

European Social Fund Funding Requirements

**Skills Support for the Unemployed and
Apprenticeship Support to Employers**

AND

Skills Support for Redundancy

July 2011

Of interest to Colleges and Training Organisations



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Part 1 – European Social Fund

Funding Requirements

Introduction

1. This document sets out the way in which the Skills Funding Agency (the Agency) will fund European Social Fund (ESF) for new contracts from April 2011.
2. This document outlines the key ESF requirements that apply to this provision and reinforces the ESF rules and regulations as applied by ESFD in how they relate to the ESF England programme. The ESFD Guidance that is available at [ESF website - www.esf.gov.uk](http://www.esf.gov.uk) will be subject to updates during the life of the programme. In the event of any such updates these will take precedence over the contents of this document. Organisations must therefore ensure they keep updated on any new/revised requirements.
3. It provides key information to support the delivery of ESF, in particular where the requirements either differ or supplement the normal Skills Funding Agency provision or national ESF criteria. This document is contractual and should be read in its entirety and alongside:
 - a) The requirement documents;
 - b) Contract documentation;
 - c) The standard Skills Funding Agency guidance or requirements documents, particularly the [Skills Funding Agency Learner Eligibility Guidance](#) and, if ESF is being used to deliver like-for-like formula funded provision, the relevant Funding Requirements document for that provision;
 - d) The national ESF guidance is available on the [ESF website, www.esf.gov.uk](http://www.esf.gov.uk).
4. Please contact your Account Manager for further guidance, if you are unsure as to the application of these requirements.

5. All Organisations that receive ESF from the Agency for their provision are required to comply with these requirements. This document forms part of the Contract or Funding Agreement between the Organisation and the Chief Executive of Skills Funding in the delivery of ESF provision. It can only be varied in writing by the Chief Executive of Skills Funding or by those that are authorised to do so. Any amendment to these requirements will explicitly state that it has that authority.
6. Where there is any inconsistency between the requirements or terms set out in this document and those set out in the contract, those in the contract will prevail.
7. To simplify these requirements:
 - a) The single term 'organisation(s)' will be used instead of a constant reference to providers, contractors, colleges, training organisations and other organisations contracted to undertake delivery.
 - b) The term 'individual' will cover participant, learner, customer and client.
 - c) The single term 'contract' will be used instead of a constant reference to Contracts or Funding Agreements between the Organisation and the Chief Executive of Skills Funding.

1.1 Funding Policy Changes

8. This document will be updated as necessary to keep it in line with mainstream Skills Funding Agency funding guidance and ESF Division guidance.
9. The following changes are highlighted

| Change | Section |
|--------|---------|
| | |

Section 2 Context and Funding Priorities

2.1 ESF Context

10. As the Managing Authority, the Department for Work and Pensions (DWP) has overall responsibility for ESF funds in England. Through its European Social Fund Division (ESFD), DWP manages the England ESF programme at a national level and liaises with the European Commission in Brussels. ESFD is responsible for ensuring that ESF money in England is used to support and add value to national employment and skills priorities, in line with EU regulations.
11. Each Co-financing Plan (CFP) area has its own ESF allocation split between the Co-financing Organisations (CFOs) to fund projects to address its regional jobs and skills needs, within the framework of the two priorities in the England ESF programme (as well as two specific priorities for Cornwall and the Isles of Scilly). To ensure that the regional dimension is properly reflected, some managing authority functions for delivery of ESF are carried out on behalf of DWP by locally based ESFD staff. In London, regional functions are delegated to the Mayor of London.
12. At the Co-financing Plan level, ESF funds are distributed through public agencies operating as CFOs, such as the Skills Funding Agency, DWP and National Offender Management Service (NOMS). Their role is to bring together ESF and domestic funding for employment and skills (which is known as match funding) so that ESF complements domestic programmes. The CFOs contract with the organisations that deliver ESF projects on the ground.
13. The Skills Funding Agency, DWP and NOMS are CFOs in every region of England. In some regions, Regional Development Agencies and some local authorities are also CFOs.
14. For the Convergence programme there are also additional funds available outside of the CFO structures for activities regarding Higher Education.

15. Most of the delivery of the programme takes place at Co-financing Plan level where priorities have been set through the Regional Frameworks and where the performance of the programme is monitored. Regional Skills Partnerships (and in London, the Mayor of London) have developed regional ESF frameworks. Regional ESF frameworks play an important role in ensuring that ESF contributes directly to regional employment and skills priorities within the structure of the national ESF programme. They show how:
 - a) ESF spending can complement regional employment and skills priorities, as set out in the Regional Economic Strategy;
 - b) Regional ESF spending will be targeted, for example towards particular disadvantaged groups, or in terms of employee training or particular business sectors.
16. The frameworks are used by CFOs to inform their Co-financing Plans, which describe the activities, outputs and results they will procure to contribute to the national programme and regional frameworks. The frameworks and Co-financing Plans are available on the ESFD website (www.esf.gov.uk).

2.2 Skills Funding Agency Priorities

17. The current priorities for the Skills Funding Agency are set out in the most recent Skills Strategy and Skills Investment Strategy, which can be accessed on the BIS website.
18. As set out below, the Skills Funding Agency seeks to ensure its ESF provision is aligned with the broad priorities set out in the Skills Strategy and Skills Investment Strategy.

2.2.1 Skills Funding Agency and ESF

19. The Skills Funding Agency intends to focus ESF for the period 2011-13 on types of provision that add value to mainstream activities; supporting, enhancing and filling gaps in mainstream government budgets and policies. For this provision it will focus ESF on priority client groups who experience barriers to learning and employment. For individuals, this particularly refers to:

- a) Provision to upskill the unemployed; and
 - b) Provision and training for workers who face redundancy or have been made redundant;
 - c) Supporting access to and provision of apprenticeships.
20. ESF funding is available through the Regional Competitiveness and Employment Objective, which covers all of England and Gibraltar except Cornwall and the Isles of Scilly (Priorities 1 and 2), and through the Convergence Objective, which covers Cornwall and the Isles of Scilly (Priorities 4 and 5).
21. This provision will use Priorities 1 and 4 funding to improve the employability and skills of unemployed, and tackle barriers to work faced by disabled people, lone parents, people aged 50 and over, ethnic minorities, people with no or low qualifications, and other disadvantaged groups, including people experiencing multiple disadvantage.
22. Similarly Priorities 2 and 5 funding will focus on developing a skilled and adaptable workforce. Priority 5 will also support Cornwall's skills strategy.

2.2.2 ESF Priority 1: Extending Employment Opportunities and ESF Priority 4: Tackling Barriers to Employment

- a) Priority 1 and Priority 4 focus on increasing employment and reducing unemployment. Activity to be supported by the Skills Funding Agency in each Co-financing Plan area will be determined by the Co-financing Plan but, in general, the Skills Funding Agency will for this provision focus its ESF funding in Priority 1 and Priority 4 on helping unemployed individuals to gain the skills they need for employability and to make progress in the workplace. ESF activities are expected to include employment and skills measures to help individuals improve their employability and enter jobs. These will also help those entering jobs to sustain their employment and make progress at work where they need support to integrate into the workplace.

2.2.3 ESF Priority 2: Developing a Skilled and Adaptable Workforce and ESF Priority 5: Improving the Skills of the Local Workforce

23. The Skills Funding Agency is expecting to use the ESF funding for this provision under Priority 2 and 5 to ensure provision is available for workers who face redundancy or have been made redundant. Activities will also include supporting access to and provision of apprenticeships. ESF activities are expected to integrate with employer responsive provision, including support for Apprenticeships and other work based learning, or adding individual volumes where demand exceeds mainstream Skills Funding Agency budgets.

2.2.4 Links to Mainstream Funding Models

24. Co-financing organisations, such as the Skills Funding Agency, are required to identify and maintain match funding from mainstream programme expenditure. It is possible for the Skills Funding Agency to use a range of formula funded or non-formula funded (NFF), negotiated extensions of provision and/or single tendered provision as match funding, provided it is against agreed programmes with a standard unit cost or rate.
25. The Skills Funding Agency focuses on using the larger mainstream programmes as match and ESF activity under each Priority is aligned these programmes.
26. For Priorities 1 and 4, ESF activity will be aligned with the following programmes, which are potential sources of match funding:
- a) Adult Learner Responsive (ALR);
 - b) The Next Step integrated adult careers service;
 - c) 14-19 Foundation Learning Curriculum programmes;
 - d) 16-18 Apprenticeships.
27. For Priorities 2 and 5, ESF activity will be aligned with the following programmes, which are potential sources of match funding:
- a) Apprenticeships;
 - b) Work based learning, e.g. Train to Gain.

