financial and non-financial performance of the ESFA. The Secretary of State will also meet the ESFA Management Board Chair and Chief Executive at least twice yearly to discuss agency performance.
- 4.10.4. The ESFA Chief Executive will report to the department's Board to review the efficiency and effectiveness of the agency once a year, and the department's Management Committee every 6 months.
- 4.10.5. The ESFA's performance shall be formally reviewed by the department through a quarterly performance review. This will be chaired by the PAO as the ESFA's senior departmental sponsor, with the Chief Executive, Chair of the ESFA Management Board and any relevant directors from the ESFA. Other directors from the core department may attend where they have an interest and when necessary.
- 4.10.6. The department will set out for the ESFA annually in its delegation letter the minimum in-year financial and performance reporting requirements.
- 4.10.7. Officials of the Insight, Resources and Transformation Directorate (IRT) in the department will liaise regularly with ESFA officials to review financial performance against plans, achievement against financial targets and expenditure against its allocations. The directorate will also take the opportunity to explain wider policy developments that might have an impact on the ESFA.

4.11. Shared services

- 4.11.1. The department's operating model provides a range of corporate functions as shared services across its directorates, including to its executive agencies. The quality of service provision will be reviewed at regular intervals, based on agreed service standards and KPIs.
- 4.11.2. Any issues, including any charging for these services, will be discussed between the Chief Executive or nominated director and the Director General or director responsible for the relevant shared service.

Communications and press office

- 4.11.3. The department will provide some communications services including: press office; department-level communications strategy and insight; and correspondence and call handling for public enquiries submitted to the department.
- 4.11.4. The ESFA will be responsible for the management and delivery of operational communications, and the majority of enquiry and correspondence handling which are required to carry out its core business.

Digital, data and technology (including digital security)

- 4.11.5. The department's Digital, Data and Technology service (DDaT) will provide some digital and technology services to the ESFA, including system security. DDaT will work with ESFA to define key performance indicators and service levels for services provided.
- 4.11.6. The ESFA's Data Science service will provide data collection, data management, data governance and data storage services across the department. The service includes building and publishing dashboards and management information reports, and developing financial forecasting and risk assessment analysis tools. It also offers a flexible analysis and modelling service, as well as providing links to the department's central analysis and data communities.

Estates and facilities management

- 4.11.7. For departmental office sites, department will some deliver estates and facilities management services to the ESFA and will also manage those elements of the facilities management service which are provided by third parties. Where appropriate, services will include:
- health and safety management

- cleaning
- security
- helpdesk
- building maintenance
- reprographics
- mail delivery and distribution
- catering services
- the disaster recovery component of business continuity planning

Finance and procurement

- 4.11.8. The department's IRT Directorate will provide professional financial and some commercial services. Finance support for the ESFA will include production of the ESFA's annual accounts, commission and production of the Sector Annual Report and Accounts (SARA) (including related sector communications), commissioning and submission of academy forecasts (including related sector communications), monthly financial accounting, production and reporting of monthly management accounts (budgets and forecasts) and reporting and monitoring of financial risks.
- 4.11.9. IRT will consolidate the ESFA's annual report and accounts into the department's group accounts and the Whole of Government Accounts return. It is also responsible for commissioning and consolidating academy data into the separate SARA, as well as feeding academy data into the Whole of Government return.
- 4.11.10. IRT will provide procurement policy, support and advice to the ESFA. It will ensure that the ESFA has access to deals for common goods and services either from the department's own deals or by providing access to the Government Procurement Service deals. The department's procurement guidance sets out clearly where the department may undertake procurement on behalf of the ESFA, and where the ESFA should undertake its own procurement with advice from IRT.
- 4.11.11. IRT will provide advice on financial management, propriety and regularity through a dedicated Finance Business Partner team. It will provide advice on commercial issues through a dedicated Commercial Business Partner.
- 4.11.12. IRT will commission and provide forecast and outturn data for the academy sector which will be used by HM Treasury for Supplementary Estimates, Office for Budget Responsibility forecasts and Public

Expenditure Statistical Analyses tables.

Human resources

- 4.11.13. The department's HR Group will be responsible for the delivery of HR services to the ESFA. This includes providing advice and guidance on matters such as training and development, performance management, casework and recruitment/brokerage advice. In addition, the ESFA will be able to call on the services of ESFA's dedicated HR Business Partner for strategic advice
- 4.11.14. On behalf of the ESFA, the department's HR Group will also manage elements of the HR service provided by third parties. This includes payroll, administration of pensions, occupational health and childcare funding.

Legal services

- 4.11.15. The Government Legal Department, through the department's Legal Advisors' Office (LAO) will provide the ESFA with high quality legal services to enable it to operate effectively within the law, achieve best legal outcomes and minimise legal risk. These services involve legal advice on operational issues, enhancing the legal awareness of staff and supporting the procurement, management and quality assurance of external legal services.
- 4.11.16. The LAO and the ESFA will work in partnership to maximise the value for money of legal services. Service provision is specified in a Memorandum of Understanding between the LAO and the department.

