

Funding Rules 2012/13

Version 2

This document sets out the rules for funding and associated evidence requirements for the funding year 2012/13 effective from 1 August 2012.

It is an update of Version 1 which we published in April 2012.

For the first time this puts in one place the rules for funding and combines the evidence required to support them.

This replaces the various Funding Requirements documents that currently exist.

May 2012

Of interest to Providers



European Union
European Social Fund
Investing in jobs and skills

Foreword

Following consultation with Providers and employers the Skills Funding Agency (the Agency) has, for the first time, produced a single document which sets out the Funding Rules for the 2012/13 funding year. We have removed all guidance notes and supporting documentation used in funding publications for previous years. This key outcome of our consultation with the sector means that Providers and employers now have a single, consistent and coherent set of Funding Rules that explain clearly how Agency funding is provided and the conditions attached to it.

This document updates the version published in April 2012 to include the supporting evidence requirements. For the first time we have consolidated the Funding Rules and associated evidence requirements for all of our funded provision into one document. We will be issuing a final document in July 2012 in order to make adjustments where areas of clarification on evidence requirements are needed, particularly those where the sector thinks any specific evidence requirements could be made clearer. The Agency is also working with the Education Funding Agency on how these evidence requirements can be streamlined across the entire further education system. We will publish any updates to the evidence requirements and how we can further streamline them in an updated final version of the document before the end of July. There will however, be no further changes to the funding rules themselves.

This supports the Agency's stated aims of reducing bureaucracy for employers and Providers, simplifying the funding system and improving the way we communicate with the sector. A move from funding guidance to rules is a key aspect of our ambitions in simplifying the funding system. The funding system is much more than the funding formula and rates that we pay.

The Agency is committed to continuing to work with the sector in order to review and refine this document so that it remains fit for purpose in future years, particularly as we move to the new, simplified funding system in 2013/14.

The rules contained in this document provide the mandatory requirements for Providers in order that their use of public funding is safeguarded in a proportionate way. It remains the responsibility of the Provider to ensure the highest standards of teaching and learning and to focus on how their curriculums offer best supports employers and their local communities.

This document replaces the following documents that were issued for 2011/12: Adult Skills Budget Funding Requirements, Apprenticeship Funding Requirements, Learner Eligibility and Contribution Rules, Adult ESF Delivery Requirements, Adult ESF Funding Requirements, Adult ESF Contract Deliverables and Evidence Requirements, ESF Subcontracting Requirements, Apprenticeship and Adult Skills Budget Funding Requirements for Employers, Discretionary Funding Guidance and Requirements, Requirements for Funding Family Learning Programmes. It also replaces Requirements for Funding – Formal First Step Learning 2010-11, Adult Safeguarded Learning, Formal First Step and Family Learning Impact – Requirements for Funding 2010/11.

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Introduction

This document sets out the Funding Rules for the funding year 2012/13. The Funding Rules form part of the terms and conditions of the funding agreements between the Chief Executive of Skills Funding and all Providers of education and training in receipt of funding from the Chief Executive of Skills Funding.

The Chief Executive of Skills Funding (the Chief Executive) is a statutory post and established by the Apprenticeships Skills Children and Learning (ASCL) Act 2009 and is the legal entity which enters into funding agreements with Providers of education and training. The term Skills Funding Agency (the Agency) describes the Chief Executive of Skills Funding and his staff.

The Funding Agreement and the Funding Rules contain the comprehensive set of requirements with which Providers must comply.

The Funding Rules may be updated from time to time but the intention is to publish the Rules once a year and to avoid wherever possible in-year changes.

The term 'Providers' is used to include colleges, training organisations, local authorities and employers in receipt of funding from the Chief Executive to deliver education and training. The individual provider type will only be used where the requirements apply only to that specific type(s) of Provider.

The term 'Funding Agreement' is used to include the Financial Memorandum, Contract for Services and Conditions of Funding Grant between the Chief Executive of Skills Funding and all Providers.

The term 'Learner' is used to cover all those who receive education or training funded by the Chief Executive.

Section 1- Generic Funding Rules for 2012/13

Principles of Funding

The rules contained in this document provide the mandatory requirements for Providers in order that their use of public funding is safeguarded in a proportionate way. Providers must operate within the terms and conditions of the Funding Agreement and the Funding Rules. A breach of these Funding Rules constitutes a breach of the Funding Agreement between the Chief Executive and the Provider and the Agency will take action as set out in the Funding Agreement.

This section sets out the principles underpinning the funding rules that apply to all learning and skills provision funded by the Agency¹.

1. Whilst the Agency is working towards a new simplified funding system, the funding methodology used in 2011/12 will be retained in 2012/13. Further details on the funding methodology and how it will be applied can be found at [Annex 2](#).
2. Providers must:
 - 2.1. only claim funding for Learners assessed as eligible for funding as stated in these rules
 - 2.2. not claim funding for any part of any Learner's programme of study that duplicates that received from any other source²
 - 2.3. when starting Learners on a qualification, ensure that the qualification has been confirmed for funding by the Agency and appears on the [Learning Aim Reference Application](#) (LARA)
 - 2.4. in the case of Apprenticeships, only deliver and claim for funding for an apprentice on a framework that has been issued in a published Apprenticeship framework document and is available for public funding on LARA on the date that the apprentice starts
 - 2.5. ensure that no duplication of provision in a Learner's programme occurs. Where this occurs because of an overlap in learning aim content, Providers must reduce the funding claimed to reflect the degree of overlap

¹ OLASS follows the same principles as stated in this document; these will be stated in the contract.

² For example, a different Agency funding stream, other government departments, other co-financing organisations, Education Funding Agency (EFA), their employer or Higher Education Funding Council for England.

- 2.6. ensure that a Learner does not repeat learning that they have already undertaken to achieve a qualification. Credit transfer and exemption³ relate to learning which has previously been certificated
 - 2.7. for unlisted aims, consider that guided learning hours (glh) are the key driver of costs incurred when determining the level of funding claimed
 - 2.8. not claim funding for provision that is assessment only or where a Learner is resitting a learning aim without learning taking place
 - 2.9. ensure that all Learners who are undertaking publicly-funded provision have a Learning Agreement. Further details on the Learning Agreement can be found at Annex 1
 - 2.10. ensure that all Learners who are undertaking publicly-funded provision have a Unique Learner Number (ULN). There are some exceptions to this rule which are detailed in the Individualised Learner Record (ILR) Specification for 2012/13
 - 2.11. submit data in a timely and accurate manner as stated in the main Funding Agreement. This includes subcontractors who are submitting data on behalf of the lead Provider.
3. Where more than 50 per cent of assessment for a learning aim is achieved through Recognition of Prior Learning (RPL)⁴, Providers must discount the funding for the proportion of the qualification assessed as being delivered through RPL by 50 per cent. However, if 50 per cent or less of assessment for the learning aim is achieved through RPL, there will be no reduction of funding for the proportion of assessment achieved through RPL. This will be subject to review in advance of 2013/14 and subject to monitoring during 2012/13.

It is recommended that Providers use the Learner Information Suite (LIS) software, available on The Data Service website, to regularly check the quality of the data they plan to submit. Further information can be found on The [Data Service](#) website.

³ Credit transfer – the process of using credit or credits awarded in the context of one qualification towards the achievement requirements of another qualification.
Exemption – the facility for a learner to claim exemption from some of the achievement requirements of a QCF qualification, using evidence of certificated, non-QCF achievement deemed to be of equivalent value.

⁴ Recognition of Prior Learning (RPL) refers to uncertificated learning and will involve Providers in making an offer of assessment in order to confirm achievement and the award of credit. In all instances Apprenticeships of less than 12 months for adults will involve the recognition or accreditation of prior learning and an accompanying funding reduction.

Principles of Evidence

The purpose of the evidence which Providers are required to hold is to enable the Agency to have assurance that the Provider has delivered education and training in accordance with the terms of its Funding Agreement including the Funding Rules. This evidence may be examined and audited by the Agency in order to have that assurance.

Evidence can either be created by the Provider as part of a specific business process or it is naturally generated by the organisation in their day to day working. The Agency is eager to use as much naturally occurring evidence as possible as this reduces both bureaucracy and cost to the Provider.

Overarching Principles of Evidence

Providers must hold evidence of the following:

- Learner existence
- Learner is eligible for funding
- That the education and training being delivered to the Learner is eligible for funding
- That learning activity has taken place.

Learning Agreement

The vast majority of evidence will be contained within the Learner's Learning Agreement. The content of the Learning Agreement is described at Annex 1 of the Funding Rules. All information contained within the Learning Agreement is assumed to be accurate and true as it would have been confirmed by the Learner, Provider and, where appropriate, by the employer. The Learning Agreement does not have to be a single document but could be a collection of evidence produced through the natural process of a learner starting and continuing in learning.

The evidence requirements at the end of each section within the Funding Rules will add specific evidence requirements where the evidence required is over and above the Learning Agreement.

Confirmation and signatures

It is recognised that the process by which the Provider records the Learner and employer's confirmation is a decision made by the Provider. It is unlikely that a standard approach and process will meet the needs to each and every Provider. Providers are able to hold evidence in an electronic format. This includes holding data on electronic platforms and in scanned format, which includes, but is not restricted to, digital signatures. The Agency accepts that

where a provider collects a learner's signature that it may be captured either in handwriting or electronically.

However it is the Provider's responsibility to ensure that it retains a robust and reliable form of evidence to support funding claims including evidence of learner existence, eligibility, and activity. This evidence must be held in a form which is accessible and auditable.

Retention and Achievement

Where a Learner is still in learning or has left and not achieved their learning aim the Provider must have evidence that learning activity is taking or has taken place. This evidence would be collated within the Learning Agreement as part of the on-going collection of information. The exact nature of this evidence would be a decision made by the Provider (and may be based on the way in which learning takes place). Where the Learner achieves their learning aim, the Agency will not require the provider to keep evidence of activity that has taken place, unless it is linked to a learning aim with an unlisted rate. It is required that evidence of the volume of activity linked to an unlisted learning aim rate is retained by the provider.

Individualised Learner Record

The data reported to the Agency in the ILR is not evidence in its own right. However, as it drives funding it is important that it matches the information contained in the Learning Agreement. Therefore, it will form part of evidence but only along with other information, such as the Learning Agreement. This is distinct from ILR 'forms' used to collect data, which may be included within the Learning Agreement.

Poor data which does not reflect underlying records is one of the main causes of a qualified review by Provider Financial Assurance. Many of the common problems encountered can be avoided by providers making use of the Provider Data Self-Assessment Tool (PDSAT). The PDSAT was specifically designed to provide a suite of exception reports for regular use by providers in reviewing their data. The current PDSAT tool, updated guidance and DSAT interactive e-learning tool are available through The **Data Service** website:

<http://www.thedataservice.org.uk/Services/DataCollection/software/dsat/>

Provider Financial Assurance's standard working papers including detailed testing schedules are available through the [Agency's website](#):

Detailed testing schedules for the 2012/13 funding year will be available from the Autumn of 2012.

Establishing Learner Eligibility for Funding

This section covers which individuals can be funded by the Skills Funding Agency. Where this defines provision for 16-18 year olds this relates only to Apprenticeships and not to any other provision for 16-18 year olds.⁵ Unless explicitly stated otherwise these rules apply to all Learners funded by the Agency in 2012/13.

4. The main basis for assessing Learner eligibility is the Learner's ordinary residence. Further information on the Agency's funding eligibility criteria can be found at [Annex 1](#).
5. Providers must not claim funding for provision wholly delivered outside England.⁶
6. The Learner must meet the eligibility criteria set out at Annex 1.
7. The eligibility of the Learner must be established at the start of each learning aim or programme. Once confirmed as eligible, this status for that learning aim will not change for the duration of that learning aim or programme.
8. Learners who are ineligible for funding at the start of a learning aim will remain ineligible for funding for that learning aim for its duration.
9. To be eligible to be funded by the Agency a Learner must be⁷:
 - 9.1. an individual aged 19 years or older on 31 August within the funding year in question where the learning is not delivered in the workplace
 - 9.2. an individual aged 19 years or older on the day they start provision delivered in the workplace
 - 9.3. an individual who has left full-time compulsory education⁸ on the day they start their Apprenticeship. An individual cannot start an Apprenticeship while they are still in full-time compulsory education. This includes the time between the individual's last exam and the last Friday in June if they are in their last year of compulsory

⁵ The EFA took over responsibility from the Young People's Learning Agency (YPLA) on 1 April 2012 for the funding of young people's education and training.

⁶ Eligibility for funding is based on the Education Act 2011, Apprenticeships, Skills Children and Learning Act 2009, the Education Act 2005, Education (Fees and Awards) (England) Regulations 2007 (Amendment) Regulations 2011 and other legislation as appropriate.

⁷ Unless eligible under specific funding rules associated with ESF and Community Learning Programmes.

⁸ As defined by the Education (School Leaving Date) Order 1997.

education, even if they are employed outside of school time, for example, in part-time work after school or at weekends.

Evidence requirements

In addition to the Learning Agreement:

Reference paragraph 5 - The ILR field Delivery Location Postcode must be in England. If, by agreement with the Agency, this is not in England, the Provider will need to have a copy of the agreement. This is acceptable as an email from the Provider's Relationship Manager on behalf of the Agency.

Financial Contributions

The purpose of this section is to explain the levels of government contribution that are made towards the cost of a Learner's programme and the rules that Providers must adhere to⁹. In some cases, the Agency will fully fund the cost of a Learner's programme. In other cases, employers and individuals are expected to contribute towards the costs of learning. This section does not apply to programmes funded by the European Social Fund (ESF).