28. Further information on the Skills Funding Agency ESF programmes across the English regions can be found on the [Skills Funding Agency website](http://www.skillsfundingagency.bis.gov.uk), www.skillsfundingagency.bis.gov.uk.
29. Further information on ESF in England can be found on the [ESF website](http://www.esf.gov.uk), www.esf.gov.uk.

Section 3 Funding and Payments

3.1 Like-for-Like Provision and Stand-Alone Provision

- a) This provision is outside of formula funded programme models – this is referred to as ‘stand-alone ESF provision’. In this case, the requirements set out in this Funding Requirements document will apply unless stated otherwise in the contract.
30. ESF funded activity is not expected to generate revenue for the Organisation(s). Where this is the case, this must be documented in the contract at the start and the contract value discounted by the value of the revenue.

3.2 Funding Period

31. The contract will set out the period funding is available.
Organisations should note that unlike most other Skills Funding Agency funding models, ESF contracts can fund activity across multiple funding years.

3.3 Funding

32. For stand-alone ESF provision, the maximum funding available per individual is set out in the contract. This funding per individual will have been informed by a variety of factors, including the formula funding rate for any equivalent Adult Learner Responsive or Employer Responsive provision.
33. Funding for delivery is triggered via Individualised Learning Record (ILR) returns and/or the completion of a Delivery Statement via the Provider Gateway. The total funding available in the contract is broken down across a number of deliverables, reflecting key outputs and results of the ESF provision being delivered under the contract. The contract sets out the deliverables, how payment is triggered for each of them and the associated evidence requirements.

34. In line with national and regional ESF programme results, the Skills Funding Agency will seek to ensure provision and funding reflects the key results of:
 - a) Achievement of basic skills training, accredited provision and sustainable job outcome across Priorities 1, 2, 4 and 5. This will include activities to support access to and provision of apprenticeships.
35. All Skills Funding Agency funded Organisations must:
 - a) Not claim Skills Funding Agency funding for any part of any individual's programme of study that duplicates that received from any other source, for example, a different Skills Funding Agency funding stream, other Government departments, other co-financing organisations, YPLA, their employer or Higher Education Funding Council for England (HEFCE);
 - b) Only claim funding for individuals assessed as eligible for the Skills Funding Agency funding as stated in these Funding Requirements and the contract.

3.4 State Aid

36. State Aid is any form of aid to a commercial undertaking through "state resources" that distorts or threatens to distort competition within the European Union.
37. For individuals supported under Priority 2/5, Organisations need to be aware of State Aid implications. If funding is used to meet the training needs of the employer as opposed to an individual employee it is likely to be deemed state aid and recoverable from the employer.
38. Failure to comply with these rules could result in recovery of ineligible ESF funds by the Managing Authority.
39. State Aid requirements will be documented in the evidence requirements for deliverables associated with employed individuals. The De Minimis and Training Aid forms are available from the Skills Funding Agency website www.skillsfundingagency.bis.gov.uk. The De Minimis form specific to the Apprenticeship Support for Employers and the Grant Payment is available at annex D.

3.5 Reporting and Data Returns

40. Reporting on this programme will be via both the monthly ILR data submissions and a Delivery Statement for deliverables that cannot be paid through submission of ILR data.
41. Organisations are required to submit the ER ILR for Priority 1 or 4 activity and the ER ILR for all Priority 2 or 5 activity.
42. ILR should be submitted in line with the published (ER, SR or ALR) returns timetable, which can be found on the Information Authority's website:
http://www.theia.org.uk/downloads/ilrdocuments/201011_ilrdetail.htm.
43. Other general information, such as, the specification of the fields and information about completion of the ILR and tables of codes to be used can also be found here.

3.5.1 ILR Summarisation

44. Submitted data will be analysed against the contract deliverables and eligibility requirements overnight. Any discrepancies will be listed in an Exceptions report available on the Skills Funding Agency Online Data Capture (OLDC) system. Organisations should check for the exceptions report the following morning and clear any exceptions listed. Discrepancies will generally be (1) ineligible individuals, (2) ineligible aims or (3) ineligible dates.
45. The correct data submitted each month will be carried into the Skills Funding Agency payment system as a record of actual performance against the contracts deliverables. A summary of what ILR aims have counted towards each contract deliverable (Summarisation Report) will be posted on OLDC for access on the 5th working day of the month.
46. The following documents are available on the Skills Funding Agency website www.skillsfundingagency.bis.gov.uk:
 - a) Delivery Statement submission procedure;
 - b) Exception report and summarisation report analysis guidance notes;
 - c) ILR Summarisation rules.

3.6 Payment Principles

47. Payments made to Organisations using one of the following methods as decided by the Skills Funding Agency. This will be either:

- a) On profile and reconciled against actual delivery on a monthly or quarterly basis; or
- b) Monthly in arrears based on actual delivery.

The method to be used will be detailed in the contract document.

48. Payments are made on the delivery of standard deliverables that are defined in the contract. Each deliverable has a defined unit price.

49. Where payments are being made on profile these will be reconciled against actual delivery, either monthly or quarterly. The difference between profile payments and actual delivery will be added to, or deducted from, the subsequent month's payment.

50. To meet the payment timetable actual delivery will need to be reported by the fourth working day of the month following the period being claimed. Payment will then be made via the BACS system on the eighteenth working day of that month, once the automated payment system is activated.

51. The Skills Funding Agency will be introducing a standard performance management framework for ESF contracts in 2011. This framework will determine the situations in which performance may result in the Skills Funding Agency taking action that affects payments, possibly through holding payments and/or reduction of contract values.

3.6.1 Additional Learning Support, Exceptional Learner Support and Learner Support

52. ESF contracts can have the same support facilities as mainstream contracts; however the cost of these services will be built into the unit price of the deliverables used on the contract.

3.6.2 Eligibility

53. All individuals have to be eligible for funding. Details can be found in the [Skills Funding Agency Learner Eligibility Guidance 2010/11](#). This guidance details whether an individual is eligible for public funding
54. General eligibility guidance for ESF can be found in Section 25 of the above document, e.g. re residency requirements. Specific project eligibility guidance is defined in the contract, and takes precedence.
55. ESF is a source of revenue funding and is not intended for capital equipment over £1,000. However, revenue costs associated with the use of a capital infrastructure, rent, hiring and staff costs associated with running and sustaining the equipment are eligible.
56. For full details on eligible costs, refer to the ESFD funding guidance at www.esf.gov.uk.

3.6.3 Audit Implications

57. Article 60 (f) of Commission Regulation 1083/2006 requires an adequate audit trail to be established. Organisations must ensure that they have robust systems and arrangements to do this. These key documents need to be categorised and stored in a way that ensures that they can be readily retrieved should they be required. This requires Organisations to maintain the audit trail for all deliverables claimed. The evidence requirements are defined in the contract. Audit trails should enable auditors to verify that:
 - There is evidence to support the claim and that expenditure has/had been incurred in a proper manner;
 - Financial management is/was sound;
 - Applicants comply/ complied with EC regulations and the requirements of their contract;
 - The project represented value for money.
58. Organisations may be audited by a number of organisations for the ESF programme. This may include Skills Funding Agency, DWP and the European Commission.

59. In all circumstances, the Organisation(s) must retain original documents, including, for example, enrolment records, attendance records and learning agreements. Under no circumstances must these be retained by sub-contractor or at sub-contractor's premises once learning has finished. It is normally expected that the Organisation(s) will be registered with the awarding body for the qualification being studied and individuals must be registered with the awarding body in order to be eligible for Skills Funding Agency funding.
60. All Organisations are reminded that documentation that underpins funding claims or returns needs to be treated in the same way as financial and legal records. Methods and decisions relating to retention should be consistent with the Organisations usual rules and methods for financial record retention.
61. Organisations must ensure that their records/systems are robust and therefore able to demonstrate a clearly evidenced audit trail between the individual related contract deliverables, as claimed for any claim period, and the individual to which they relate.