4.12. Staff

Broad responsibilities for staff

- 4.12.1. The ESFA's staff are civil servants employed by the department on its terms and conditions of employment. The Chief Executive will have delegated responsibility to recruit staff within the parameters provided by the department's policies and procedures.
- 4.12.2. The department's PAO will give the Chief Executive the freedom to appoint to Senior Civil Service (SCS) pay band 1, but within a maximum number of SCS pay band 1 posts agreed each year. If additional posts are required above this limit, PAO approval will be required. SCS appointments will follow the recruitment principles of the Civil Service Commission.
- 4.12.3. Within the arrangements approved by the responsible ministers, the Chief

Executive will have responsibility for the recruitment, retention and motivation of its staff. The broad responsibilities toward its staff are to ensure that:

- the rules for recruitment and management of staff follow those of the department, and create an inclusive culture in which diversity is fully valued; appointment and advancement is based on merit
- there is no discrimination on grounds of gender, marital status, sexual orientation, race, colour, ethnic or national origin, religion, disability, community background or age
- the level and structure of its staffing, including grading and staff numbers, are appropriate to its functions and the requirements of economy, efficiency and effectiveness
- the performance of its staff at all levels is satisfactorily appraised following the department's performance management policies, these systems will be reviewed from time-to-time to ensure they are effective and fit-for-purpose
- its staff are encouraged to acquire the appropriate professional, management and other expertise necessary to achieve the ESFA's objectives
- proper consultation with staff takes place on key issues affecting them, both by the ESFA and by the department
- the ESFA discharges its statutory health and safety duties
- the department's grievance and disciplinary procedures are followed
- the department's whistle-blowing procedures, consistent with the Public Interest Disclosure Act, are in place

Staff costs

- 4.12.4. Subject to its delegated authorities, the ESFA shall ensure that the net creation of any additional posts does not incur forward commitments that will exceed its ability to pay for them.

Pay and conditions of service

- 4.12.5. ESFA staff are subject to levels of remuneration and terms and conditions of service (including pensions) within the general pay structure of the department. The ESFA has no delegated power to amend these terms and conditions.
- 4.12.6. ESFA staff are employees of the department. As such, staff terms and

conditions are set out in the department's HR handbook for staff.

- 4.12.7. Payment of staff travel and expenses shall be made in accordance with the '[Civil Service Management Code](#)' except where prior approval has been given by the department to vary such rates.
- 4.12.8. The travel expenses of ESFA Management Board members shall be tied to the rates allowed to departmental rates. Reasonable actual costs shall be reimbursed.
- 4.12.9. The ESFA shall comply with the EU Directive on contract workers – the Fixed-Term Employees (Prevention of Less Favourable Treatment) Regulations.

Pensions, redundancy and compensation

- 4.12.10. As departmental employees, ESFA staff shall normally be eligible for a pension provided by Civil Service Pensions (MyCSP).
- 4.12.11. Any proposal by the ESFA or the department to move from the existing pension arrangements, or to pay any redundancy or compensation for loss of office, requires the prior approval of the department. Proposals on severance must comply with the rules in chapter 4 of 'Managing Public Money'.

4.13. Review of ESFA's status

- 4.13.1. The ESFA will be subject to a tailored review at least once in the lifetime of a Parliament, in line with the Cabinet Office [policy for the tailored reviews of public bodies](#). It is anticipated that the ESFA will be subject to a tailored review by no later than 1 April 2019.


5. Arrangements in the event that the ESFA is wound up

- 5.1.1. The department shall put in place arrangements to ensure the orderly winding up of the ESFA if such a decision is taken. In particular, it should ensure that the assets and liabilities of the ESFA are passed to any successor organisation and accounted for properly. To this end, the department shall:
 - ensure that procedures are in place in the ESFA to gain independent assurance on key transactions, financial commitments, cash flows and other information needed to handle the wind-up effectively and

to maintain the momentum of work inherited by any residuary body


- specify the basis for the valuation and accounting treatment of the ESFA's assets and liabilities
- ensure that arrangements are in place to prepare closing accounts and pass to the C&AG for external audit, and that, for non-Crown bodies funds are in place to pay for such audits. It shall be for the C&AG to lay the final accounts in Parliament, together with his report on the accounts
- arrange for the most appropriate person to sign the closing accounts

5.1.2. The ESFA shall provide the department with full details of all agreements where the ESFA or its successors have a right to share in the financial gains of developers. It should also pass to the department details of any other forms of claw-back due to the ESFA.

Signed 


Date 17 November 2017

Jonathan Slater
Permanent Secretary, Department
for Education
*On behalf of the Department for
Education*

Signed 


Date 17th Nov 2017

Lord Agnew
Parliamentary Under Secretary of
State for the Schools System

Signed 

Date 8 November 2017

Peter Lauener
Chief Executive, Education and
Skills Funding Agency
*On behalf of the Education and Skills
Funding Agency*

Signed 

Date 17th November 2017

Rt Hon Anne Milton MP
Minister of State for Apprenticeships
and Skills

Appendix 1: Government-wide corporate governance instructions

The ESFA shall comply with the following general guidance documents and instructions:

- The ESFA Framework Document
- [‘Corporate Governance in Central Government Departments: Code of Good Practice’](#) (Cabinet Office)
- [‘Code of Conduct for Board Members of Public Bodies’](#) (Cabinet Office)
- [‘Code of Practice for Ministerial Appointments to Public Bodies’](#) (Centre for Public Appointments)
- [‘Managing Public Money’](#) (HM Treasury)
- [‘Public Sector Internal Audit Standards’](#) (HM Treasury and Government Internal Audit Agency)
- [‘Management of Risk: Principles and Concepts’](#) (HM Treasury)
- [‘Government Financial Reporting Manual’](#) (HM Treasury)
- Relevant [Accounting Officer letters](#) (HM Treasury)
- [‘Regularity, Propriety and Value for Money’](#) (HM Treasury)
- [‘Principles of Good Administration’](#) (Parliamentary and Health Service Ombudsman)
- ‘Freedom of Information Act guidance and instructions’ (Ministry of Justice)
- The ‘Civil Service Code’
- Recommendations made by the Public Accounts Committee, or by other Parliamentary authority, that have been accepted by the government and relevant to the ESFA

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