10. Further details on contributions including those Learners that will be fully supported by the Agency in the costs of their programme can be found at [Annex 1](#).
11. Providers and employers must ensure that all Learners are aware of the Provider's policy on fees and charging.
12. Where the Agency has made a full contribution to the costs of a Learner's programme, Providers must not make compulsory charges to Learners¹⁰ for any delivery of the learning activity funded by the Agency.¹¹
13. Providers can pass fees or subscriptions charges made by professional bodies in order to become a member of that organisation on to the Learner or their employer if they are aged 19 years old or more.
14. Where, in agreement with the employer or the Learner, the Provider delivers additional or optional services or provision then additional funding may be sought. For example, trips and visits where they are not core to the learning being delivered. Providers must not make it a condition of delivery of a learning aim that additional or optional provision is taken up in order to complete or achieve that learning aim.
15. Other charges outside of learning can also be charged where they do not directly relate to the learning activity, for example, library fines, replacement keys or student ID cards, printing and photocopying outside of learning.
16. Materials used in a learning activity can be charged for if the Learner wishes to keep them outside of the learning environment, for example artwork, models and food.

⁹ The rules on financial contributions are set out in accordance with the Apprenticeships, Skills, Children and Learning Act 2009.

¹⁰ Charges made to an apprentice's employer are at the discretion of the Provider.

¹¹ This includes: administration, registration, assessment, materials or examination costs whether incurred directly by the Provider or charged by other organisations such as awarding organisations. This includes charges for identification passes, uniforms, tools and material where without them, a Learner cannot complete and achieve their learning aim.

Evidence Requirements

No additional evidence requirements in addition to the Learning Agreement.

Section 2 - The Adult Skills Budget

Adult Skills Provision

The Adult Skills Budget supports the delivery of flexible and responsive provision to Learners and employers.

The Adult Skills Budget supports:

- Classroom-based learning; and
- workplace learning.

Workplace learning is defined as:

- any learning aim predominantly delivered within the workplace and in connection with an employed Learner's occupation or employer's business
- any learning in an Apprenticeship Framework
- basic skills in literacy and numeracy delivered to an employed Learner supported by their employer.

17. For colleges, provision must be identified in the ILR as classroom (ILR Funding model 22) or workplace (ILR Funding model 45). Each type of provision will have a separate funding calculation.

18. Training organisations offering classroom provision must use Funding model 45 and Learning delivery monitoring (LDM) code 125 in the Learning delivery funding and monitoring fields in the ILR. A single funding calculation will be used to fund all aims delivered by training organisations.

Qualifications within the Adult Skills Budget

The Agency confirms which qualifications are eligible for public funding for Learners aged 19 and over in England.

Qualifications are confirmed on a monthly basis and at the beginning of each calendar year the initial offer for the forthcoming funding year is published.

The high-level principles and operational detail underpinning the process for confirming qualifications for funding can be found [here](#).

19. The core of the publicly-funded offer must be vocational qualifications drawn from the [Qualifications and Credit Framework](#) (QCF). Awards at Levels 2 and 3 are only available as part of the offer for unemployed people. Non-vocational QCF qualifications should only be offered at Entry and Level 1.
20. Providers must not offer non-QCF provision where an appropriate qualification is operationally available in QCF. Adult Learners with Learning Difficulties and/or Disabilities (LLDD) may have their personalised learning programme created from provision that is non-regulated when no suitable alternative exists.
21. If any in-year changes to the funding status of qualifications are made, continuing Learners enrolled on the qualification before the 'last date for new starts' will be funded in order to complete. Where Learners are enrolled onto a qualification nearing the end of its 'last date for new starts' Providers must check learning aim availability and awarding organisation final registration and certification details.
22. Where an awarding organisation extends the operational end date of a qualification, this does not guarantee public funding. If in doubt the Provider must seek verification from the Agency.
23. There are some regulated qualifications that are ineligible for funding and Providers must not offer these on a publicly-funded basis. In the main this will be provision encompassing the following:
 - 23.1. company-specific learning aims
 - 23.2. vendor qualifications
 - 23.3. primary and advanced driving skills or piloting skills
 - 23.4. specific qualifications with a primary purpose around licence to practise or which are designed to meet occupational regulation or an employer's statutory responsibilities.
24. The Agency does not fund 'prescribed higher education' which is the responsibility of the Higher Education Funding Council for England (HEFCE), including Foundation Degrees and Higher National Qualifications. Where The Agency has confirmed higher-level qualifications (Level 4 and above) for funding, these will be listed in LARA.
25. Where Providers are delivering units this must be as part of the offer for those who are unemployed and entitled to full funding or as part of extended unit delivery trials in 2012/13. Providers must not use the delivery of units for funding advantage. Where Providers are delivering units they must ensure they use the Personal Learning Record (PLR).

Using the Innovation Code

In [New Challenges, New Chances, Skills Investment Statement 2011-14: Investing in a World Class System](#) it was confirmed that the Agency would introduce the Innovation Code for the 2012/13 funding year. The Code initially consists of six learning aims which will enable Providers to draw down funding whilst simultaneously developing the programme and qualification. There is no formal application process to use the Code, nor do Providers need to seek permission. It will initially be applied for a period of 12 months and must be delivered within a Provider's existing funding allocation. The Agency will monitor the use of funding and report to the sector through the Strategic Approvals Panel¹² (SAP).

26. The Code must be used to support Providers in responding quickly and innovatively to support local employment and skills needs. It can be used to:
 - 26.1. develop specialist skills or upskill a particular subsector
 - 26.2. reskill as a result of economic conditions in an area
 - 26.3. meet specific skills required to support a growth sector
 - 26.4. support entrepreneurship and/or
 - 26.5. support progression and further learning/employment in a particular subsector or sector.
27. Local needs might be identified through a college and/or training organisation's existing links with local/regional employers, with representative organisations such as National Skills Academies, Sector Skills Councils or with their Local Enterprise Partnership or Core Cities.
28. The qualification must be designed in partnership with a business, with a commitment to time-limited funding, and so that it will migrate onto the QCF.
29. New provision should become available nationally and be capable of moving into the QCF as a qualification and/or unit. Providers must work with an Ofqual-recognised awarding organisation to support this.
30. Providers can use the Code for either existing provision or for new provision they are about to deliver. Where the provision already exists and is being delivered but is not part of a regulated framework, it will be important to check that it is not in scope for the cessation of funding for new starts as part of the Agency's managing down of non-regulated

¹² The SAP has representation from the Association of Colleges (AoC), the Association of Employment Learning Providers (AELP), HOLEX and the Federation of Awarding Bodies (FAB).

provision. The list of non-regulated learning aims in scope for the cessation of funding can be accessed [here](#).

31. Apprenticeships and provision delivered by Large Employers are outside the scope of the Code.

Basic English and Maths and Basic Skills English for Speakers of Other Languages (ESOL)

Basic Skills English and Maths refers to provision for Learners undertaking English and Maths qualifications to enable them to progress to achieve their GCSE (A* - C) or Functional Skills Level 2. The learning aims defined as English and Maths are set out at [Annex 2](#).

Basic Skills ESOL refers to provision for Learners undertaking ESOL qualifications to enable them to improve their English language skills and to progress towards employment. The learning aims defined as ESOL are set out at [Annex 2](#). ESOL provision is not funded in the workplace.

32. Learners should be supported to progress their skills towards GCSE (A* - C) English and Maths or Functional Skills Level 2 which means being enrolled on qualifications that support this upward progression. Learners must not simply be accredited for prior knowledge.

33. Learners (of all ages) are eligible for full funding to take GCSE English and Maths qualifications if they do not currently possess these qualifications at A* - C regardless of what other prior qualifications they hold. If a Learner needs to 'retake' their GCSE English and Maths because they did not achieve an A* - C grade the Learner must not just resit the examination but also undertake the necessary learning.

34. Learners must be enrolled on a level of learning that is beyond that to which they are assessed, for example, if a Learner is assessed as being at Entry Level 3 they must be enrolled on a Level 1 qualification.

35. Providers must

- 35.1. undertake a robust initial assessment to determine the level at which the individual is currently operating, to inform which level they enrol onto
- 35.2. undertake an appropriate diagnostic assessment to inform and structure a Learner's Learning Agreement to use as a basis for a programme of study
- 35.3. deliver ongoing assessment
- 35.4. record all outcomes on the Learning Agreement.

36. Providers must use up-to-date assessment tools which are based on the National Literacy and Numeracy Standards and core curriculum. The tools must place a Learner's current skills levels within the National Qualifications Framework (NQF)/QCF levels. The tools must be administered by suitably qualified individuals including, for the diagnostic assessment, a practitioner to structure the Learner's Learning Agreement.
37. Any non-NQF provision at pre-entry or Entry Level must be based on the National Literacy and Numeracy Standards and must enable the Learner to progress to NQF or QCF provision.

Job Outcome Payments

Job outcome funding will be tested in 2012/13 using the existing funding models with ten per cent job outcome funding where an eligible Learner leaves and enters work¹³ before achievement of the learning aim¹⁴.

Providers paid on profile will be paid ten per cent of the learning aim rate for each job outcome¹³ reported for those eligible learners where they have left learning. This will be paid as part of the year-end reconciliation process. Payments made will be within the envelope of each Provider's allocation and any adjustments made as part of the Agency's in-year performance management process. Qualification achievement will remain unchanged as this is integrated into each Provider's current provider factor.

For Providers paid on actual, payment for job outcomes will be built into the funding methodology. This will be aligned to the system that will be used in 2013/14 and will pay ten per cent of the learning aim where a person enters into work¹³. If the learner also continues in learning and achieves the learning aim, the balance of achievement funding (15 per cent) will also be paid.

38. In order to claim Job Outcome funding for unemployed Learners in receipt of Jobseeker's Allowance, Employment Support Allowance (Work-related Activity Group), Providers must receive a declaration from the Learner that they have stopped claiming unemployment benefits to enter work¹³.
39. In order to claim Job Outcome funding for unemployed Learners in receipt of wider benefits, Providers must receive a declaration from the Learner that they have entered work¹³.

¹³ The definition of an eligible job is that the learner must remain in employment for 16 hours or more per week for more than four continuous weeks.

¹⁴ Where the Learner participates in the Work Programme in addition to Agency-funded learning, the claiming of Job Outcome payments from the Agency is not affected by the Work Programme's payment process. That is, this does not constitute duplication of funding.

40. Job outcome funding is claimed by reporting an employment outcome in the ILR field Employment Outcome. Data must be reported to the Agency within the ILR for the current year in which the Learner leaves.

Distance Learning

41. Use of workbooks and distance learning must be in a manner that best supports a Learner in both achieving the qualification and gaining useful skills in a vocational context.

42. The Agency recognises that through innovation and using new technology delivery methods in vocational learning will change and adapt to employers' and Learners' needs. However, these developments must not be detrimental to the quality of provision and Learner experience. It is Providers' responsibility to ensure that any materials used have been agreed with the appropriate awarding body for use in collecting evidence of competency.

Prince's Trust Programme

The Prince's Trust programme is for 16-25 year olds. It is a 12-week course designed to improve confidence, motivation and skills. Each 'Team' aims to recruit a mix of 16-25 year olds of different abilities and backgrounds, including employees sponsored by their employers. The 'Teams' are funded by the Agency but run and managed locally by Providers in partnership with The Prince's Trust.

43. For unemployed Learners this is a full-time programme and will last for 12 weeks and 420 glh. For these Learners, a value of 420 must be reported in the Guided learning hours field in the ILR to generate the correct SLN values for 2012/13. This glh figure includes any work experience and non-contact time.

44. For employed Learners the programme will last for 20 days and 90 glh. Where this is the case, 90 must be reported in the Guided learning hours field in the ILR to generate the correct SLN values for 2012/13.

Formal First Step

Formal First Step (FFS) is a short episode of learning designed to build a Learner's confidence and support the planned progression into longer (often pre-Level 2) provision regulated in the QCF. The offer for FFS includes non-accredited formal learning. For 2012/13, FFS is part of the Adult Skills Budget. If FFS Providers have an existing Adult Skills Budget they cannot use these funds to increase their FFS allocation but they can reduce their FFS allocation.

45. Providers must not increase the amount of FFS funding within their Adult Skills Budget. This will be monitored by the Agency through the performance management process.
46. FFS must be recorded using The First Steps Indicator (FSI) code of 1 in the Learning delivery funding and monitoring fields of the ILR. Further information on the operational arrangements for how Providers claim funding will be issued separately.

Joint Investment Programme

The Joint Investment Programme (JIP) brings together public and private bodies requiring them to work together in partnership with the Agency, to lead on sector initiatives that will:

- raise ambitions for skills and overcome blockages to growth
- deliver skills to meet opportunities for business productivity
- address a market failure in the provision of vocational skills in a sector.

JIP funding is directed specifically at those qualifications and units of qualifications identified as solutions to specific skills needs.

47. The JIP draws on a ring-fenced budget that can only be used by Providers who have a JIP Annex as an appendix to their Adult Skills Budget Funding Agreement.
48. Joint Investment Programme Providers must:
 - 48.1. use the funding provided under the JIP agreement to deliver only agreed JIP provision
 - 48.2. invoice the employer for its contribution towards the cost of learning and contributions must be made in cash
 - 48.3. collect the 50 per cent cash contribution of the total funding rate of each aim from all employers
 - 48.4. have in place a robust system to monitor, collect and evidence employer contributions
 - 48.5. deliver only to employers agreed as part of the Joint Investment Programme
 - 48.6. record the employer reference number in the ILR field 'Employer Identifier'

- 48.7. report Special Projects and Pilots (SPP) code SP045 in the Learning delivery funding and monitoring fields in the ILR, for all Learners undertaking the Joint Investment Programme
 - 48.8. provide evidence and information in relation to delivery to the lead organisation to enable reporting to the Agency.
49. Performance of the JIP is subject to review and the Agency will revise Provider profiles in light of performance. The Agency reserves the right to reduce contract values in-year.
50. It is expected that more than half of Learners engaged over the two-year programme will be employed by organisations with fewer than 250 full-time equivalent (FTE) staff.
51. The Provider and JIP lead will be required to set out a full profile and schedule of Learners starting and completing units and achieving credit and achieving qualifications funded in the JIP for each year.
52. Learners undertaking a qualification at the same level are allowed within the funding rules of the JIP, and one Learner is able to access multiple units/qualifications based on employer demand.
53. Where an aim is only eligible for delivery as part of a JIP, this will be indicated within the details of the aim on LARA.