3.6.4 Retention of Documents

62. Documents are to be retained for inspection as specified in the contract and until 31 December 2022 or the date specified in the contract (whichever is the later). It should also be noted that ESFD may require this period to be further extended either during or after the contract period should the end date of the England ESF programme change. The Organisation(s) must ensure that documents used and created by a subcontractor are also available as defined above.
63. Currently electronic storage of documents is not supported. The Skills Funding Agency is actively engaged in pilots looking at electronic evidence and storage based on national standards. The outcome of these pilots will be used to inform policy.

3.6.5 Data and Payments

64. An informed judgement relies on the accuracy and timeliness of data. The Skills Funding Agency will, as part of its contract management, monitor each Organisations data returns. There is significant concern that starts, achievements and leavers are not being reported in a timely manner.
65. In an ideal world, data on individual activity would be sent to the Skills Funding Agency as soon as it happens. However, it is accepted that does not happen for a number of reasons: qualifications may not be listed on the LAD (or successor system); data may be collected from several sources within an organisation or a range of sub-contracting organisations. Quality assurance process may well come into play in ensuring that data is correct and validated. Processes, internal to an organisation, may slow the data gathering function. However, we expect that Organisations will control their information management so that data is made available as soon as possible to the Skills Funding Agency. Where circumstances are outside of the Organisations control this will also be taken into account.
66. In line with the Standard by which data will need to be reported that the Skills Funding Agency has agreed with the Information Authority, and it is expected that ESF Organisations submit data in line with the requirements set out below.

| Data | Reported by | Example |
|-------------|----------------------------|--|
| Start | Within 2 reporting months* | Individual starts on 5 August. This must be reported in either months 1 or 2 i.e. before the end of September in the data collection which closes on 4th working day of October. |
| Achievement | Within 3 reporting months* | Individual Achieves on 15 August. This must be reported in either months 1, 2 or 3 i.e. |

| | | |
|-----------------------|----------------------------|---|
| | | before the end of October in the data collection which closes on 4th working day of November. |
| Leavers / withdrawals | Within 3 reporting months* | Individual leaves on 15th August. This must be reported in either months 1, 2 or 3 i.e. before the end of October in the data collection which closes on 4th working day of November. |

*includes the month in which the activity takes place.

It must be noted that these are the maximum time for reporting activity and that the Skills Funding Agency will expect that the majority of activity will be reported within the same reporting month.

67. Further information about ILR data and data submissions can be found on the Information Authority website <http://www.theia.org.uk/> and the Data Service Website <http://www.thedataservice.org.uk/>.

Section 4 European Social Fund Requirements

4.1 Eligibility

68. To be supported by ESF, individuals must be:
 - a) Legally resident in the United Kingdom; and
 - b) Have the right to work in the United Kingdom, with no restrictions on taking up employment.
69. Documentary evidence of an individual's legal residency and their right to work must be checked and a record of the check made prior to them starting the programme.
70. Eligibility for this ESF provision will be subject to the requirements detailed in the contract documentation. However, the following sections give detail on some areas applicable to all Skills Funding Agency ESF provision.
71. Eligibility for ESF is determined by reference to an individual's status on the day they commence the project. If an individual progresses onto or changes to another ESF-funded project, their eligibility is based on their status when they start the new project.
72. For activity funded from the convergence objective, or the ring fenced phasing in funding, the activities must take place within the appropriate convergence/phasing in area.

4.1.1 Activity

73. The eligibility of activity under ESF provision is subject to the requirements documents and as clarified in the contract.
74. Any statutory training, for example training that employers must provide under Health and Safety legislation, is not eligible.
75. There are no restrictions in this programme on ESF support for public sector employees which fall within the scope of the Operational Programme. Organisations should ensure that any activity supported fits in with the appropriate regional framework and the requirements of the operational programme. The following are considered to be part of the public sector:

- a) Central Government;
- b) Local authorities;
- c) The armed forces;
- d) NHS Trusts; and
- e) Public education sector.

4.1.2 Age

- 76. Individuals in ESF are defined by their actual age at the time of starting their programme of learning.
- 77. Refer to the contract for the age range eligible for a specific contract.

4.1.3 Priority 1, 4 and Worklessness

- 78. Individuals eligible for ESF provision under these priorities is subject to the requirements documents and as clarified in the contract.
- 79. Individuals supported by Priority 1 or 4 ESF provision must not be in employment, unless otherwise stated in the contract. Worklessness is defined as all those who are out of work but would like to get a job. Worklessness includes people who are unemployed and claiming Jobseekers' Allowance or Employment and Support Allowance (formerly Incapacity Benefit).
- 80. For the purposes of ESF "unemployed" means that an individual:
 - a) Is not in paid employment or is in paid employment working fewer than 16 hours a week and is signing on and reports their earnings to Jobcentre Plus;
 - b) Available to start work; and
 - c) Looking for work, or waiting to start a job that has already been obtained.
- 81. For the purposes of ESF "economically inactive" means that an individual is not employed and does not satisfy the criteria for unemployment. People who are economically inactive must be:
 - a) Of working age;
 - b) Not employed;
 - c) Not self-employed; and
 - d) Not actively seeking work.

82. For the purposes of ESF “full-time education or training” means that an individual is:
- a) In full-time education either in a school, a FE Institution or a HE institution; or
 - b) In full-time work-based learning (including Apprenticeships, Entry to Employment and NVQ learning); or
 - c) Other education or training (including independent colleges or training centres or receiving training or education but not currently employed).
83. “Full-time” refers to education or training that is at least 12 guided learning hours a week for a minimum of ten weeks. Part-time education or training is not full-time education or training.

4.1.4 Priority 2, 5 and Employment

84. Individuals eligible for ESF provision under these priorities is subject to the requirements document and as clarified in the contract.
85. Individuals supported by Priority 2 or 5 ESF provision must normally be employed, unless otherwise stated in the contract.
86. For the purposes of ESF “employed” means that:
- a) The individual has a contract of employment under which they are obliged to carry out work for the hours specified in the contract and for which they are paid;
 - b) Employment must be for eight hours per week or more. Individuals with an irregular working pattern should be viewed using a four week average.
87. This includes:
- a) Employees (people who work for a company and have their National Insurance paid directly from their wages); and
 - b) Self-employed – someone who works for themselves and generally pay their National Insurance themselves. Self-employed individuals must be registered with HM Revenue and Customs as being self-employed.
88. Priority 2 and 5 will support individuals who: are under consultation or notice of redundancy; have been notified by their employer that they

are likely to be directly affected by downsizing or company closure locally; or have recently been made unemployed.. Support for those at risk of redundancy must not involve wage subsidies, but may include eligible activities such as retraining, upskilling and careers advice.

4.1.5 Geographical Eligibility

89. Organisations are reminded that Wales, Scotland and Northern Ireland all have separate ESF programmes and individuals resident outside England are not eligible to be supported.
90. Beyond this requirement, geographical eligibility for a particular ESF project will be subject to the requirements of the contract.

4.1.6 Individuals Starting on Activity

91. Individuals starting on all ESF funded activity must undertake individual assessment and planning activities (PAPS) prior to the start of the main activity/qualification.
92. This activity will include Information, Advice and Guidance (IAG), basic skills assessments, capability assessments, learning plans and inductions.
93. IAG is vital to ensure individuals access the most appropriate learning, remain engaged in their chosen course of learning and ultimately achieve a relevant qualification.
94. Literacy, language and numeracy skills are essential skills that are required to enable people to engage in society and contribute to the wider economy. Ensuring individuals have sufficient literacy, language and numeracy skills is also key to supporting and enabling the achievement of their vocational and other learning programmes. It is therefore essential that any skills needs are identified and provision is put in place to support people to improve these skills.
95. All individuals must be assessed before or immediately upon entry to ESF provision. Organisations must ensure that the information gained as a result of the assessment appropriately identifies the needs of the individual. The results of the assessment must include

details of previous competence and must be recorded and used to inform the content of the Individual Learning Plan (ILP).

96. An ILP must be produced for each individual. The ILP must not duplicate information recorded elsewhere. It must contain the details of what will be delivered; how it will be delivered (for example, by group work, workbook and so on); and the way it will be delivered in the light of the individual's learning styles and abilities. It must reflect the outcomes of both the Basic Skills assessment and the initial assessment. Individual feedback indicates that individuals often do not know what they will be doing, when or how. This uncertainty contributes to early drop-out. The ILP must be the document that records these details. It must contain the learning objectives of the programme that individuals are following, and state how these will be achieved. The individual must be given a copy of the ILP at the start of learning. The individual should sign the ILP. If the individual is employed, it is also good practice that the employer or a representative of the employer also signs the ILP thus ensuring that the employer is aware of the nature of the learning proposed.
97. All individuals must receive a comprehensive induction that covers, as a minimum, the following:
 - a) Programme content, delivery and assessment arrangements including contact details of the Organisation;
 - b) How the programme is funded through ESF;
 - c) Equality and diversity;
 - d) Health and safety;
 - e) Disciplinary, appeal and grievance procedures;
 - f) Terms and conditions of learning.