State Aid

54. The Agency is required by the UK Government and the European Union to report on provision that could be deemed as State Aid. In order to report this information, Providers must return information on their provision that is within scope of the State Aid Regulations. A separate Technical Briefing Note has already been issued with details of what Providers are required to do. See [here](#).

Evidence Requirements

In addition to the Learning Agreement:

Reference paragraph 38 - In order to claim Job Outcome funding for unemployed Learners in receipt of Jobseeker's Allowance, Employment Support Allowance (Work-related Activity Group), Providers must receive a declaration from the Learner that they have stopped claiming unemployment benefits to enter work¹².

Reference paragraph 39 - In order to claim Job Outcome funding for unemployed Learners in receipt of wider benefits, Providers must receive a declaration from the Learner that they have entered work¹².

Apprenticeships and other Workplace Learning

Statement on Apprenticeship Quality

An Apprenticeship is a job with an accompanying skills development programme as defined by the Specification for Apprenticeship Standards in England (SASE) and approved by the relevant Issuing Authority. It allows the apprentice to gain technical knowledge and real practical experience, along with personal and functional skills required for their immediate job and future career. These are acquired through a mix of learning in the workplace, formal off the job training and the opportunity to practise and embed new skills in a real work context. This mix differentiates the Apprenticeship experience from training delivered to meet narrowly-focused job needs.

On completion of the Apprenticeship the apprentice must be able to undertake the full range of duties, confidently and competently, in the range of circumstances appropriate to the job, to the standard set by the industry.

To see the Statement on Apprenticeship Quality in full and for a list of Agency-funded frameworks, see the [Apprenticeships website](#).

Principles

This section sets out the principles underpinning the funding rules that apply to all Apprenticeship provision funded by the Agency.

55. In order to receive funding Providers must:

- 55.1. be content that the apprentice is undertaking a new job role, or if in an existing job role, that the individual requires significant new knowledge and skills and that an Apprenticeship is the most appropriate learning programme for them
- 55.2. ensure that the job allows the apprentice to gain the wider employment experience that is a key part of an Apprenticeship
- 55.3. advertise new¹⁵ Apprenticeship vacancies on the Apprenticeship Vacancies (AV) website

¹⁵ 'New' means all employment opportunities where an employer is looking to recruit a person with the purpose of undertaking an Apprenticeship. Where Apprenticeships are taken up by staff who are already employed by a company they do not need to be posted onto the AV system.

55.4. enter on the Apprenticeship Vacancies website the details of the successful applicants, in order to complete the data entry for that vacancy.

56. An individual cannot start an Apprenticeship funded by the Agency while they are still in full-time compulsory education. This includes the time between the individual's last exam and the last Friday in June if they are in their last year of compulsory education. This also applies if they are employed outside of school time, for example, part-time work after school or at weekends.

Access to Apprenticeships

Access to Apprenticeships is a pathway to a full Apprenticeship. The main difference is that the Learner on this pathway is not required to be in employment on the first day of their learning.

A Learner on the Access to Apprenticeship pathway is not categorised or counted as an 'apprentice', however they will work towards the elements of an Apprenticeship Framework.

The Access to Apprenticeship pathway and the Apprenticeship are delivered in one continuous programme. The eligibility criteria for Access to Apprenticeships can be found at Annex 1.

57. All Apprenticeship Framework activity must take place within the agreed hours as stated in the Learning Agreement.

58. The pathway will not take longer than six months from when the Learner starts, and will usually be shorter than this. This six-month period does not extend to take into account Learners who do fewer than 30 hours per week.

59. The majority of time on the Access to Apprenticeship pathway will be spent in a substantive work placement with an employer that is identified at the start of the pathway. The number of hours on the pathway will be the same as expected for those on a full Apprenticeship.

60. Providers must move the Learner onto a full Apprenticeship with a contract of employment (Apprenticeship Agreement) at the earliest opportunity.

61. When the individual becomes employed and starts as an employed apprentice, this must be reported in the ILR by completing a new employment status record for the Learner.

62. Providers must not recruit more than ten per cent of their Apprenticeship starts onto the Access to Apprenticeship pathway without the prior agreement of their Agency Relationship Manager.

63. A Learner who is on an Access to Apprenticeship pathway cannot achieve the full Apprenticeship unless they gain employment.
64. The Access to Apprenticeship pathway and the Apprenticeship are delivered in one continuous programme from beginning to end. The time a Learner spends on Access to Apprenticeships, up to a maximum of six months, will contribute to the minimum duration of 12 months for the full Apprenticeship. Any learner undertaking fewer than 30 hours per week on Access to Apprenticeships will have the minimum duration time extended accordingly.
65. If the Provider fails to secure an employer for an apprentice on an Access to Apprenticeship pathway by the six-month point, they will not qualify for the achievement element of the funding if the apprentice gains employment and achieves the Apprenticeship following the six-month period.
66. If the Provider fails to secure employment for less than 90 per cent of all the individuals that it has enrolled on the Access to Apprenticeship pathways in a given year, they will no longer be automatically eligible to deliver the pathway in subsequent years.
67. An individual who has completed all elements of the Framework without having been employed will not be eligible to claim for the Apprenticeship completion certificate.
68. Any or all of the elements of an Apprenticeship Framework can be started during the period on the Access to Apprenticeship pathway; however, the Learner cannot complete the competence or technical knowledge learning aims during the time spent on the Access to Apprenticeship pathway. They are required to complete these elements of the framework whilst in a full Apprenticeship with a contract of employment (Apprenticeship Agreement).

Apprenticeship Agreement

The requirement for an Apprenticeship Agreement between an employer and an apprentice, under the ASCL Act 2009 sections 32-36, came into force on 6 April 2012. An Apprenticeship Agreement is required at the commencement of the Apprenticeship for all new apprentices who start on or after that date and must be in place for the whole duration of the Apprenticeship. Without it, a completion certificate cannot be issued.

69. The Apprenticeship Agreement must state that the apprentice will be undertaking an Apprenticeship in a particular skill, trade or occupation under a qualifying Apprenticeship framework.

70. The Apprenticeship Agreement can be in the form of a written statement of particulars under the Employment Rights Act 1996; or a document in writing in the form of a contract of employment or a letter of engagement where the employer's duty under the 1996 Act is treated as met.
71. Existing and new contracts of employment between the apprentice and the employer which meet the 1996 Act will also meet the Apprenticeship Agreement requirements provided they include a statement (which may be an annex) setting out the skill, trade or occupation linked to a relevant recognised English framework, issued by the appropriate Issuing Authority, for which the apprentice is being trained and is explicit.

Employment

The ASCL Act 2009 requires all apprentices to be employed at the start of the first day of their Apprenticeship apart from those apprentices in certain occupations that are covered by the 'alternative completion conditions' agreed by the Government, or are individuals following the Access to Apprenticeship pathway. All apprentices should be employed in a job role with a productive purpose.

The term 'employed' is defined as an individual who has a 'contract of employment'. This precludes individuals who are self-employed being described as employed for the purpose of achieving a full Apprenticeship.

Providers must not use Apprenticeship funding provided by the Agency to pay Apprenticeship wages, as the purpose of funding is to fund learning. Therefore, where the Provider is also the employer, or an associate organisation is the employer, the Provider must be able to positively demonstrate that Agency funds are not being used in this way.

72. Providers must ensure that wages are paid by the employer, not by the Provider. Providers must be able to demonstrate that Agency funding has not been used to pay apprentices' wages.
73. Employers must comply with National Minimum Wage legislation [as set by HMRC](#).
74. Providers must not:
- 74.1. directly employ apprentices purely with the intention that they achieve the Apprenticeship. If the Provider or associated organisation is the employer this must be in a substantive job role and not have been created for fulfilling the employment criteria of the Apprenticeship. The only exception to this will be where employment is through a National Apprenticeship Service (NAS) recognised Apprenticeship Training Agency (ATA). This organisation must operate in accordance with the NAS ATA

Framework and the NAS ATA Recognition Process and Guidance, and other conditions as set out on the [Apprenticeships Website](#).

Apprenticeship Training Agency (ATA)

75. If an organisation operates as an ATA, for example, their main business is employing apprentices which are made available to employers for a fee, then they should clearly identify themselves as such and comply with NAS ATA regulations.
76. Where a Provider in receipt of Agency funding operates an ATA it must establish the ATA as a distinct business so that apprentices are contracted employees of the ATA, not the Provider. An ATA's income must not be derived from allocated funds intended for the delivery of training from the Agency. ATAs must record the location (host) employer details in the delivery location field of the ILR.
77. In order to safeguard the quality of Apprenticeship provision Providers must only contract with NAS-recognised ATAs (or an organisation registered with NAS as working towards being a NAS-recognised ATA). This only applies to organisations operating as an ATA and organisations whose business is the provision of labour and who are required to comply with the Employment Agency regulations; organisations whose business is not the provision of labour/apprentice (for example those who are providing consultancy services).
78. Unless a Group Training Association (GTA) is a hybrid model also providing core ATA-type functions (including employing apprentices who undertake their Apprenticeships with host employers) is it not considered an ATA, and does not need to comply with ATA-specific rules.

Alternative Completion Conditions

79. The Government has agreed that in certain circumstances, apprentices will not need to be employed under an Apprenticeship Agreement, as follows:
 - 79.1. apprentices made redundant, up to a maximum time of six months, prior to completion of their Apprenticeship (through no fault of their own)
 - 79.2. occupations / frameworks where self-employment and/or working other than for reward is normal within the sector, but where the apprentice is likely to get a quality experience. These can be found at Annex 2
 - 79.3. individuals undertaking the Advanced Apprenticeship in Sporting Excellence (AASE) in sports designated for Olympic/Paralympic and Commonwealth Games (See [Annex 2](#) for a list of official sports).

For AASE above, Providers must:

- have endorsement that each AASE apprentice has been identified by the relevant National Governing Body (NGB) as having the elite potential to compete at Games level and form part of the cohort of AASE Apprenticeship numbers agreed between the Agency, NAS and NGB for the funding year
- hold this endorsement in the apprentice's Learning Agreement. Providers without supporting endorsement will have funding withdrawn for those apprentices.

Employment Hours

Apprentices must have spent a substantial proportion of their time as an apprentice actually doing the job they are developing a competence in, on premises where that job is usually carried out. This will normally be for a minimum of 30 hours per week, but may be more. Apprentices must be paid for both the hours they spend working and for those that are spent studying the Apprenticeship Framework.

Apprenticeships where the apprentice is working and studying for less than a combined total of 30 hours per week should be by exception only and in each case have their minimum planned delivery durations extended by a corresponding proportion. For example, the usual minimum planned delivery is a 12-month Apprenticeship with 30 hours per week spent with the employer, but where the individual can only work 20 hours per week, the Provider will need to extend the end date by one third – that is, the Apprenticeship will last for 18 months. Further guidance on Apprenticeship hours and durations will be made available on the Apprenticeship website.

80. Providers must:

- 80.1. ensure that, subject to paragraph 81, apprentices are employed for at least 30 hours per week. Employment for fewer than 16 hours per week is not permitted in any circumstances.
- 80.2. agree the average hours the apprentice will be 'at work' with the employer, usually defined using a contracted number of hours per week. This must be recorded in the Learning Agreement, and the Provider, the employer and the individual apprentice must have the opportunity to agree to these hours which will include periods of study

81. If the apprentice or the employer believes there is a case for the apprentice working for fewer than 30 hours per week, the Provider must:
- 81.1. record the proposed average number of hours per week
 - 81.2. document the circumstances which have led them to believe a reduction in hours is appropriate. This will either be due to the apprentice's personal situation or because the industry/job role in which they are employed does not always offer the possibility of a 30-hour working week.
82. Zero-hour contracts will be accepted for Apprenticeships only where there is a contract of employment in place between the apprentice and the employer but where the working hours are not fixed. The number of hours worked per week and the pattern of working hours may vary (subject to normal regulation) but there must be a clear undertaking between the employer and the apprentice to complete the Apprenticeship within the hours worked.
83. Providers must also:
- 83.1. ensure that the apprentice is able to complete all elements of the Framework within his or her contracted hours
 - 83.2. make explicit the extended duration or average working hour pattern when advertising a vacancy on the AV website, where that vacancy is listed as having fewer than 30 hours
 - 83.3. comply with the ASCL Act 2009 and SASE which states that an apprentice must receive, at least, 280 glh each year of their Apprenticeship. All SASE-compliant Frameworks will contain at least the minimum number of glh to be delivered in each year (on and off the job); this may be more than the minimum of 280 stated above.
84. Individuals with an irregular working pattern must use a four-week rolling average in order to ensure they comply with the Funding Rules as to the hours worked.

As part of the performance management process, where Providers are seen to be undertaking large numbers of Apprenticeships inappropriately, for example splitting a full-time vacancy into two vacancies, the Agency will look to remove funding from future allocations and redirect funding to high-performing Providers where the interests of apprentices are being protected.

Recognition and Accreditation of Prior Learning and Duplication

The Agency does not fund learning aims where only assessment is required to achieve a qualification; a significant amount of new learning and workplace practice must be involved in all cases. Providers must only enrol apprentices who will clearly benefit from the new skills acquired as a result of the Apprenticeship. The Agency does not fund learning aims twice, that is, apprentices will not be funded to repeat learning aims they have previously achieved.

85. Providers must:

- 85.1. undertake an assessment of each apprentice, record their prior learning on the Learning Agreement; and adjust the funding claim where applicable using ILR field 'Proportion of funding remaining' for all apprentices not undertaking all elements of the Framework.

Apprenticeship Durations

In order to safeguard quality and ensure a high-quality meaningful experience for all apprentices, a minimum duration has been introduced for Apprenticeships.

These are designed to be minimum durations and Apprenticeships will often take considerably longer and should be based on the Framework's recommended duration. Providers must not assume a 12-month minimum, but refer to the relevant Framework and Funding Rules 86-93 below.

The entirety of the Apprenticeship duration should be filled with guided learning, assessment, and training; and monitored on-the-job practice, planned and agreed between the apprentice, their employer and the Provider.

Minimum Duration for those apprentices aged 16-18

86. Providers must:

- 86.1. follow the guidance contained in the Apprenticeship framework paying particular regard to the content of the framework, its links to specific job roles and the stated framework duration as identified by the framework developer
- 86.2. ensure that all apprentices aged under 19 years on their start date have a recorded 'minimum planned delivery', that is a period of learning and workplace practice in which they are expected to complete their Apprenticeship which is of twelve months or more.

This applies even if the apprentice has already achieved any of the learning aims contained within the framework

- 86.3. ensure that the minimum planned delivery is extended by the length of any break where the apprentice takes a break in learning.
87. Providers must not enter an expected duration of fewer than twelve months under any circumstances. Where an Apprenticeship is completed in fewer than twelve months, the achievement element will not be paid and a certificate will not be issued.
88. Providers must ensure that throughout the entire Apprenticeship duration the apprentice is engaged in active learning or monitored workplace practice.

Minimum Duration for those apprentices aged 19+

89. Providers must:

- 89.1. follow the guidance contained in the Apprenticeship framework paying particular regard to the content of the framework, its links to specific job roles and the stated framework duration as identified by the framework developer
 - 89.2. ensure that apprentices aged over 19 years on their start date, have a recorded 'minimum planned delivery' (that is, a period of learning and workplace practice) in which they are expected to complete their Apprenticeship which is of twelve months or more, unless there is the accreditation of prior learning in accordance with the instructions below.
90. Where there is accredited or recognised prior learning against any part of the framework, the Provider must:
- 90.1. undertake and record the accredited prior learning in the initial learning assessment of the apprentice. This must demonstrate that the Provider has adequately assessed the Learner's prior achievement and future needs and that an Apprenticeship is still the most suitable learning programme for that individual
 - 90.2. record this in the Learning Agreement, including noting how this affects the planned duration of the Apprenticeship
 - 90.3. record in the Learning Agreement how they have adjusted funding claimed to reflect this prior attainment
 - 90.4. use ILR field 'Proportion of funding remaining' to reduce the funding claimed for that individual.

91. Providers must ensure that the minimum planned delivery is extended by the length of any break where the apprentice takes a break in learning.
92. Providers must ensure that throughout the entire Apprenticeship duration the apprentice is engaged in active learning or monitored workplace practice.
93. The Agency will not pay a Provider the full amount of funding otherwise available for an Apprenticeship completing in fewer than 12 months. No Provider can, in any circumstances, claim the achievement element of an Apprenticeship completed in fewer than six months, even if they provide proven and documented evidence of accredited or recognised prior learning¹⁶.

Transferable Skills¹⁷

94. All Apprenticeship Providers must offer Level 2 Functional Skills or GCSE (with enhanced functional content) qualifications in English and Maths to all apprentices who have not yet achieved this level whether or not it is included in a Framework.
95. Where apprentices have previously achieved Level 1 qualifications in one or both subjects, the offer of Level 2 study must be documented as part of the Learning Agreement.
96. If an apprentice takes and achieves a Level 1 Functional Skills or GCSE (with enhanced functional content to at least Grade E) qualification in either English or Maths under Apprenticeship funding and is capable of achieving a Functional skills qualification at Level 2 then Providers can claim funding for this outside of the Apprenticeship Framework¹⁸.
97. Key Skills, as an alternative to Functional Skills will only be available for new starts on an Apprenticeship until 30 September 2012.

¹⁶ Providers must not claim funding for any qualifications that are not delivered due to APL and/or reduce funding by a proportionate amount for any qualifications that are shortened due to RPL. (This applies to 19+ Apprenticeships only that are below 12 months but above six months in duration).

¹⁷ Key skills are only available for new apprentices starting during August and September 2012.

¹⁸ Funding for this additional Functional Skills qualification should come from outside the Apprenticeship Framework within a Provider's wider Adult Skills Budget for 19+ or relevant 16-18 funding where available to the Provider.

Breaks in Learning

Where a break in learning occurs and an apprentice returns to learning they will be funded at the rate that they were previously on, even if their age now means that they fall into another funding category. This means that a 16-18 apprentice that has a break in learning and returns when they are 19 years old will be funded at the 16-18 rate. Similarly an apprentice who is 19-24 who returns after their 25th birthday will be funded at the 19-24 rate.

98. Providers must record this in the ILR using Eligibility for Enhanced funding (EEF) codes 2 or 3 as applicable, in the Learning delivery funding and monitoring fields.
99. Providers must use the ILR Field 'Proportion of funding remaining' to reconcile the funding that will be claimed when the apprentice returns. New aims are created in the ILR for those the apprentice has yet to complete. Providers must enter a value in the ILR field 'Proportion of funding remaining' to reduce funding taking account of what has already been claimed.
100. Providers must take particular care in filling in this ILR field to take into account any prior learning that has been funded before the apprentice took a break. Providers must compare the cash value received against the expected funding that would have been received excluding the achievement result.
101. If the learning aim that the apprentice was following is now not valid when they return, that is, the certification date has passed; the interrupted Apprenticeship cannot be classified as a break in learning. This has the effect of limiting the length of time that an apprentice can have as a break in learning.
102. Refer to the ILR Provider support manual for further information about recording breaks in learning on the ILR.

Second Apprenticeships at the same or lower level

Apprentices who have successfully completed an Apprenticeship are not expected to start a second Apprenticeship at the same or lower level; that is they will in most cases progress. However in certain circumstances it may be appropriate for the apprentice to achieve multiple skills at the same level.

103. In these instances the Provider must demonstrate and record that the repeat or lower level Apprenticeship is supporting the apprentice in a new job role.

104. Individuals who already have a Level 4 qualification are now eligible for a Level 5 or above Higher Apprenticeship only. They are not eligible for funding for an Intermediate Level, Advanced Level or Level 4 Higher Apprenticeship.

Small and Medium-Sized Employers (SMEs)

Provider responsiveness to SMEs¹⁹ is vitally important. The National Apprenticeship Service (NAS) expects to publish a service standard for dealing with smaller employers in summer 2012 which Providers will need to adhere to.

105. SMEs with fewer than ten employees may add up to two additional funded units to their Apprenticeship, per apprentice. The set list of eligible units will be available on the Apprenticeship website from July 2012.
106. Where applicable, funding for these units will be subject to an employer contribution as per the rest of the Framework and normal funding rates and rules will apply.

Large Employers

107. The funding rate for 19+ Apprenticeship provision and other workplace provision delivered to and by large employers²⁰ will continue to be reduced by 25 per cent. This applies to all 19+ Learners including apprentices, and includes those already on these programmes as well as new Learners.
108. The large employer reduction does not apply to any apprentices who start an Apprenticeship before their 19th birthday, or to a Learner of any age on an Access to Apprenticeship pathway.
109. Registered charities, schools, colleges and universities are excluded from the rate reduction.
110. [A frequently asked questions document](#) on the Large Employer rate provides further information should Providers need it.

¹⁹ In the context of Agency funding for workplace learning an SME is an organisation with fewer than 250 employees. This total must contain all employees, whether full or part-time, including parent and subsidiary companies regardless of location. For public organisations it is the relationships between the entities that are important to consider. For example, a library or central works department would be considered as part of the whole local authority.

²⁰ A large employer is defined as one with 1,000 employees or more. The list of employers defined as such will be updated in July 2012, for more detail see [The Data Service](#) website.

Enhanced Funding for 19-24 Apprentices

111. Eligible individuals who have not been available to enter learning prior to their 19th birthday due to a reason beyond their control will be funded at the fully-funded 19-24 rate as long as they start an Apprenticeship before their 25th birthday.

112. Examples of reasons are:

- disability
- ill health
- pregnancy
- a custodial sentence
- remand in custody
- they are a carer
- significant language difficulties (not ESOL)
- as a result of a care order
- detention under the Mental Health Act.

113. This is not an exhaustive list and Providers must contact their Agency Relationship Manager if they are unsure of the validity of the reason.

114. An apprentice would not be entitled to enhanced funding if, since leaving full-time compulsory education and the proposed start date of their Apprenticeship, they have been:

- in employment
- unemployed (not due to a reason listed above)
- not resident in England
- in education, either in a school sixth form, a further education college or other training organisation
- on Entry to Employment (E2E), work-based learning, Train to Gain or an Apprenticeship
- since the apprentice's 19th birthday there has been a period of at least six months in which the reasons listed in paragraph 112 above have not applied.

115. Providers must record this in the ILR using Eligibility for Enhanced funding (EEF) code 1, in the Learning delivery funding and monitoring fields.

Evidence Requirements

No additional evidence requirements in addition to the Learning Agreement.

Additional Learning Support

Additional Learning Support (ALS) is intended to enable Learners to achieve their learning goal by providing additional funding to help them overcome any barriers to learning. The funding is intended to be flexible and to help support Learners who have learning difficulties and/or disabilities.

Learners who were funded by the EFA and become the Agency's responsibility for continuing learning aims will continue to receive ALS at the appropriate level based on the Learner's circumstances.

Under the Equality Act 2010, all service Providers are subject to the duty to make reasonable adjustments which ensure that disabled people are not put at a substantial disadvantage compared to other Learners. Providers therefore have the responsibility to identify those reasonable adjustments necessary for Learners. The Agency makes ALS funding available to enable Providers to meet the costs of such adjustments.

- 116. ALS should not be used for workplace learning provision other than an Apprenticeship.
- 117. ALS funding must not be used to deal with the everyday difficulties experienced by Learners on their programmes or for supporting the English, Maths or language (ESOL) needs of Learners enrolled on Basic Skills learning aims where Basic Skills is the primary learning aim.

Additional Learning Support in Classroom Learning – Training Organisations

- 118. Providers must use their participation budget for ALS to support Learners funded through Funding Model 45²¹. Providers must record Additional Learning Needs (ALN) code 1 and/or Additional Social Needs (ASN) code 1 in the Learning delivery funding and monitoring fields in the ILR and on the Training Provider Statement (TPS) to generate monthly funding. Exceptional Learning Support (ELS) will also be available to fund brief episodes of support.

Additional Learning Support in Classroom Learning - Colleges

- 119. Colleges will receive an ALS allocation to use for Learners funded through Funding Model 22²².
- 120. The types of ALS provided for Learners must include those referenced at [Annex 2](#).

²¹ Previously known as Employer Responsive.

²² Previously known as Adult Learner Responsive.

121. ALS costs for Learners over 25 years of age requiring over £5,500 of support funded by the Agency must be recorded on the [ALS costs form](#). This form must include all ALS costs for these Learners, not just those above £5,500.

Exceptional ALS (eALS) Claims above £19,000

Learners that may require eALS are individuals with significant support needs and there will be other agencies involved in their care and support. Such Learners are unlikely to be planning to participate in learning without careful consideration of their needs and the capacity to meet them.

122. Providers must:

- 122.1. record the first £19,000 of any Learner's ALS funding via their ILR returns and meet this from their current ALS funding allocation
- 122.2. inform their Agency Relationship Manager to confirm approval of the planned eALS expenditure
- 122.3. secure approval in advance from their Relationship Manager for Learners whose ALS costs exceed £19,000 in a funding year by completing the [ALS Costs form](#)
- 122.4. seek further approval if the Learner's learning support needs change significantly during the programme
- 122.5. submit payment claims for Learners' eALS in 2012/13 by 30 November 2013.

Additional Learning Support in Apprenticeships

There are three categories of ALS that are funded by the Agency for Apprenticeships. These are: Additional Learning Needs²³ (ALN), Additional Social Needs²⁴ (ASN), and both ALN and ASN. In addition to making funding available for these categories, the Agency will meet exceptional costs that are likely to exceed the notified threshold, when calculated using estimated costs, over the full length of the programme. Provision of specialist support and equipment for apprentices with disabilities will also be met from Exceptional Learning Support (ELS).

²³ Needs related to the apprentice's intrinsic ability.

²⁴ Needs related to emotional, behavioural or motivational difficulties.

123. ALS must not be claimed for apprentices on Higher Apprenticeships. For an Advanced Level apprentice, ALS can only be claimed for Learners where there is evidence that they have a specific learning difficulty such as dyslexia.
124. Providers must have evidence of the ALS they have given to each apprentice in respect of whom a claim for ALS has been made. The focus for audit will be on naturally occurring evidence generated by the Provider's process.
125. Funding is made available to Providers to support additional activity with apprentices where they are assessed as being below Level 1 literacy and/or numeracy. It must not be used as additional funding for apprentices on Key/Functional Skills where no additional support is required.