4.1.7 Contribution to Wage Costs

98. ESF is not normally used to contribute to wage costs. If ESF is used to contribute to wage costs, this will be defined in the contract, in line with ESF guidance.

Section 5 Sub-contracting Requirements

99. Before an organisation can receive funding from the Chief Executive of Skills Funding there must be a contract in place. This agreement sets out the terms and conditions on which the Chief Executive of Skills Funding is providing funding to that organisation. The most common arrangement is for the Chief Executive of Skills Funding to have this agreement in place with a single legal entity (be that a Organisation, a private or public organisation or sole trader). Alternatively the Chief Executive of Skills Funding can have an agreement with individual legal entities that are part of a consortium on a joint and several basis. Under these circumstances all members of the consortium are responsible for any breaches to the terms and conditions of the contract. In either of these circumstances it is possible for some of the delivery to be sub-contracted to a third party, which itself must be a legal entity.
100. Past experience indicates that sub-contracting significant levels of provision is associated with higher levels of risk. This is the case irrespective of whether the sub-contractor is one of the Lead Organisations own subsidiary companies, a joint venture company or an organisation that is independent of the Lead Organisation(s). Higher levels of risk are also associated with significant levels of provision being delivered away from the Lead Organisation(s) main site(s) or outside the normal recruitment area of the Organisation.
101. For ESF, normally, there will be no more than one level of subcontracting beyond the Skills Funding Agency, other than to cater for proposals from partnerships or to engage 'specialist' provision. Such arrangements must be agreed in advance with the Skills Funding Agency via the relevant Account Manager. Where partnerships bid successfully to Skills Funding Agency, allocation of ESF funds between the partners might not strictly be regarded as subcontracting, although there will need to be an accountable partner for the Skills Funding Agency to contract with.

102. The Skills Funding Agency may implement contracting through what the ESFD describe as a 'Prime Contractor' model. Under this model, prime contractors who have successful tenders deal with a wide range of ESF provision. The prime contractor delivers some of the provision itself and is supported by one tier of sub-contractors. There would usually be one tier of subcontractors, but in turn a sub-contractor might need to bring in specialist support as their own sub-contractor. Contracts with Prime contractors would be based on contract costs and the delivery of outputs and results. Prime contractors must show how they will, as part of their overall provision, undertake engagement activities with disadvantaged individuals particularly those who are at a distance from the labour market. Prime contractors will agree the funding arrangements with sub-contractors.

5.1.1 Responsibility and Limits of Sub-contracted Provision

103. The Lead Organisation retains ultimate responsibility for all aspects of the provision that it is contracted to deliver, including any elements that it chooses to sub-contract. The Lead Organisation must have a legally binding agreement with each and all of its sub-contractors.
104. The Lead Organisation is required to provide the Skills Funding Agency with information about any provision that it wishes to sub-contract prior to entering into delivery arrangements. This information includes extending existing sub-contracting arrangements or entering new sub-contracting arrangements (including during the year). The Chief Executive of Skills Funding reserves the right to refuse funding for any sub-contracting arrangements based on his professional judgement of the risk posed.
105. Sub-contractors may not further sub-contract provision to other organisations or training organisations without the written approval of the Chief Executive of Skills Funding.
106. Franchised provision is not permitted.

5.1.2 Provision of Information on Sub-contractors

107. Lead Organisations are required to submit details of their sub-contracting arrangements for each proposed sub-contractor to the Skills Funding Agency. A spreadsheet is available on the [Skills Funding Agency Website](#) to capture the information required. It covers the following:
- a) The full name, UKPRN and postcode of the legal entity which the Lead Organisation proposes to use as a sub-contractor;
 - b) The value and length of the contract with the sub-contractor together with anticipated individual numbers;
 - c) The delivery location postcode(s) of sub-contracted provision. If learning delivery will take place on a individual's employer's premises, the postcode of the delivery organisation will suffice;
 - d) The proportion of the payments from the Skills Funding Agency to be passed to the sub-contractor by the Lead Organisation for the provision.
108. In addition to this information on individual sub-contractors, the Lead Organisation will be required to provide the Skills Funding Agency with a single declaration signed by the Chief Executive of the Lead Organisation, that the necessary due diligence has been carried out across all proposed sub-contractors – this declaration can be found on the [Skills Funding Agency Website](#). Organisations are asked to send the completed spreadsheet to their Account Manager with a copy to a Procurement Team at procurementteam@skillsfundingagency.bis.gov.uk. It is for the Lead Organisation to determine the necessary and sufficient due diligence required for each proposed sub-contractor. This guidance sets out some of the areas that Lead Organisation may want to consider when carrying out due diligence, particularly for those sub-contractors that represent a higher level of risk based on, but not restricted to, the value and nature of the sub-contracted programmes and/or provision.
109. Organisations are expected to notify the Chief Executive of Skills Funding if there is a significant change to the amount and/or nature

of any sub-contracted provision from that already notified to the Chief Executive of Skills Funding. This is particularly important where the sub-contractor has:

- a) Become insolvent or been placed in administration;
 - b) Been graded Inadequate by Ofsted in any category relating to the organisation as a whole or received an inadequate grade in any sector-subject area(s) containing sub-contracted provision.
110. Under these circumstances the Lead Organisation should inform the Chief Executive of Skills Funding within one week of the initial notification detailing the action it is taking to protect the individuals accessing programmes and/or provision through the sub-contractor.
111. Lead Organisations are also reminded of the need to complete the section on Sub-contracting in their annual self-declaration on the Skills Funding Agency's Financial Management and Control Evaluation.

5.1.3 Sub-contract Agreements

112. It is a requirement that all Lead Organisations have a legally binding agreement in place with each of its sub-contractors. It is a requirement that the sub-contract agreement must allow for access on demand to sub-contractors' premises and to all documents relating to individuals funded by the Skills Funding Agency, in whatever media or format, by internal and external auditors or other persons nominated by the Chief Executive of Skills Funding. It is also a requirement that Lead Organisations include a contract condition within all new sub-contract agreements from 25 March 2010 to pay the valid invoices of their sub-contractors within 30 days of the invoice date¹.
113. Lead Organisations must ensure that the sub-contract agreement is clear on the actions that would be taken in the event of the termination of the sub-contract agreement to ensure that such a

¹ This is to ensure compliance with the mandatory requirements set out in Procurement Policy Note - Requirement to include 30-day payment clause in new contracts. Action Note 07/10 25 March 2010 (Office of Government Commerce)

termination has negligible impact on individuals' programmes and/or provision, particularly where the sub-contractor enters liquidation or is taken into administration.

114. The Skills Funding Agency does not require a standard form for that agreement. This is to allow for the necessary flexibilities in these agreements to best meet the needs of individuals. The Office of Government Commerce provides model terms and conditions of contract for services on its website (www.ogc.gov.uk). Guidance and best practice examples on sub-contract agreements and sub-contracting can be found on the Learning and Skills Improvement Service's Excellence Gateway (www.excellencegateway.org.uk). The Association of Colleges (www.aoc.co.uk) doesn't provide a model contract for sub-contracting on its website but does negotiate some contracts on behalf of its members and will provide advice to members on request. The Association of Learning Providers (www.learningproviders.org.uk) and the Third Sector National Learning Alliance (www.tsnla.org.uk) also provide advice and guidance on sub-contracting for their members. Each Lead Organisation is advised to take legal advice before entering into a sub-contract with third-parties.
115. Lead Organisations must ensure that they meet the terms and conditions of their contract with the Chief Executive for all provision regardless of whether it is sub-contracted. Regardless of the form of the sub-contract agreement, the Lead Organisation will need to be satisfied that it satisfies a control test, the key elements of which are that:
- a) A Lead Organisation is able to ensure that individuals are enrolled on appropriate programmes;
 - b) There is a written learning agreement, entered into at the time of enrolment, is prepared and agreed with each individual that reflects the outcome of the individual's initial guidance and assessment;
 - c) A learning programme and its means of delivery have been clearly specified by the Lead Organisation;

- d) The Lead Organisation is in control of the delivery of the education and/or training;
 - e) There are arrangements for assessing the progress of individual individuals;
 - f) Procedures exist for Lead Organisations to regularly monitor the delivery of programmes provided in their name.
116. Notwithstanding the requirements placed on Lead Organisations with respect to their sub-contracted provision, the Skills Funding Agency accepts no financial or other liability in respect of sub-contracted provision, which is the sole responsibility of the Lead Organisation.