Assessment for Additional Learning Needs in Apprenticeships (ALN)

126. For Learners following an Advanced Level Apprenticeship there will need to be additional evidence of a specific learning difficulty.
127. Where some apprentices have ALN that are over and above those of literacy and numeracy and relate to other needs, Providers must demonstrate that despite the initial assessment not indicating a need, they have other evidence that confirms there is a need for ALN support.

Assessment for Additional Social Needs (ASN)

128. The assessment process used by Providers must consider an apprentice's social support needs. Providers must identify the barriers to learning. If there is clear evidence that the apprentice has needs relating to two or more of the ten barriers defined at [Annex 2](#) then the apprentice qualifies for ASN.

Meeting and Reviewing Identified Needs

129. Having identified ALN or ASN, the Provider must plan and deliver a programme of activity designed to address the apprentice's needs. In the case of ALN this must include addressing literacy and numeracy skills needs where these affect the apprentice's ability to achieve their primary learning goal.
130. It is the Provider's responsibility to demonstrate how the outcomes of the assessment process have informed the development of an appropriate ALS plan for each apprentice.

ALN/ASN Funding

131. Where an apprentice is assessed as requiring support due to ALN or ASN or both, the Agency will fund activity on top of the monthly payment for each month the apprentice stays in learning between the Learner's start date and planned end date, providing the following conditions are met:
- 131.1. the assessment has been conducted in line with these rules
 - 131.2. the Provider holds evidence of the assessment of the needs
 - 131.3. a planned programme of additional support is included in the apprentice's Learning Agreement
 - 131.4. the programme of activity is being delivered and evidenced
 - 131.5. the arrangements are reviewed a minimum of once every 12 weeks.
132. Where the ALN/ASN status is recognised after the start date or ceases before the planned end date, Providers must close the current learning aims to which ALN and/or ASN is or is not attached and open a new aim. The percentage of funding remaining for the apprentice is to be calculated and entered on to the ILR in field 'Proportion of funding remaining'. Refer to the ILR Provider support manual for further information about recording changes in ALN/ASN status for a learner.

Exceptional Learning Support in Apprenticeships

It is recognised that certain apprentices, who have been diagnostically assessed, need additional support from their Provider to access or continue in learning, but the payment of a monthly fee through ALS is deemed inappropriate. In the majority of cases this is because the apprentice only needs support for a short amount of time and the costs are greater than a monthly payment would fund. Providers can claim for Brief Episode Exceptional Learning Support (ELS) costs where this is appropriate.

133. In determining whether ELS must be used, the Provider must estimate the total overall costs and the length of time over which the support will be provided. The maximum length of time that ELS will fund brief episode support costs is three months.
134. The Agency will not fund the cost of assessment and it must not be included in any claim for funding.
135. Providers must manage funds within their allocation and Maximum Contract Value (MCV). Where a Provider has anticipated that the funds required are in excess of their allocation and MCV, the Provider must get agreement in writing from their Agency Relationship Manager as soon as possible.

ALS Top-Up in Apprenticeships

The ability to top up ALS monthly payments will continue as in previous years. This is where the monthly ALS payments are insufficient to meet the support needs of an individual or that support is needed over more than three months but is greater than the monthly payments. It may also be used where learning continues past the planned end date and the Learner still requires additional support.

136. Providers must take into account the amount of funding already received compared to the level of actual support given up to that point before ELS is claimed.

Learners with Learning Difficulties and/or Disabilities (LLDD)

Investing in further education (FE) and skills training for Learners with learning difficulties and/or disabilities (LLDD) remains a priority for the Agency. This means making sure the right level of support is available to ensure barriers to access are removed and Learners are able to maximise their potential.

- The Agency is responsible for securing education for individuals aged 19 years or more, including learners aged 19-24 with ALS needs up to and including £5,500 in year. This will include individuals who have a Learning Difficulty Assessment (LDA) where the Agency is funding on behalf of the EFA which has the legal responsibility for funding individuals up to 25 with an LDA. The EFA will fund on behalf of the Agency all learners aged 19 or more but not 25 years of age with ALS needs above £5,500 in year who do not have an LDA.
- The duties of local authorities, the EFA and the Agency are not affected by this arrangement which is being used solely to allocate funds to Providers.

137. To assist with removing the current 'proxy' funding arrangement between the Agency and the EFA, ILR field 'Additional learning support cost' must be completed by Providers with Learners who have a Section 139A²⁵ or 140 LDA.

138. Adults with LLDD may have their personalised learning programme created from provision that is non-regulated when no suitable alternative exists on a regulated framework.

²⁵ Section 139A replaces Section 140 of the Learning and Skills Act 2000 and places local authorities under a duty to arrange for a Learning Difficulty Assessment (LDA) to be conducted for all persons in respect of whom they maintain a statement of Special Educational Needs and who they expect to leave school at 16-19 to receive post-16 education, training or higher education.

Evidence Requirements

In addition to the Learning Agreement.

Reference paragraphs 122.2 to 122.4 and 135 – Copy of Correspondence between the Provider and Relationship Manager. This is acceptable as an e mail from the Provider's Relationship Manager on behalf of the Agency.

Section 3 – Programmes

European Social Fund (ESF)

All Providers that receive ESF from the Agency for their provision are required to comply with these rules. This document provides key information to support the delivery of ESF, in particular where the rules differ or supplement the normal Agency rules, and should be read in its entirety and alongside:

- the offer pack or tender specification the contract was awarded to deliver
- the Funding Agreement, ESF rules and regulations applied by the European Social Fund Division (ESFD) in how they relate to the ESF programme in England. The [ESF Manual](#) is subject to updates during the life of the programme and the Agency is responsible for updating Providers on any revisions.

In line with the ESF Manual, individuals who are supported through ESF activity procured through the Agency are referred to as 'participants'.

139. For stand-alone ESF provision, the maximum funding available per participant is set out in the main Funding Agreement.

140. Funding for delivery is triggered by the mandatory ILR returns and the completion of a Delivery Statement through the Provider Gateway. The Funding Agreement sets out the deliverables, how payment is triggered for each of them and the associated evidence rules.

Eligibility

141. ESF rules and regulations require participants to be ordinarily resident and able to work in the UK to be eligible for ESF assistance.

142. Workers who have come to the UK with valid work permits are eligible for ESF co-financing assistance without the normal three-year waiting period.

143. Asylum seekers eligible for Agency funding as at [Annex 1](#) will not usually be eligible for ESF co-financing funding as they will not have the right to work in the UK.

144. To be supported by ESF by the Agency, all participants have to be [eligible for Agency](#) funding first.

145. Specific project eligibility guidance is defined in the main terms and conditions document which takes precedence over this document where there is any inconsistency between the two. However, the following

sections give detail on some areas applicable to all Agency ESF provision.

146. Documentary evidence of a participant's eligibility must be checked prior to them starting the programme²⁶
147. Eligibility for ESF is determined by reference to a participant's status on the day they commence the project. If a participant progresses onto or changes to another ESF-funded project, their eligibility is based on their status when they start the new project.

Activity

148. The eligible activity under ESF provision is subject to the rules of the offer pack or tender specification the contract was awarded to deliver and is clarified in the contract.

Age

149. Participants in ESF are defined by their actual age at the time of starting their programme of learning. Providers must refer to the funding agreement for the age range eligible for a specific contract.

Participants Starting on Activity

150. All participants starting on ESF-funded activity must undertake individual assessment and planning activities prior to the start of the main activity/qualification.
151. This activity will include Information, Advice and Guidance (IAG), basic skills assessments, capability assessments, learning plans and inductions.
152. It is essential that Providers identify any skills needs of participants and that they either put in place provision to support those participants to improve; or refer those participants to other appropriate provision.

²⁶ Geographical Eligibility

- Providers are reminded that Wales, Scotland and Northern Ireland all have separate ESF programmes and individuals resident outside England are not eligible to be supported.
- For activity funded from the Convergence Objective, or the ring-fenced Phasing In funding, the activities must take place within the appropriate Convergence or Phasing In area.
- Beyond these rules, geographical eligibility for a particular ESF project will be subject to the rules of the contract.

153. All participants must be assessed before or immediately upon entry to ESF provision. Providers must ensure that the information gained as a result of the assessment appropriately identifies the needs of the participant. The results of the assessment must include details of previous competence and must be recorded and used to inform the content of an individual learning plan (ILP) as part of the Learning Agreement.
154. An ILP must be produced for each participant. 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 participant's learning styles and abilities. The ILP must reflect the outcomes of both the Basic Skills assessment and the initial assessment. It must also contain the learning objectives of the programme that participants are following and state how these will be achieved. The Provider must give a copy of the ILP to the participant at the start of learning, as part of the Learning Agreement. The Learning Agreement must be signed by the participant at the start of the learning activity.
155. All participants must receive a comprehensive induction that covers, as a minimum, the following:
 - 155.1. programme content, delivery and assessment arrangements including contact details of the Provider
 - 155.2. how the programme is funded through ESF
 - 155.3. equality and diversity
 - 155.4. health and safety
 - 155.5. disciplinary, appeal and grievance procedures
 - 155.6. terms and conditions of learning.

Additional Learning Support, Exceptional Learner Support and Learner Support

156. ESF Funding Agreements have the same support facilities as mainstream Funding Agreements; however the cost of these services will be built into the unit price of the deliverables used for the contract.

Project Closure

157. All services must be completed by the date specified in the Funding Agreement and all evidence of achievement secured by the final return, no later than three months after the stipulated end date. The contract will be closed against the final version of the funding agreement.
158. All original documentary evidence relating to invoice(s), management information and all other documents necessary to demonstrate the delivery of the services must be retained until at least 31 December

2022. An archiving declaration will be required detailing where documents will be stored and who will be responsible for their maintenance.
- 158.1. All participant data must be accurate and up to date, and all errors must be corrected. Where necessary, all delivery statements for the services must be completed and processed correctly on the Provider Gateway. The Agency will allow three months after the end date of the services set out in the Funding Agreement for final data cleansing to be concluded.
159. The outcomes of audits conducted by the Agency will need to be taken into account in reconciliation of the services, ensuring that any errors found from the audits have been rectified and/or all required actions have been completed. This information will have been provided within the Provider Financial Assurance (PFA) report that the Agency sent out after the audit. Providers need to be aware that the services may still be audited by the Department for Work and Pensions (DWP) or the European Community (EC) after the delivery has been finalised.
160. As required by the Funding Agreement, Providers will be required to submit a final evaluation of the services. The evaluation will include:
- 160.1. an overview of the service delivery
 - 160.2. publicity and communications carried out for the services
 - 160.3. impact on the cross-cutting themes of equal opportunities (participant breakdown), sustainability and health (London only)
 - 160.4. the fit to local needs
 - 160.5. value for money
 - 160.6. lessons learnt
 - 160.7. progression and exit strategy.

Priority 1, 4 and Worklessness

161. The eligible groups of workless individuals will be set out in the main Funding Agreement.
162. For the purposes of ESF, 'unemployed' means that a participant:
- 162.1. either 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 and
 - 162.2. is available to start work and
 - 162.3. is looking for work, or waiting to start a job that has already been obtained.

163. For the purposes of ESF, 'economically inactive' means that a participant is not employed and does not satisfy the criteria for unemployment. People who are economically inactive must be:
- 163.1. of working age
 - 163.2. not employed
 - 163.3. not self-employed and
 - 163.4. not actively seeking work.
164. For the purposes of ESF, 'full-time education or training' means that a participant is:
- 164.1. in full-time education either in a school, an FE Institution or an HE Institution or
 - 164.2. in full-time work-based learning (including Apprenticeships, other Workplace Learning or Foundation Learning) or
 - 164.3. other education or training (including independent colleges or training centres or receiving training or education but not currently employed).
165. For the purposes of ESF '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 education or training that does not meet these minimum time rules.
166. For the purposes of ESF, 'NEET' means that a participant is aged 14-19 and not in:
- 166.1. full-time education either in a school, an FE Institution or an HE institution or
 - 166.2. work-based learning (including Apprenticeships) or
 - 166.3. other education or training (including independent colleges or training centres or receiving training or part-time education but not currently employed) or
 - 166.4. employment.
167. For the purposes of ESF, 'at risk of becoming NEET' means that a participant is aged 14-19 and has been identified as being at risk of becoming NEET by an external referral agency such as the Connexions services or the youth offending team.

Priority 2, 5 and Employment

168. Participants supported by Priority 2 or 5 ESF provision must be employed, unless otherwise stated in the contract.

169. For the purposes of ESF, 'employed' means that the participant:
- 169.1. 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
 - 169.2. is employed for eight hours per week or more – participants with an irregular working pattern will be viewed using a four-week average.
170. This includes:
- 170.1. employees (people who work for a company and have their National Insurance contributions paid directly from their wages) and
 - 170.2. self-employed (someone who works for themselves and generally pay their National Insurance Contributions themselves) – self-employed participants must be registered with HM Revenue and Customs as being self-employed.
171. Priority 2 and 5 can support participants 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.

Publicity, Cross-Cutting Themes and Evaluation

172. Providers must comply with the Agency's identity rules on all promotional materials or activities relating to delivery of the contract, as set out in the Agency's identity guidelines website.
173. In addition, all ESF Providers and their subcontractors must comply with ESF publicity rules, which are summarised below. Adherence to these rules is a prime focus of audit activity by the Agency, ESFD, European Court of Auditors and other bodies engaged in audit activity.
174. The ESF logo and references to financial support from the ESF 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:
- 174.1. all information and publicity materials, including websites, e-communications, correspondence and literature used by participants
 - 174.2. advertisements, press releases and other media-targeted materials

- 174.3. all documents that are used with participants and partners, for example, enrolment documents, Individual Learner Plans (ILPs), attendance records, internal certificates.
175. It is essential that ESF plaques are prominently displayed at the Provider's and subcontractors' premises. Plaques are available through the Agency and any Provider needing additional plaques should contact their Agency Relationship Manager.
176. Providers must publicise their ESF-funded activity as widely as possible, which, as a minimum includes:
 - 176.1. 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
 - 176.2. using the ESF Publicity Toolkit to generate quality press releases, case studies and undertake media interviews to ensure compliance.
177. Providers must inform their Agency Relationship Manager of all planned and undertaken publicity activity at monitoring meetings.
178. Providers must provide an update of activity against the communication plan in evaluation reports.
179. For further guidance and clarification, Providers should refer to the funding agreement and the ESF in England [website](#).

Gender Equality and Equal Opportunities

180. Providers must ensure that they actively promote equal opportunities in line with their public duty²⁷ under domestic legislation as well as prevent any discrimination based on a protected characteristic as defined in the Equality Act 2010.
181. Providers must have an equal opportunities policy in place. The Agency expects providers to use the equal opportunities policy evaluation toolkit available on the ESF Works website.
182. Providers must participate in activities to document, review and improve their current equal opportunities practices and will be monitored on their

²⁷ Guidance and information on gender equality and equal opportunities, including the national ESF Gender Equality and Equal Opportunities Mainstreaming Plan, can be found on the [ESF in England website](#) and within the [Skills Funding Agency Single Equality Scheme](#).

delivery arrangements as part of the contract management arrangements.

Sustainable Development

183. Providers must have a sustainable development policy in place²⁸. The Agency expects Providers to use the [sustainable development policy evaluation toolkit](#) and the sustainability resources available on the [ESF in England website](#). Actions arising are to be recorded in a strategy document/action plan and progress towards these actions will be measured at monitoring visits. The Provider is encouraged to benchmark against peer organisations to further improve performance and to enable best practice to be shared.
184. Providers are also required to comply with all relevant environmental laws and regulations relating to delivery of the contract.

Health (London only)

185. Providers delivering ESF provision under the London Co-financing Plan are required to address the regional cross-cutting theme of health.²⁹

Provision Supporting NEETs Unemployed and Redundancy (14 – 19)

186. The rules set out in this document apply to all Funding Agreements awarded to deliver such provision unless otherwise stated in the contract.

Evaluation and Annual Reporting

187. To support reporting on the services, Providers must, on request, be able to provide the Agency with examples of:
- 187.1. measures taken to provide information on and publicise the services

²⁸ Guidance and information on sustainable development, including the national ESF Sustainable Development Mainstreaming Plan, can be found on the [ESF in England website](#).

²⁹ A health performance management framework (PMF) and accompanying guidance has been developed to support London's ESF providers to incorporate and report on progress with this theme. The PMF, guidance and appendices are available from the health cross-cutting theme webpage on the [Greater London Authority's website](#).

Providers must complete the PMF within the first three months of starting delivery of their project and send it to the Agency for review. The Agency will monitor providers against their self-assessment annually to identify progress and discuss further development. In particular, providers must meet their obligations under this theme:

- Complete the PMF and action plan
- Undertake ongoing monitoring against the PMF assessment
- Evaluation of impact.

- 187.2. the implementation of the cross-cutting themes of equal opportunities and gender equality and sustainable development and engagement with such groups and
 - 187.3. case studies of good practice projects.
188. Contracted Providers must complete a Project Evaluation Report. This report will cover the number of participants helped, their backgrounds, the support measures provided and the qualifications gained. The report must also provide, but not be limited to, an overview of the complete project, details on project sustainability post-ESF funding and include 'good news' stories and case studies.
189. Providers must co-operate with any Programme-level evaluation projects led by ESFD or their appointed consultants who will make direct contact with Providers.

State Aid

190. State Aid is the use of funding from a public body to provide support in a commercial enterprise that could potentially distort competition and affect trade in the European Union. ESF learning provision in Priority 2 and Priority 5 delivered to meet the training needs of the employer, as opposed to those of an individual employee, can be deemed State Aid and recoverable from the employer. To avoid recovery, Providers must comply with the EC State Aid regulations for *de minimis* and Training Aid.
191. Under *de minimis* rules for State Aid, enterprises must not receive more than €200,000 financial support from public or publicly-funded sources in a rolling period of three financial years. Providers must demonstrate that they have checked the level of financial support from public sources to any enterprise assisted under ESF contracts.
192. If an enterprise breaches the €200,000 limit for *de minimis* through ESF provision, Providers can deliver ESF provision via Training Aid, where the enterprise makes a contribution to the cost of the training.

Evidence Requirements

In addition to the Learning Agreement:

Reference paragraph 141 - Evidence of conducting an assessment that the participant is both legally resident in the UK and able to take paid employment in a EU Member State, plus confirmation by the participant that the information supplied and recorded is correct and accurate.

Reference paragraph 142 - Evidence of conducting an assessment that the participant coming to the UK with a valid work permit is eligible, plus confirmation by the participant that the information supplied and recorded is correct and accurate.

Reference paragraph 146 - Evidence of conducting an assessment that the participant is resident in England and meets the geographical eligibility for the ESF contract, plus confirmation by the participant that the information supplied and recorded is correct and accurate.

Reference paragraph 147 - Evidence of conducting an assessment of the participant's employment status, plus confirmation by the participant that the information supplied and recorded is correct and accurate.

Reference paragraph 148 - Evidence of the Provider's achievement of project outputs and outcomes (planned targets) against key funding milestones and elements, as specified in the ESF contract delivery annexes.

Reference paragraph 149 - Evidence of conducting an assessment that the participant is of an eligible age for the ESF contract plus confirmation by the participant that the information supplied and recorded is correct and accurate.

Reference paragraph 153 - Evidence to prove the Provider's achievement of project outputs and outcomes (planned targets) against key funding milestones and elements, as specified in the ESF contract delivery annexes.

Reference paragraph 154 - Evidence to prove the Provider's achievement of project outputs and outcomes (planned targets) against key funding milestones and elements, as specified in the ESF contract delivery annexes.

Reference paragraph 155 - Evidence to prove the Provider's achievement of project outputs and outcomes (planned targets) against key funding milestones and elements, as specified in the ESF contract delivery annexes.

Reference paragraph 157 - Evidence to prove the Provider's achievement of project outputs and outcomes (planned targets) against key funding milestones and elements, as specified in the ESF contract delivery annexes.

Reference paragraph 158 - Signed declaration at contract closure that states the arrangements in place to store and retrieve all documents necessary to

verify the ESF provision delivered by the Provider and its subcontractors until at least 31 December 2022.

Reference paragraph 158.1 -Complete and error-free ILR data and delivery statements submitted to the Agency within three months of project closure.

Reference paragraph 160 - A completed standard narrative project closure report citing project records, narrative reports, general knowledge and experience of delivering the project. A separate participant data statistics report based on data obtained from participant records.

Reference paragraph 161 - The Provider must refer to its Funding Agreement for specific criteria.

Reference paragraph 174 -Copies of internal and external documents describing, recording or publicising ESF projects display the ESF logo and a statement that the project activity is part-financed by the European Social Fund.

Reference paragraph 175 -ESF plaques must be visible to all staff and participants in a prominent place within in the Provider's premises.

Reference paragraph 176 -Evidence for the production and use/publication of a communications plan and publicity materials that comply with ESF publicity and logo requirements.

Reference paragraph 177 - Correspondence with the Skills Funding Agency of all planned and undertaken publicity activity at monitoring meetings.

Reference paragraph 178 - Project evaluation reports and supporting documentation with inclusions of updates to ESF communication plans.

Reference paragraph 180 - Evidence of consulting both the ESF Gender Equality and Equal Opportunities Mainstreaming Plan (from the ESF for England website) and the Skills Funding Agency's Single Equality Scheme when actively promoting equal opportunities.

Reference paragraph 181 - Provider's equal opportunities policy produced using the equal opportunities policy evaluation toolkit from the ESF Works website.

Reference paragraph 182 -Evidence to show Provider participation in activities to document, review and improve its equal opportunities policy and the monitoring of delivery arrangements by the Relationship Manager within the Skills Funding Agency.

Reference paragraph 183 -Provider's sustainable development policy produced using the sustainable development policy evaluation toolkit from the ESF Works website.

Reference paragraph 185 -Completed Provider health performance management framework and action plan, produced using the guidance from the Greater London Authority's website. This applies to providers delivering within the London Co-financing Plan Region only.

Reference paragraph 188 - Project evaluation reports and supporting documentation.

Reference paragraph 191 -The Provider must be able to prove that it has regularly performed a check of an enterprise's financial support from public sources, where the enterprise's employees are potential participants under an ESF contract. The Provider must obtain a completed *de minimis* declaration form from affected enterprises each financial year, to ensure each enterprise does not breach the €200,000 limit. Template forms are available from the Provider's Relationship Manager within the Skills Funding Agency.

Reference paragraph 192 - Where Training Aid is applied, Providers must obtain a completed ESF Training Aid declaration form from each affected enterprise (this is different and separate from the declaration described at rule 52). Declarations from enterprises must detail the training activity undertaken, the agreed participant outcomes and the intended training dates. Template forms are available from the Provider's Relationship Manager within the Skills Funding Agency.

Community Learning (CL)

The purpose of publicly-funded Community Learning is to:

- maximise access to community learning for adults, bringing new opportunities and improving lives, whatever people's circumstances
- promote social renewal by bringing local communities together to experience the joy of learning and the pride that comes with achievement
- maximise the impact of community learning on the social and economic well-being of individuals, families and communities.

193. CL provision and delivery must align with the following objectives from New Challenges, New Chances Further Education and Skills System Reform Plan: building a world class skills system (page 14):

193.1. focus public funding on people who are disadvantaged and least likely to participate, including in rural areas and people on low incomes with low skills

193.2. collect fee income from people who can afford to pay and use this, where possible, to extend provision to those who cannot

193.3. widen participation and transform people's destinies by supporting progression relevant to personal circumstances

193.4. develop stronger communities, with more self-sufficient, connected and proactive citizens

193.5. commission, deliver and support learning in ways that contribute directly to these objectives.

Delivery of Community Learning in England is achieved through the following programme elements:

- Personal and Community Development Learning (PCDL)
- Family English, Maths and Language (FEML)
- Wider Family Learning (WFL)
- Neighbourhood Learning in Deprived Communities (NLDC).

Providers have flexibility in how they use their allocations to deliver across the four programme areas. Providers are free to decide how they meet their funding commitments and how they respond to the needs of their local communities, as long as a balanced offer is delivered.

Providers must develop and implement a policy on fee income/charging and seek to collect fees from those adults who can afford to pay not only to widen access to community learning opportunities but also to ensure that the maximum amount of public funding can be focussed on disadvantaged Learners.

194. Providers must:

- 194.1. not use the Community Learning budget for courses otherwise eligible through the Adult Skills Budget. There are exceptions for FEML and WFL only where regulated provision can be offered to family learners where non-regulated provision is inappropriate.
- 194.2. focus Community Learning funding on supporting and engaging with disadvantaged Learners and groups and creating progression pathways towards the wider learning continuum, including, but not limited to skills-focused learning and employment
- 194.3. ensure that all adult Learners meet the eligibility criteria set out at paragraphs 1 to 32 at Annex 1
- 194.4. return annually a 'Use of Community Learning Funds' statement, for appropriate local authorities, and FE colleges in receipt of Community Learning funding. The 2012/13 Use of Funds Circular is available on the [Agency website](#).

Personal and Community Development Learning (PCDL)

Personal and Community Development Learning (PCDL) is learning for personal and community development, cultural enrichment, intellectual or creative stimulation and for enjoyment. In most cases there would be no formal qualification outcome attached to such learning.

Colleges of further education receive 'PCDL' funding from the Community Learning Budget which is referred to as PCDL in FE funding. This funding should be treated in the same way as PCDL provision delivered by local authority Providers.

195. Providers must encourage progression (in its widest sense) and have systems in place to signpost Learners to further learning as appropriate. However, there is no requirement that Learners must progress to other learning or achieve accredited outcomes.

Family English, Maths and Language

Family English, Maths and Language (FEML) is provision designed for mothers and fathers³⁰ with Basic Skills needs and describes programmes for families where English is not the primary language at home.

These programmes aim to:

- improve the English, Maths and language skills of mothers and fathers³⁰ and their ability to help their children
- improve children's acquisition of English, Maths and language skills
- provide information and communication technology (ICT) courses.

Family English, Maths and Language Funding Rules

196. Providers must ensure that all Learners have:

- 196.1. initial and diagnostic assessment using appropriate tools
- 196.2. an individual learning plan
- 196.3. regular feedback and
- 196.4. opportunities to take recognised national qualifications at the appropriate level and guidance to help plan their progression.

197. ESOL courses must not be the sole focus of these programmes.

198. FEML programmes must not be delivered to Learners who have already achieved both a Maths and English qualification at Level 2. However, a Learner with only Maths, or English, at Level 2 will be eligible.

199. Providers must collect data via the [Supplementary Learner Record A](#) for Child Learners on Family Learning and return the form to familyprogrammes@SkillsFundingAgency.gov.uk

200. Providers must not use the ILR to record data on children participating in family programmes. The only time data on under-16s participating in family learning should be recorded on the ILR is where they are the parent on a family programme. This is an 'exceptional case' and Providers must keep clear documentation to prove this for audit purposes.

³⁰ To be consistent with Department for Education terminology, adults on family programmes (FEML and WFL) will be referred to as 'mothers' and 'fathers' rather than parents. The term adult or learner has been used throughout but it is assumed that this includes mothers, fathers, carers, grandparents – whoever has a key caring role for the child.