5.1.4 Distribution of Income between Lead Organisations and Sub-contractors

117. The Skills Funding Agency requires that a large majority of its funding is used for the benefit of the individual on their learning programme or provision. The Skills Funding Agency expects that the amount of funding retained by Lead Organisations for programmes and provision delivered in whole or in part by a sub-contractor takes account of, and be proportionate to, the actual costs incurred by each party in the delivery of the provision. It is unlikely that, for most programmes and types of provision, direct delivery costs would be less than 85 per cent of the income received from the Skills Funding Agency.
118. The Skills Funding Agency will monitor the payments to sub-contractors to ensure that sub-contracting represents good value for money and that there is sufficient funding being allocated for the delivery of high quality education and training.

5.1.5 Monitoring Sub-contracted Delivery

119. The overall monitoring and control of sub-contracted delivery is the responsibility of the Lead Organisation. However, it is still the case that sub-contracted provision represents an increased risk and recently, some organisations have experienced difficulties in submitting evidence to support their monitoring and control of sub-

contracted provision. The Skills Funding Agency sees the individual deliverer (ILR field A22) and the delivery location postcode (ILR field A23) as key fields on the ILR that will identify to the Chief Executive of Skills Funding the higher-risk elements of an organisation's provision.

120. Lead Organisations are expected to: monitor the qualification success rates and other performance measures for each sub-contractor; report these in their self-assessment reports; and take appropriate action, through their quality improvement plans, or in-year improvements as necessary, to improve qualification success rates and other performance measures in-line with the Lead Organisations own targets.
121. Lead Organisations are expected to ensure that their sub-contractors submit the data required by the Skills Funding Agency on a timely basis including, but not restricted to, that required by the Framework for Excellence. Lead Organisations are also expected to ensure that their sub-contractors supply them with sufficient evidence to allow the Lead Organisation to adequately assess the performance of their sub-contractors against the Common Inspection Framework. It is expected that this evidence is included in the Lead Organisation's self-assessment report and contributes to the judgements and grades therein.
122. Provision sub-contracted by a Lead Organisation must be delivered by the sub-contractor's directly employed staff or by freelance, self-employed trainers and/or assessors. In the case of volunteers, the control must be "as if they were employed". The agreement must require that sub-contractors that use volunteers or freelance, self-employed individuals for teaching, training or assessment duties should have a written agreement with those volunteers and/or self-employed teachers, trainers and assessors that covers the requirements placed on them and their agreement to meet those requirements. Lead Organisations and sub-contractors are advised to take into account the requirements of minimum wage legislation when using volunteer staff.

123. The Lead Organisation must be able to demonstrate that it is monitoring the activities of the sub-contractor and that it is exercising control over, and making appropriate arrangements for, the quality assurance of all provision. Where the sub-contractor is also the approved assessment centre for the qualifications it delivers, the Skills Funding Agency expects that the sub-contract agreement entitles the Lead Organisation to receive copies of all reports by the centre's Awarding Body or Bodies, including, but not restricted to, External Verifier reports relating to sub-contracted individuals and/or the programmes and provision on which they are registered with the Awarding Body or Bodies.
124. The Skills Funding Agency reserves the right to reclaim funding if Lead Organisations cannot provide, on request, evidence of good controls and regularity in their sub-contracted provision.

5.1.6 Due Diligence Process for Proposed Sub-contractors

125. It is the responsibility of the Lead Organisation to satisfy itself that the sub-contractor has been selected fairly and has the sufficient capacity, capability, quality and business standing to deliver the provision that it being sub-contracted. In order to satisfy itself of this the Lead Organisation should take account a number of factors, which include whether the sub-contractor:
- a) Has been selected through a fair, open and transparent process;
 - b) Has satisfactory financial health;
 - c) has no unsatisfied county court judgements against it;
 - d) Has disclosed all contracts it holds and has held with the Skills Funding Agency and the Learning and Skills Council and, in the case of terminated agreements, the reasons for the termination of the agreements;
 - e) Has disclosed the names of its directors and senior managers together with details of their previous appointments, particularly with organisations who hold or have held contracts with the Skills Funding Agency or the Learning and Skills Council;

- f) Has sufficient capacity to deliver its commitments under the sub-contract agreement without adversely affecting its ability to meet its other commitments;
- g) Complies with health and safety legislation and has carried out health and safety risk assessments covering the proposed sub-contracted individuals;
- h) Has declared to the Lead Organisation all reportable injuries, diseases and dangerous occurrences covered by the RIDOR regulations over the last three years together with the actions they have implemented to prevent reoccurrences;
- i) Complies with legislation on employment (including the use of volunteers);
- j) Complies with legislation on immigration, safeguarding and equality and diversity;
- k) Complies with data protection legislation (including the notification of the Information Commissioner's Office that they process personal information) and has appropriate data protection and security systems in place for the exchange of personal data with the Lead Organisation;
- l) Has systems to ensure compliance with the Skills Funding Agency's requirements for data collection and the keeping of records;
- m) Has appropriately qualified and trained staff and other resources to deliver the sub-contracted provision effectively from the start of the contract;
- n) Has a policy on sustainability;
- o) Has appropriate individual support arrangements in place;
- p) Has appropriate information, advice and guidance arrangements in place for individuals;
- q) Has appropriate quality assurance arrangements in place
- r) Does not have an inadequate Ofsted inspection outcome relating to any aspect of its overall performance or to the sector-subject area(s) of the proposed sub-contracted provision;
- s) Has provided references that support the claims made in its tender.

126. Organisations and publicly-funded bodies must follow EU procurement rules to procure the services of a sub-contractor. These organisations are advised to consult the Office of Government Commerce website (www.ogc.gov.uk) and in particular the section of its policy and standards framework on supplier selection and pre-qualification. The regulations governing private organisations are less prescriptive but the Skills Funding Agency would expect the selection of sub-contractors to be as equally fair, open and transparent as for Organisations and other publicly-funded bodies.
127. The Chief Executive of Skills Funding reserves the right to ask Lead Organisations for additional evidence in support of the due diligence process. The Chief Executive of Skills Funding will base any requests for further evidence on an assessment of risk represented by the proposed sub-contracted arrangements. It will be for Lead Organisations to determine the form of this evidence but it could include the following:
- a) A copy of the sub-contract agreement;
 - b) The sub-contractor's procedures on a range of aspects covered in the declaration to the Skills Funding Agency including safeguarding, health and safety and equality and diversity;
 - c) The data sharing protocol(s) in place between the Lead Organisations and sub-contractor;
 - d) The sub-contractor's arrangements for monitoring individuals' progress;
 - e) Copies of the sub-contractors policies on quality assurance, health and safety, equality and diversity and sustainability;
 - f) A copy of the standard operational manuals to be used by the sub-contractor, particularly for the collection of data and the keeping of records;
 - g) Details of the provision, the value and the number of individuals that the sub-contractor will be delivering;
 - h) Details of the individual support arrangements that are the responsibility of the sub-contractor under the proposed agreement;

- i) Details of the quality assurance arrangements that are in place at the sub-contractor;
- j) A business case for using the sub-contractor.

Section 6 Publicity, Cross-Cutting Themes and Evaluation

6.1 Publicity

128. The main requirements for all ESF Lead Organisations and their sub-contractors are set out below. The adherence to these requirements is a prime focus of audit activity by the Skills Funding Agency, ESFD, European Court of Auditors (ECA) and other bodies engaged in audit activity.

- a) The ESF logo and references to financial support from the European Social Fund must be displayed when ESF opportunities, activities and achievements are described and/or publicised. This includes but is not restricted to display on the following:
 - All information and publicity materials, including websites, e-communications, correspondence and literature used by individuals;
 - Advertisements, press releases and other media targeted materials;
 - All documents that are used with individuals and partners, e.g. enrolment documents, Individual Learner Plans (ILPs), attendance records, internal certificates.
- b) It is essential that ESF plaques must be prominently displayed at the Lead Organisation and sub-contractors premises. Plaques will be used by the Skills Funding Agency and any Lead Organisation needing additional plaques should contact their Account Manager.
- c) To publicise as widely as possible which as a minimum includes:
 - Preparing a communications plan at the start of the contract to ensure that approved marketing and publicity activity is generated and distributed throughout the project to inform the public and key stakeholder of the launch, ongoing successes and end of contract achievements.