Wider Family Learning (WFL)

Wider Family Learning (WFL) provision is designed to support different generations of family members to learn together. It has the aims of:

- developing the skills and knowledge of both the mother and/or father³⁰ and child participants
- enabling mothers and/or fathers³⁰ to be more active in the support of their children's learning and development and to understand the impact of that support.

201. WFL programmes must include:

- 201.1. initial assessment using appropriate tools
- 201.2. signposting for mothers and/or fathers³⁰ only to cover learning on how children learn and the value a family can add by supporting that learning
- 201.3. signposting Learners to appropriate provision if their assessment reveals a basic skills need
- 201.4. an individual learning plan for mothers and/or fathers³⁰ and child including regular reviews and guidance to help plan progression; and
- 201.5. access to appropriate and recognised accreditation for those who want it.

202. Basic Skills must not be the primary focus of WFL.

203. Providers must collect data via the [Supplementary Learner Record A](#) for Child Learners on Family Learning and return the form to familyprogrammes@SkillsFundingAgency.gov.uk. Providers must not use the ILR to record data on children participating in family programmes on the ILR. The only time data on under-16s participating in family learning should be recorded on the ILR is where they are the parent on a family programme. This is an 'exceptional case' and Providers must keep clear documentation to prove this for audit purposes.

Neighbourhood Learning in Deprived Communities (NLDC)

Neighbourhood Learning in Deprived Communities (NLDC) is designed to support local organisations in the Voluntary and Community Sector (VCS), and other third-sector organisations, to develop their capacity to deliver learning opportunities for the residents of disadvantaged neighbourhoods. It makes a contribution to neighbourhood renewal through community-based (often non-formal) learning.

NLDC aims to support a wide network of new and existing VCS Providers and to build and sustain their capacity to offer appropriate learning – with or without future recourse to public funding through the Community Learning budget.

204. NLDC programmes must embrace one or more of the following:

- 204.1. widen participation and encourage progression, especially to Level 2
- 204.2. broaden and improve the quality of the learning Provider base by introducing and applying your own minimum standards - including small and/or voluntary, community and faith organisations
- 204.3. improve the local environment through the provision of learning to promote both social renewal and active citizenship skills and
- 204.4. deliver pre-employment support and to enable adults to move into sustained employment.

205. NLDC projects must secure funding from other sources to use alongside NLDC public funding. Organisations funded through NLDC must not rely on this funding for their long-term survival.

206. Providers must not submit a paper return if submitting NLDC data by an ILR. Paper returns are only required from NLDC Providers who do not submit an ILR. Learner numbers should be cumulative at each point and build upon the numbers included in any previous return. The [NLDC paper return](#) must be sent by email to Nldc.returns@skillsfundingagency.bis.gov.uk.

Evidence Requirements

In addition to the Learning Agreement:

Reference paragraph 194.4 - Completed Funding and Expenditure Statement for Community Learning and Associated Funding for 2012/13.

Reference paragraphs 199 and 203 - Completed Supplementary Learner Record A, stating child learners engaged in 2012/13 for Family English, Maths and Language.

Reference paragraph 206 - Completed Neighbourhood Learning in Deprived Communities paper return (if not returning via electronic ILR).

Discretionary Learner Support (DLS)

Discretionary Learner Support (DLS) is intended to support Learners with a specific financial hardship that prevents them from participating in learning. Before making an award the Learner's specific financial hardship need must be identified within the following areas:

- 19+ hardship
- 20+ childcare
- Residential Access Fund.

DLS is available to support Learners studying adult further education and skills in colleges, external institutions (EIs), higher education institutions (HEIs), training organisations delivering classroom provision and sixth form colleges. Learners who are eligible for support are not automatically entitled to it.

Administration

207. Providers can use up to five per cent of their DLS allocation towards administrative costs. Where it has been agreed that a large central Provider will administer the funding for one or more other Providers, the central Provider will also be able to use up to five per cent of each of the other Providers' total DLS funds for administration instead of the individual Providers using it. Providers' bank charges must not be set against their DLS allocation.

208. Discretionary Learner Support funding is provided by the Department for Business, Innovation and Skills. The 16-19 Bursary Fund is provided by the Department for Education. Therefore there must be no virement of funds between 16-19 Bursary Fund and 19+ Learner Support Fund.

209. Providers must:

- 209.1. record and report on allocations for each of the three schemes. DLS will be allocated in the three discrete funding schemes (19+ Hardship, 20+ Childcare, Residential Access Fund). Providers have the freedom to vire funding between the three schemes
- 209.2. have in place criteria for how they will administer and distribute their funds. The criteria must clearly reflect the principles of equality and diversity and be available to Learners and the Agency upon request

- 209.3. ensure that Learners meet the Learner eligibility criteria at Annex 1
 - 209.4. complete the appropriate Discretionary Support Funds (DSF) codes in the Learner funding and monitoring fields in the ILR. Incomplete or non-recording will affect future DLS allocations
 - 209.5. complete the required data monitoring and financial reconciliation forms by the due date. Otherwise the Agency will deem the allocation of funding to be unspent and reserves the right to recover such funding in the next payment run. This will impact future allocation of discretionary funds. Where data is incomplete, Providers will be asked to revise and resend the required return
 - 209.6. complete an 'In-year' Funding Forecast in February
 - 209.7. complete a Final Reconciliation in September for the previous funding year
 - 209.8. understand that any unspent funds will be recovered and that any over delivery will be paid at the discretion of the Agency.
210. Providers must not use DLS as a means of support where the Learner is:
- 210.1. eligible and it is more appropriate for them to receive support through Additional Learning Support for the same purpose
 - 210.2. already receiving travel or expenses funding through DWP
 - 210.3. in prison or a young offender institution or who has been released on temporary licence (ROTL), for example, on day release
 - 210.4. undertaking higher education courses, waged Apprenticeships or provision with learning aims that are identified as wholly funded from other sources. Learners participating in HE access courses or courses of HE falling within paragraph 1(g) or 1(h) of schedule 6 to the Education Reform Act 1998 will be eligible to apply for DLS funding, providing the courses are funded through the Adult Skills Budget.
211. Providers must not use the funding to pay weekly attendance allowances, achievement or attendance bonuses or to make awards solely based on income without identifying whether there is any specific financial need.

212. As long as an asylum seeker has not had their application refused then learner support in the form of course related books, equipment or a travel pass may be provided. But under no circumstances should a Provider give learner support in the form of cash to an asylum seeker.

Consideration of Other Publicly-Funded Benefits

213. When making decisions about awarding public funds, Providers must take into account the availability of financial support for Learners (including support funding through DWP and Jobcentre Plus (JCP) – for example, JCP work programme). Further details can be found at [Annex 1](#).

19+ Hardship

19+ Hardship funding is provided to increase access, retention and achievement.

214. Hardship funding must only be used for:

214.1. course-related costs including: course trips, books and equipment; for support with domestic emergencies; emergency accommodation

214.2. fees (exceptionally). A maximum 20 per cent of a Provider's 19+ hardship allocation can be used for this purpose

214.3. transport - but only in exceptional circumstances and Providers must keep records showing the amount of support provided and why that support was necessary. Providers must not use the fund to make a block contribution to post-16 Transport Partnerships or routinely fund transport costs that are covered in the local authority's statutory duty for Learners of sixth form age

214.4. examination fees

214.5. accreditation fees/professional membership fees and any fees/charges payable to external bodies

214.6. Provider registration fees

214.7. support provided to third parties, or through the provision of items or services or in cash direct to the Learner, and can be in the form of a grant or repayable loan.

215. Providers must decide in each case, with reference to the incidence of expenditure:

215.1. whether payments would most appropriately be made as a grant or as a loan

- 215.2. whether payments would most appropriately be made as a lump sum or in (regular) instalments
- 215.3. whether conditions should be attached to payments for example, attendance agreements.

20+ Childcare

20+ Childcare provides targeted childcare support for Learners who are at risk of not participating or remaining in learning as a result of barriers to access childcare provision.

216. Childcare funding must be paid only to fund childcare with a Provider who is Ofsted registered.

217. Childcare funding must not be:

- 217.1. used to fund informal childcare, such as that provided by a relative
- 217.2. used by the Provider to finance the setting up of childcare places, neither must they be used to make a financial contribution to the costs of a crèche
- 217.3. used for 19-year-old Learners who must be directed to the EFA Care to Learn Programme. DLS must not be used to top up childcare payments for those in receipt of Care to Learn.

Residential Access Fund

Residential Access Funds provide support to Learners attending specialist provision which requires a residential element or to support Learners who are unable to access provision locally. The fund can help Learners reside in private accommodation or in accommodation owned or managed by the Provider.

218. Providers must:

- 218.1. set out clearly the criteria and procedures for considering and agreeing applications for support from their residential funds
- 218.2. make payments to Learners. The maximum payment allowance per annum is £4,079 within London and £3,458 outside London

218.3. only by exception pay for travel cost. Priority must be given to Learners who require accommodation.

219. Residential Support Scheme adults that are continuing Learners in Funding Year 2012/13 only will continue to be supported through the nationally managed Residential Support Scheme.

Learner Support in Apprenticeships

220. An apprentice must not contribute towards the cost of learning. It is expected that employed apprentices, where they are required to attend 'off-the-job' learning, will have their expenses paid for by their employer.

221. The Provider must consider that those on Access to Apprenticeships have reasonable expenses met in full where these are needed to overcome barriers to learning.

222. Providers must obtain agreement from their Agency Relationship Manager if there is any doubt about whether certain types of expenses could be reimbursed by the Agency. For example, the apprentice's meals will not be paid for or reimbursed to the apprentice.

223. Employers and Providers must take account of apprentices' likely transport arrangements when planning off-the-job training.

224. The costs of expenses for apprentices met by the Agency are claimed on the Training Provider Statement (TPS) in arrears. All costs must be claimed during the funding year in which they are incurred. The Agency will not refund claims to Providers which were paid to apprentices in previous funding years and not claimed within the prescribed timescales.

Evidence Requirements

In addition to the Learning Agreement:

Reference paragraphs - 207 to 208, 209.1. and 209.7 - Final Reconciliation Form returned to the Agency

Reference paragraph 209.5 - Final Reconciliation Forms and in-year funding forecast returned to the Agency

Reference paragraph 209.6 –In-year funding forecast returned to the Agency

Contracting and Subcontracting³¹

The Chief Executive of Skills Funding only funds Providers that have a current Funding Agreement. There are two ways an organisation can have a direct legal relationship with the Chief Executive:

- as a single legal entity (college, private or public organisation)
- or with other legal entities on a joint and several basis.

The Register of Training Organisations has replaced the Approved College and Training Organisation Register (ACTOR). The Register is a single register of colleges and training organisations that have successfully completed the Agency's Due Diligence Assurance Gateway process.

225. In order to receive a contract from the Chief Executive and be invited to tender for future education and training services, Providers must successfully complete the Register of Training Organisations' Due Diligence Assurance Gateway. Details of this can be found [here](#).
226. All lead Providers and subcontractors must register on the UK Register of Learning Providers (UKRLP) in order to be eligible to receive funding, either directly or through a subcontracting arrangement.
227. All organisations must ensure when returning information to the Agency that their name is exactly the same as it appears on UKRLP. This also applies to subcontractors.

Subcontracting

Subcontracting significant levels of provision can increase levels of risk. The Chief Executive allows subcontracting to one level. Where Providers wish to subcontract to a second level, Providers must have approval from the Agency in writing. The Chief Executive reserves the right to refuse to permit a Provider to subcontract; at all or to specific subcontractors.

228. The Provider must seek the approval of the Chief Executive where it has not previously used subcontractors and wishes to do so. This approval must be sought before awarding any services under this contract to a subcontractor that is new to the Provider.
229. The Provider retains ultimate responsibility for all aspects of the provision it has been contracted to deliver including subcontracting. The Provider must have a legally binding contract with each of its subcontractors. All

³¹ Arrangements vary for large employers funded to deliver training to their own employees, which reflect the outcome of the recent Large Employer Simplification project. If you fall into this category, please contact the National Apprenticeship Service for advice.

subcontracted provision is subject to the same rules as other Agency-funded provision.

230. Providers must ensure they retain evidence of these contracts.

Second-Level Subcontracting

231. Any second-level subcontracting (that is, where the subcontractor further subcontracts to another legal entity) must have approval from the Agency in writing and must be declared by Providers on the Declaration of Subcontractors' form. Second-level subcontracting will only be allowed with express consent by the Chief Executive and then only in exceptional circumstances.

Declaration of Subcontractors

It is a contractual requirement for Providers to complete their Subcontractor Declaration Form. From 2012/13 it is a contractual requirement for Providers to update the Agency in August and April of every year. Failure to return the form will result in the immediate suspension of payments. Providers who do not subcontract are required to make a nil return.

232. Providers must ensure that they complete all of the fields on the Declaration Form.

233. All Providers are required to notify the Chief Executive if there is any change to their subcontractors. Providers need to advise their Agency Relationship Manager and complete an updated Subcontractor Declaration form immediately.

234. If there is any evidence of current or historic irregular financial or delivery activity with any of the subcontractors that a Provider is engaged with, the Provider must undertake an investigation at their own cost. Providers must carry out any follow-up actions and this must be reported to their Agency Relationship Manager within ten days. Allegations of financial irregularity and fraud, or allegations associated to delivery activity, could include but are not restricted to:

234.1. substantiated non-delivery of training when funds have been paid

234.2. sanctions imposed on the subcontractor by awarding organisations

234.3. inadequate grade for the subcontractor by Ofsted

234.4. serious complaints and/or allegations by individuals working for the subcontractor and/or learners and/or other relevant parties.