- Referring to the ESFD Publicity toolkit to generate quality press releases, case studies and undertake media interviews to ensure compliance, including:
 - Seeking approval from your Account Manager prior to distributing press releases to the media.
 - Asking your Account Manager for Skills Funding Agency quotes that can be included in the press release
 - Informing your Account Manager of all planned and undertaken publicity activity at the quarterly monitoring meetings.
 - Providing an update of activity against the communication plan in the evaluation report/s.

For further guidance and clarification please refer to your contract and www.esf.gov.uk

6.2 Cross-cutting Themes

129. There are two programme wide cross-cutting themes:

- a) Gender equality and equal opportunities; and
- b) Sustainable development (which incorporates environmental sustainability).

130. EU Regulations require these themes to be promoted during the various stages of the implementation of the programme (see Section 2.2 – ESF and the Regulatory basis). The cross-cutting themes, and the Skills Funding Agency’s role in promoting them, will be evaluated during the life of the programme. Their implementation and evidence of how relevant targeting has been used will also be covered by monitoring and audit activities.

131. All organisations will be expected to comply with relevant legislation. Cross-cutting themes will be promoted through the dual approach of:

- a) Mainstreaming the themes into the delivery of all projects; and
- b) Supporting specific actions (for example, activities aimed to improve women’s participation or to provide training in environmental management).

132. Where necessary and appropriate the Skills Funding Agency may include within contracts a cross-cutting theme deliverable in order that required outcomes of the programme can be incorporated into delivery.

6.2.1 Gender Equality and Equal Opportunities

133. The ESF Operational Programme activities address the specific needs of people who experience multiple disadvantages (for example, older workers, or lone parents with low skills, disabilities or health conditions) and a consideration proportion of individuals are very likely to experience multiple disadvantages. Organisations have a vital role to play in actively promoting equal opportunities through the way they design and deliver their training to individuals. Further guidance and information regarding ESFD's Gender Equality and Equal Opportunities Mainstreaming Plan can be found at: http://www.esf.gov.uk/resources/gender_equality_and_equal_opportunities.asp

134. Organisations must ensure that they and their sub-contractors take appropriate steps to actively promote equal opportunities in line with their public duty under domestic legislation as well as prevent any discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation during the various stages of implementation, especially in the access of individuals to projects. In particular, they must take account of accessibility for disabled people.

135. Organisations will be required to participate in activities to document, review and improve their current equal opportunities practices and will be monitored on their delivery arrangements as part of the contract management arrangements.

136. Where no policy exists, the organisations should use the policy evaluation tool as a guide to content and produce an appropriate policy in a timely manner. The organisation is encouraged to benchmark against peer organisations to further improve performance and to enable best practice to be shared. The policy evaluation tool can be found within the ESF-Works forum for policy

and practice lessons from the 2007-2013 European Social Fund (ESF) programme in England includes Policy and Organisational Evaluation tools for the cross cutting themes: <http://www.esf-works.com/login> (forum section).

137. Organisations will be required to report to the Skills Funding Agency the number of individuals supported within the main gender equality and equal opportunities target groups.
138. It is recommended that the organisation should embed Equal Opportunities into learning where possible in order to raise awareness amongst individuals. Where partnership arrangements or a Prime contractor approach exists, the Lead Organisation will be responsible for monitoring this across all project provision. The Lead Organisation should incorporate Equal Opportunities into Service Level Agreements/sub-contracting arrangements to ensure that the theme is embedded and also to ensure that partners or sub-contractors have policies and strategies/action plans in place.

6.2.2 Sustainable Development

139. The organisation shall comply in all material respects with all applicable environmental laws and regulations in force from time to time in relation to the Services. Without prejudice to the generality of the foregoing, the organisations shall promptly provide all such information regarding their Sustainable Development policy, implementation plan and the environmental impact of the Services as may reasonably be requested by the Skills Funding Agency and participate in activities to develop these documents further. The organisation shall meet all reasonable requests by the Skills Funding Agency or ESFD for information evidencing compliance. The organisation shall complete Sustainable Development policy and organisational evaluation tools in line with the ESFD Mainstreaming Plan requirements; benchmarking their policy and activity against the flexible framework incorporated in the evaluation tools. Further guidance and information regarding ESFD's Sustainable

Development Mainstreaming Plan can be found at
http://www.esf.gov.uk/resources/sustainable_development.asp.

140. Actions arising are to be recorded in a strategy document/action plan and progress towards these actions will be measured at quarterly monitoring visits. The organisation is encouraged to benchmark against peer organisations to further improve performance and to enable best practice to be shared. The policy evaluation tool can be found within the ESF-Works forum for policy and practice lessons from the 2007-2013 European Social Fund (ESF) programme in England includes Policy and Organisational Evaluation tools for the cross cutting themes: <http://www.esf-works.com/login> (forum section). An online resource for sustainability in the Learning and Skills sector can be found at: www.eauc.org.uk/sorted/home .
141. It is recommended that the organisation should embed Sustainable Development into learning where possible in order to raise awareness amongst individuals. Where partnership arrangements or a Managing Agent approach exists, the Lead organisation will be responsible for monitoring this across all project provision. The Lead Organisation should incorporate Sustainable Development into Service Level Agreements/sub-contracting arrangements to ensure that the theme is embedded and also to ensure that partners or sub-contractors have policies and strategies/action plans in place.
142. In addition, the organisation may be required to report to the Skills Funding Agency the number of individuals supported in Sustainable Development themed activities and learning, and case studies are to be provided to demonstrate the effectiveness of those activities and highlight how ESF is supporting the Cross Cutting Theme.
143. All written deliverables, including reports, produced in connection with the contract shall (unless otherwise specified) be produced on recycled paper containing at least 80 per cent post consumer waste which shall be used on both sides where possible.

6.2.3 Health

144. Organisations delivering ESF provision funded under the London Co-financing Plan are also required to address the regional cross-cutting theme of health.
145. The aim of the health theme is to support organisations to maximise health outcomes for their individuals in practical ways. Health and work are inextricably linked; skills and good jobs can reduce health inequalities and improve the health of all Londoners.
146. A health performance management framework (PMF) and accompanying guidance has been developed to support London's successful ESF organisations to incorporate and report on progress with this theme. The guidance and PMF is designed to support them incorporate health as a cross-cutting theme within their projects and to monitor their impact on factors that are likely to affect their individuals' health and well-being.
147. The PMF, guidance and appendices are available from the Health cross-cutting theme webpage on the LDA's website www.lda.gov.uk
148. Organisations will be expected to complete the PMF within the first three months of starting delivery of their project and send it to their Account Manager contact for review. The Skills Funding Agency will monitor organisations against their self-assessment annually to identify progress and discuss further development.
149. In particular, organisations will be expected to do the following to meet their obligations under this theme:
 - a) Complete the PMF and action plan – this involves making judgements and providing supporting evidence about activities that will make a difference to their individuals' health and well-being. It encourages organisations to identify possible actions that could be built into the project at as early a stage as possible to improve potential positive impacts and make arrangements to reduce any unintended negative impacts. It can therefore be used as a supplementary project planning tool.

- b) Ongoing monitoring against the PMF assessment – the completed PMF assessment will provide a framework for organisations to monitor their activities and any changes they make as a result of the first stage assessment. A simplified form will be provided for this.
- c) Evaluation – as the project draws to a close the completed PMF together with the project monitoring information will support organisations to evaluate and provide supporting evidence for their performance on health and well-being.

6.3 Evaluation and Annual Reporting

150. By February each year, the Skills Funding Agency is required to send ESFD contribution to the annual report on the implementation of the operational programme. To help it prepare the report the Skills Funding Agency may request contributions from organisations.

151. The request will specify the type and detail of the information required which will include:

- a) The measures taken to provide information on and publicise the project;
- b) A summary and examples of the implementation of the cross-cutting themes of equal opportunities and gender equality, and sustainable development;
- c) A summary and examples of any gender specific activities, i.e. activities targeted on women or men (e.g. training for men or women to enter non-traditional occupations);
- d) A summary and examples of any activities to increase the participation of migrants in employment;
- e) A summary and examples of activities to increase the participation of ethnic minorities in employment;
- f) A summary and examples of activities to strengthen the integration in employment and social inclusion of other disadvantaged groups targeted by the Co-financing Plan;
- g) Case studies of good practice projects.

152. Organisations may be required to complete a Project Evaluation Report, where defined in the contract. This will be a report covering the number of individuals helped, their backgrounds, the support measures provided and the qualifications gained etc. The Project Evaluation Report must also provide, but not be limited to, an overview of the complete project, details on Project sustainability post ESF funding and also include 'good news' stories and case studies. A detailed scope of an evaluation report can be found on the Skills Funding Agency website www.skillsfundingagency.bis.gov.uk.
153. Organisations will also be required to co-operate with any Programme level evaluation projects led by ESFD or their appointed consultants who will make direct contact with organisations.

Part 2 - Annexes: Evidence to be provided

The evidence to provide is included in the Offer Pack and in the contract. In addition to the evidence listed in the contract, four pieces of paperwork have been devised for ESF and audit purposes. They constitute the four following annexes:

Annex A– Evidence of Job Outcome (4 weeks)



Skills Funding Agency

1. Details of individual [to be entered by the ORGANISATION]

Full name: _____

Address: _____ Postcode: _____

Date completed skills support / training: _____

If individual self-declaring job outcome - evidence¹ submitted should be copied and attached

Details of employer (contact name, employer name, postal address, telephone, nature of business):

Date: _____ Individual signature: _____

2. Employer declaration (if by e-mail see evidence requirements and attach copy)

I declare that I have employed _____
[Enter name of employee] in full-time work of more than 16 hours a week for the period from _____ to _____ which is at least 4 weeks duration.

Full name: _____

Address: _____ Postcode: _____

Date: _____ Signature: _____

Business stamp

3. Self-employment

I declare that I have been self-employed as [enter business name/trade etc] _____ full-time for more than 16 hours a week for the period

from _____ to _____ which is at least 4 weeks duration.

Date: _____ Signature: _____

Details of evidence submitted² that should be copied and attached: _____

4. Contracted ORGANISATION declaration³

I declare that I have checked that the date that the job / self employment started was within 13 weeks of the end of the skills support / training period and has been sustained for at least 4 weeks.

Date: _____ Full name [print]: _____

Signature: _____

¹ 4 weeks worth of weekly payslips or 1st month payslip or signed letter or email from the employer stating that the employee has been employed for at least 4 consecutive weeks – copy to be retained.

² Examples could include Inland Revenue documentation; Business bank account details or Vat Registration; business plans; management accounts; letter from accountant – copy to be retained

³ The Skills Funding Agency reserves the right to request access to payroll records or otherwise check with the employer organisation to verify this declaration. The Skills Funding Agency will do a sample check of these declarations as part of audit. A partner of the Department for Business, Innovation & Skills Adult ESF programmes - Annex A

Annex A Evidence of Job Outcome (26weeks) London Contracts Only



**Skills
Funding
Agency**

1. Details of individual [to be entered by the ORGANISATION]

Full name: _____

Address: _____ Postcode: _____

Date completed skills support / training: _____

If individual self-declaring job outcome - evidence¹ submitted should be copied and attached

Details of employer / employers (contact name, employer name, postal address, telephone, nature of business and start and, if applicable, end dates of employment):

Date: _____ Individual signature: _____

2. Employer declaration (if by e-mail see evidence requirements and attach copy)

I declare that I have employed _____
[Enter name of employee] in full- time work of more than 16 hours a week for the period
from _____ to _____ which is at least 26 weeks duration.

Full name: _____

Address: _____ Postcode: _____

Date: _____ Signature: _____

Business stamp

3. Self-employment

I declare that I have been self-employed as [enter business name/trade etc] _____
_____ full-time for more than 16 hours a week for the period
from _____ to _____ which is at least 26 weeks duration.

Date: _____ Signature: _____

Details of evidence submitted² that should be copied and attached: _____

4. Contracted ORGANISATION declaration³

I declare that I have checked that the date that the job / self employment started was within 13 weeks of the end of the skills support / training period and has been sustained for at least 26 weeks.

Date: _____ Full name [print]: _____

Signature: _____

¹ Six months worth of monthly payslips or signed letter or email from the employer stating that the employee has been employed for at least 26 consecutive weeks – copy to be retained.

¹ Examples could include Inland Revenue documentation; Business bank account details or Vat Registration; business plans; management accounts; letter from accountant – copy to be retained

¹ **The Skills Funding Agency reserves the right to request access to payroll records or otherwise check with the employer organisation to verify this declaration. The Skills Funding Agency will do a sample check of these declarations as part of audit.**



European Union
European Social Fund
Investing in jobs and skills



ESF Apprenticeship Grants for SMEs and Apprentices aged 18 and 24

Annex B - Employer Agreement

Background

Thank you for participating in the ESF Apprenticeship Grants for SMEs of apprentices aged 18 and 24 initiative.

This important initiative will support approximately 5,000 people aged 18 to 24 who would otherwise be unemployed, to secure an Apprenticeship job opportunity.

Your commitment to participate in this initiative is particularly welcomed. As well as supporting a previously unemployed person, we know from what other employers tell us that employing apprentices brings a range of direct business benefits.

One of our approved Contractors will administer the ESF Apprenticeship Grant on our behalf. On commitment to recruiting an unemployed person and supporting them through their Apprenticeship programme, employers will receive two prompt payments.

The first payment of £1,000 will be made when the individual has completed 6 weeks (42 days) of their Apprenticeship Programme and a further payment if they remain in the Apprenticeship at the end of 26 weeks.

The second payment will depend upon the weekly wage of the apprentice.

- Starting wage of £149 or less - a total of £2,000 payable (in 2 payments of £1,000)
- Starting wage of £150 and £240 – a total of £2,250 payable (in 2 payments of £1,000 and £1,250)
- Starting wage of £241 or more a total of £2,500 payable (in 2 payments of £1,000 and £1,500 payments)

This document records the agreement between you, the employer receiving the ESF Apprenticeship Grant payment, the Contractor who will administer the payment on behalf of the Skills Funding Agency, National Apprenticeship Service and the learner.

Employer commitment

In signing this agreement, the employer

[_____]

confirms that:

- They are an SME with less than 250 employees. An enterprise is defined as an enterprise or a group of enterprises with common ownership by another enterprise..
- They currently do not have any employees undertaking an Apprenticeship (or within the last 12 months).
 - Tick if applicable
- The apprentice being employed is additional to their usual Apprenticeship programme numbers.
 - Tick if applicable
- They would not be in a position to employ this new employee without the ESF Apprenticeship Grant for SMEs
 - Tick if applicable
- Will employ the apprentice named for 35 hours per week, including off the job training, for the duration of their Apprenticeship programme, subject to satisfactory performance of the apprentice as an employee.
- The starting salary of the apprentice is (please tick one box)
 - 1. £149 or less
 - 2. £150 and £240
 - 3. £241 or more
- They will pay the apprentice at least the minimum wage for an 18 to 24 year old apprentice (currently £2.50 per hour).
<http://www.bis.gov.uk/policies/employment-matters/rights/nmw/apprenticeship>
- If the apprentice leaves or is dismissed before week 26 of the Apprenticeship the employer will not receive the second payment.
- They will complete the attached state aid declaration form.

Contractor commitment

In signing this agreement, the Contractor

[_____]

agrees to:

- Ensure the employer and recruited apprentice are eligible for the ESF Apprenticeship Grant payment.
- Work with the employer to identify and deliver a suitable Apprenticeship programme.
- Assist the employer to complete the required ESF Apprenticeship Grant documentation.
- Ensure payments of the ESF Apprenticeship Grant to the employer are made in a timely manner.
- To confirm by letter the total value of ESF support provided to the Employer under this project for the purpose of reporting on State Aid in future.

Apprentice commitment

In signing this agreement, the apprentice

[_____]

Confirms:

- That your name, date of birth and salary details can be supplied to the Contractor and Skills Funding Agency for the purposes of processing grant support to the employer in relation to the apprenticeship.

Signatures

SIGNED by: _____

Name (Print): _____

Position: _____

Company: _____

Date: _____

For and on behalf of the Employer

SIGNED by _____

Name (Print) _____

Position: _____

Company: _____

Date: _____

For and on behalf of the Contractor

SIGNED by _____

Name (Print) _____

Date of Birth: _____

Date: _____

For the Apprentice

Annex C Company Level Data Capture Form (De Minimis)



Section One

1 What is your company name?

2 What is your company's registered address?

 Postcode:

3 Contact Details
Tel No: E-mail:

ESF support is primarily for Small Medium Enterprises (SME's). Questions 4 to 5 are intended to identify whether or not a company is an SME. Where respondents are unsure, clarification and evidence should be sought and submitted with this form e.g. if the number of employees might be 250 or 300, consult payroll and send a letter from the enterprise confirming the **actual** number of employees.

Ticks in shaded boxes in section 6 indicate potential non-eligible status and activity should only proceed after consulting the SFA who will confirm eligibility status.

The number of employees corresponds to the number of annual working units (AWU) i.e. FTE during one year with part-time and seasonal workers being fractions of AWU. The reference year is to be the last approved accounting period.

The turnover and balance sheet total thresholds are those of the last approved 12-month accounting period. In the case of newly established enterprises whose accounts have not been approved, the thresholds shall be derived from a reliable estimate made in the course of the financial year.

4 How many people did you employ (AWU) in the last approved accounting period (across the whole organisation)?

9 or less 10 to 49 50 to 249 250 or more Go to section 8

5 Do you have either a balance sheet of less than €43M, or an annual turnover of less than €50M (tick)

Yes No

6 What is the legal status of your organisation? (If necessary, tick more than one box)

Independent enterprises are those not owned as to 25% or more of the capital or the voting rights by one enterprise, or owned jointly by several enterprises, falling outside of the definition of SME whichever may apply

| | | | |
|--|--------------------------|---|--------------------------|
| Sole Trader | <input type="checkbox"/> | Public Limited Company | <input type="checkbox"/> |
| Partnership | <input type="checkbox"/> | Public Sector Organisation/Local Government | <input type="checkbox"/> |
| Private Limited Company | <input type="checkbox"/> | Voluntary/Community Sector/ Not for Profit Organisation | <input type="checkbox"/> |
| Non-Independent Company (if yes go to 7) | <input type="checkbox"/> | Receive 50% or more of your funds from a public sector source | <input type="checkbox"/> |

7 Non-Independent Enterprises can still be eligible providing you can respond positively to one of the following three statements. If you cannot demonstrate A, B or C, the company is ineligible to receive ESF support as an SME.

| | |
|--------------------------|--|
| <input type="checkbox"/> | A that the owning organisation meets all of the SME criteria i.e. employee numbers turnover and balance sheet |
| <input type="checkbox"/> | B the enterprise is held by public investment corporations, venture capital companies or institutional investors that DO NOT exercise control either jointly or individually |
| <input type="checkbox"/> | C if the capital is spread in such a way that it is not possible to identify by whom it is held and the enterprise declares it legitimately presumes it is not owned by one or more enterprise not fitting the SME criteria. |

8 What is the main function of your business?

| | | | | | |
|--------------------------------|--|-------------------------------|--|-------------------------------------|--|
| Agriculture | | Mining and extraction | | Utilities (gas, electricity, water) | |
| Food, drink and tobacco | | Textiles and clothing | | Metals and mineral products | |
| Engineering | | Other manufacturing | | Construction | |
| Chemicals | | Health and education services | | Banking and business services | |
| Distribution, hotels and so on | | Transport and communications | | Public administration and defence | |
| Professional services | | Other services | | | |
| Other (please specify) | | | | | |

Section Two - (De Minimis)

STATE AID RULES

For most of the 2007-2013 ESF programme the ESF and public match funding provided to providers in Priorities 1 and 4 will not constitute state aid. Where ESF activity is supporting individuals to improve their employability and help them move closer to the labour market the aid is being provided to the individual and there are no direct benefits for enterprises. However for those elements of the programme in Priorities 2 and 5 which provide support to individuals in employment there may be state aid implications because their employers are receiving support towards the costs of training. Where ESF supports individuals in employment to achieve full or part qualifications this may constitute an aid.

The new de minimis regulation covering the 2007-2013 programme enables an enterprise to receive up to €200,000 euros in aid (any public resources including ESF) over three fiscal years. Providing such aid is given within the de minimis rules there is no requirement to notify it to the Commission.

To ensure that the requirements of the de minimis regulation are met, scheme administrators must ensure that any award of ESF and other public match funding to an enterprise given under the terms of the de minimis block exemption does not breach the €200,000 ceiling over three fiscal years. Member states are required to keep detailed records of any de minimis aid paid for 10 years. The new de minimis regulation:

- extends the scope of the regulation to marketing and processing of agricultural products with certain conditions and the transport sector (but not to road haulage operations for the acquisition of road freight transport vehicles).
- prohibits the cumulation of de minimis with other block exempted or notified aid schemes for the same costs, and ;
- *increases the de minimis level from €100,000 to €200,000 except the road transport sector which remains at €100,000.*

Organisations using the de minimis rules must put in place a monitoring system to ensure the limit is not breached. Typically, such a monitoring system will involve:

- asking enterprises receiving support under their scheme to identify all other sources of support (either in cash or in kind) that they have received in the last three years;
- checking if previous de minimis aid is involved, to ensure that the combined assistance does not exceed €200,000 over any three-year rolling period. If the limit is breached, the aid may have to be reduced or refused to ensure the limit is not breached.

The BIS (Department for Business, Innovations and Skills) State Aid Branch advises writing to each recipient in the following terms:
 "The assistance for [...] constitutes State Aid as defined under Articles 87 and 88 of the Treaty of Rome and is being granted as 'de minimis' aid under Commission Regulation EC/1998/2006. European Commission rules prohibit any undertaking from receiving more than €200,000 euros 'de minimis' aid over a rolling three-year period. Any 'de minimis' aid granted over the €200,000 limit may be subject to repayment with interest. If you have received any 'de minimis' aid over the last three years (from any source) you should inform us immediately with details of the dates and amounts of aid received. Furthermore, information on this aid must be supplied to any other public authority or agency asking for information on 'de minimis' aid for the next three years."

Whilst de minimis rules are straightforward in principle they are difficult and complex to operate in practice because they are not project related and as such rely on individual enterprises being able to identify how much aid and under which schemes they have received support over a rolling three-year period.

9 Declaration - I declare that the amount of De Minimis aid received by the company/organisation over the last three fiscal years is:

| 2008 | 2009 | 2010 | 2011 | 2012 | TOTAL |
|------|------|------|------|------|-------|
| | | | | | |

10 I confirm that, to the best of my knowledge, the information above is correct and given in good faith. I confirm that I understand that failure to meet the SME status (where applicable) may result in this enterprise being ineligible to receive ESF funds

Signed

| |
|--|
| |
|--|

Date

| |
|----------------|
| __ / __ /20 __ |
|----------------|

Name

| |
|--|
| |
|--|

Position within firm

| |
|--|
| |
|--|

Data Protection Act 1998 – This information may be shared with other organisations and Department for Education and Skills and Department for Work & Pensions for administrative, statistical and research purposes, to inform careers and other guidance and to monitor progress.

Client Number

| | | | | | |
|---|--|--|--|--|--|
| C | | | | | |
|---|--|--|--|--|--|

The following section to be completed by the delivery organisation

11 ESF Eligibility Criteria met?

| | |
|-----|----|
| Yes | No |
| | |

12 ESF Dossier Number

| | | | | | | | | | |
|--|--|--|--|--|--|--|--|--|--|
| | | | | | | | | | |
|--|--|--|--|--|--|--|--|--|--|

13 Local Project Number

| |
|--|
| |
|--|

14 Provider Number (UPIN)

| | | | | | | |
|--|--|--|--|--|--|--|
| | | | | | | |
|--|--|--|--|--|--|--|

15 Client Number (A unique number that the provider assigns sequentially to each client company)

| | | | | | | |
|--|--|--|--|--|--|--|
| | | | | | | |
|--|--|--|--|--|--|--|

16 Activity Log (Delivery Organisation to complete intended activities prior to completing form)

| Type of Activity E.g.: Workforce Development Advice Training Needs Analysis IIP Advice Key workers Basic skills participation Learning participation | Agreed Outcomes E.g.: Training Plan produced Positive referral to learning provider IIP Commitment IIP Recognition Other e.g. Apprenticeship | Intended Date |
|---|--|----------------------|
| | | |

| | |
|---------------------------|----------------|
| Provider Signature | |
| Name | |
| Date | __ / __ /20 __ |

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BIS | Department for Business
Innovation & Skills

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