Distribution of Income between Providers and Subcontractors

The Chief Executive has a statutory duty to make best use of resources when securing the provision of education and training and will monitor the management fee charged and payment to subcontractors to ensure there is sufficient funding being allocated for the delivery of high-quality education and training.

235. The funding provided must be used for the benefit of the learners in supporting the delivery of the provision.
236. Any funding retained by the Provider must reasonably reflect the actual costs incurred by each party in the delivery of provision.
237. The Chief Executive reserves the right to move subcontractors into a direct contractual relationship.

Due Diligence Process for Subcontractors

238. The Provider is responsible for taking suitable steps to determine that its subcontractors have appropriate capacity and capability. A subcontractor being on the Register of Providers is by itself not sufficient to fulfil this responsibility. The Provider must also have the processes and controls in place to enable it to have proper oversight of its subcontractors' provision.
239. All subcontractors who hold contracts with an aggregate value of £500,000 or above per annum are also required to pass the Due Diligence Assurance Gateway. This will be extended to all subcontractors by December 2012.
240. Providers must satisfy themselves that the subcontractor has sufficient capacity, capability, quality, resource and business standing to deliver the provision that is being subcontracted.
241. Procurement of subcontractors must be undertaken fairly, openly and transparently in line with the relevant procurement legislation.
242. The Chief Executive reserves the right to ask Providers for evidence in support of their due diligence process. The Chief Executive reserves the right to assess Providers' arrangements for subcontracting before or after granting permission to subcontract, or to require the Provider to commission a report on these arrangements from a third party such as the Provider's external auditors.

Mandatory Terms to be included in Providers' Subcontracts

The Chief Executive does not prescribe a recommended template for subcontracts but does require certain levels of assurance that delivery of education and training by sub-contractors will comply with the Chief Executive's requirements. It is a matter for the Provider to take its own legal advice on the type of contract it issues to its subcontractors.

243. The Chief Executive expects all Providers to have a written agreement with their subcontractors and the Chief Executive reserves the right to require a Provider to provide copies of its subcontracts.
244. All Providers must ensure their subcontracts include the following clauses that cover the following matters:
 - 244.1. Subcontractors must comply with the Chief Executive's Funding Rules
 - 244.2. If there is any evidence of current or historic irregular financial or delivery activity the subcontractor must inform the Provider. Irregular financial activity could include but is not restricted to:
 - 244.3. substantiated non-delivery of training when funds have been paid
 - 244.4. sanctions imposed on the subcontractor by the awarding organisations
 - 244.5. inadequate grade for the subcontractor by Ofsted
 - 244.6. serious complaints and/or allegations by individuals working for the subcontractor and/or learners and/or relevant parties
 - 244.7. allegations of fraud.
 - 244.8. Where the subcontractor goes into administration or liquidation the Chief Executive of Skills Funding must be assumed to be a creditor of the subcontractor. The subcontractor must take steps to ensure that the Chief Executive of Skills Funding is provided with details of the administrator or liquidator and receives notifications of any creditors meetings. The Chief Executive will confirm whether in fact he is a creditor within eight weeks of being notified that the subcontractor is in administration or liquidation.
 - 244.9. A clause requiring the subcontractor to co-operate to ensure continuity of learning in the event that the subcontract is terminated for any reason.
245. Subcontractors must not use the funding from the Chief Executive to make bids or claims from any European source of funding on its own behalf, or on behalf of the Chief Executive without obtaining consent in

- writing from the Chief Executive that it may do so (such consent will not be unreasonably withheld).
246. Subcontractors do not hold the right to use payments made under the main Terms and Conditions of Funding as match funding for ESF Co-Financing Projects.
 247. Subcontractors' contracts must include the clauses relating to ESF that mirror those in the Provider's contract with the Chief Executive, even if the provision is not funded by ESF.
 248. Subcontractors must allow the Chief Executive, his staff and any other person nominated by him access to its premises and all documentation related to the delivery of provision funded by the Chief Executive.
 249. All new subcontract contracts must include reference to pay the valid invoices of their subcontractors within 30 days of the invoice date. The subcontract should explicitly state the basis for payment and the evidence required in order to support those payments.
 250. The obligation to make payments to subcontractors rests with the Provider; the Chief Executive is not liable to make payments to subcontractors.
 251. The Provider must ensure that data returns made to the Chief Executive on the [Individualised Learner Record](#) (ILR) include its subcontractors and accurately reflect their delivery information.
 252. Subcontractors must submit the data required by the Chief Executive on a timely basis. Subcontractors need to supply the Provider with sufficient evidence to allow the Provider to adequately assess the performance of their subcontractors against Ofsted's [Common Inspection Framework](#). The evidence must be included in the Providers' self-assessment report and contribute to the judgements and grades therein.
 253. Subcontractors must have suitably qualified staff to deliver the provision.
 254. Subcontractors must comply with the appropriate retention of documentation rules.
 255. The Provider must ensure that it has clauses in its subcontracts to enable it to monitor the activities of the subcontractor, exercising control over, and making appropriate arrangements for, the quality assurance of all provision.
 256. For Apprenticeships the Provider must ensure the quality of delivery satisfies the standards of the relevant Apprenticeship Framework. The information on Apprenticeship Frameworks can be found on the [Apprenticeships website](#).

Evidence Requirements

In addition to the Learning Agreement:

Reference paragraph 225-Provider is successfully entered on the Skills Funding Agency's Register of Training Organisations.

Reference paragraph 226-Registration on the UK Register of Learning Providers (UKRLP) and receipt of a UK Provider Registration Number (UKPRN)

Reference paragraph 232-Submission of an accurately completed and current Subcontractor declaration form. Providers need to retain a copy for this purpose.

Reference paragraph 234 - Copy of the investigation report including follow-up actions and outcomes must be provided to the Relationship Manager.

Reference paragraph 239-Confirmation from the subcontractors that they have passed the Due Diligence Assurance Gateway.

Reference paragraph 240-Evidence which supports the process of procurement of subcontractors; how their capacity and capability is tested; what contract management of subcontractors takes place; demonstration of how the quality of a subcontractor delivery is maintained. Copies of the due diligence processes that the Provider has undertaken.

Reference paragraph 244 - Copies of the subcontracts with each of the Provider's subcontractors.

Abbreviations

AASE	Advanced Apprenticeship in Sporting Excellence
AELP	Association of Employment and Learning Providers
ACTOR	Approved College and Training Organisation Register
ALN	Additional Learning Need
ALS	Additional Learning Support
AoC	Association of Colleges
APL	Accredited Prior Learning
ASB	Adult Skills Budget
ASCL	Apprenticeships, Skills, Children and Learning Act 2009
ASN	Additional Social Need
ATA	Apprenticeship Training Agency
AV	Apprenticeship Vacancies online
CL	Community Learning
DLS	Discretionary Learner Support
DWP	Department for Work and Pensions
E2E	Entry to Employment
eALS	Exceptional Additional Learning Support
EC	European Community
EDS	Employer Data Service
EEA	European Economic Area
EFA	Education Funding Agency
ELS	Exceptional Learning Support
EI	External Institution

ER	Employer Responsive
ERN	Employer Reference Number
ESA	Employment and Support Allowance
ESF	European Social Fund
ESFD	European Social Fund Division
ESOL	English for Speakers of Other Languages
EU	European Union
FAB	Federation of Awarding Bodies
FAM	Learning Delivery Funding and Monitoring Code
FE	Further Education
FEML	Family English, Maths and Language
FTE	Full time Equivalent
GCSE	General Certificate in Secondary Education
GLH	Guided Learning Hours
HE	Higher Education
HEFCE	Higher Education Funding Council for England
HEI	Higher Education Institution
HMRC	Her Majesty's Revenue and Customs
IAG	Information Advice and Guidance
ICT	Information Computer Technology
ILP	Individual Learning Plan
ILR	Individualised Learner Record
IS	Income Support
JCP	Jobcentre Plus
JIP	Joint Investment Programme

JSA	Jobseeker's Allowance
LARA	Learning Aim Reference Application
LDA	Learning Difficulty Assessment
LDM	Learning Delivery Monitoring
LIS	Learner Information Suite
LLDD	Learners with Learning Difficulties and/or Disabilities
MCV	Maximum Contract Value
NAS	National Apprenticeship Service
NEET	Not in Education, Employment or Training
NGB	National Governing Body
NLDC	Neighbourhood Learning in Deprived Communities
NQF	National Qualifications Framework
NVQ	National Vocational Qualification
PCDL	Personal and Community Development Learning
PFA	Provider Financial Assurance
PSD	Personal and Social Development
QCF	Qualifications and Credit Framework
RPL	Recognition of Prior Learning
ROTL	Released on Temporary Licence
SAP	Strategic Approvals Panel
SASE	Specification for Apprenticeship Standards in England
SFL	Skills for Life
SLN	Standard Learner Number
SME	Small or Medium Enterprise

TPS	Training Provider Statement
UKRLP	UK Register of Learning Providers
ULN	Unique Learner Number
VCS	Voluntary and Community Sector
WFL	Wider Family Learning
WRAG	Work Related Activity Group

Annex 1 – Eligibility

Providers must be aware of the rules on eligibility. These should not be confused with eligibility to State funding and the right to live or work in England. For example, an individual may have some rights to work in England, such as an individual on a student visa, but not to government funding for education or skills training.

1. The following persons will be eligible for funding (these groups correspond to the groups listed in the Education (Fees and Awards) (England) Regulations 2007) and The Education (Fees and Awards) (England) Regulations 2007 (Amendment) Regulations 2011, namely:

- A person on the ‘relevant date’ who is ‘settled’ in the UK, and who has been ordinarily resident in the UK and Islands (that is including the Channel Islands and the Isle of Man) for the three years preceding the ‘relevant date’ and whose main purpose for such residence was not to receive full-time education during any part of the three-year period.

‘Settled’ means having either Indefinite Leave to Enter or Remain (ILE/R) or having the right of abode in the UK. British citizens and certain other people have the right of abode in the UK. The following have the right of abode in the UK:

- those with European Community–United Kingdom of Great Britain and Northern Ireland passports
 - British Dependent Territory Citizens (now known as British Overseas Territory Citizens)
 - those whose passports have been endorsed to show they have right of abode in the UK
 - those who have a certificate of naturalisation or registration as a British Citizen.
- A national of any European Union (EU) country (the ‘EU national principal’³²) or their spouse, child, grandchild, dependant parent or grandparent of such a person, or of such a person’s spouse and
 - the Learner must have been ordinarily resident in the European Economic Area (EEA) for the three years preceding the ‘relevant date’
 - additionally, this category includes the family members of those European nationals who have the Right of Permanent Residence in the UK even if the Learner is not an EU national but is recognised by the UK Border Agency as a family member

³² The word ‘principal’ is used as a noun to establish the main or highest in the rank or importance of the individual when looking at eligibility of other individuals.

- if the Learner has not been ordinarily resident in the EEA for the requisite three years, they can still be eligible if the EU national principal has been so ordinarily resident
 - however, where the EU national principal is a UK national, that UK national must have lived in another EEA state as a worker, self-employed person, self-sufficient person or student.
- An EEA migrant worker or the spouse or child or dependant parent or grandparent of an EEA migrant worker, or of the EEA migrant worker's spouse, where the Learner has been ordinarily resident in the EEA for the three years preceding the 'relevant date'
 - Anyone who is recognised as a refugee by the UK Government (granted refugee status) who has remained ordinarily resident in the UK and Islands since being so recognised, or the spouse or child of such a refugee
 - Anyone refused refugee status but who has been granted leave to stay by the Secretary of State, granted humanitarian protection (HP) or discretionary leave (DL), or was granted exceptional leave to enter or remain (ELE/ELR) by the UK Government, and who has remained ordinarily resident in the UK and Islands since being so recognised, or the spouse or child of such a person
 - Learners studying under reciprocal exchange agreements
 - Learners who are children of Swiss nationals where the Learner has been resident in the EEA for the full three-year period prior to the commencement of their programme
 - Learners who are children of Turkish workers where the Turkish worker has been lawfully employed and resident in the UK at any time in the past and where the Learner has been resident in the EEA and Turkey for the full three-year period prior to the commencement of their programme.
2. The Agency will also treat a non-EEA national who is in the UK with work-related immigration permission as eligible for funding after completing three years of residence in the UK with any work-related permission, or the spouse or child aged under 18 years of such a person.

Other Learners

3. The Agency will also consider the following groups of Learners to be eligible for funding:
- a) People with humanitarian protection (HP) or discretionary leave (DL) or exceptional leave to enter or remain (ELE/ELR), their spouses and children
 - b) People with recently settled status (this means those having been granted indefinite leave to enter or remain, right of abode or British citizenship within the three years immediately preceding the start of their learning)

- c) The spouse of a person with settled status, where the spouse is not a citizen of an EEA country and has been resident in the UK for three years
- d) The spouse of an EEA national living within the UK, where the spouse is not a citizen of an EEA country and has been resident in the UK for one year
- e) Asylum seekers in receipt of local authority support under s23C of s23CA Children Act 1989 or s21 National Assistance Act 1948.

Asylum Seekers

- 4. The Agency considers as eligible for funding asylum seekers who have legally been in the UK pending consideration of their claim by the Home Office for longer than six months and no decision has been made.
- 5. Asylum seekers who have been refused asylum but eligible and granted support under section 4 of the Immigration and Asylum Act 1999 will be eligible for Agency funding.
- 6. It must be noted by Providers that the eligibility of failed asylum seekers receiving Section 4 support at the time of issuing this document is being reviewed by the Government. If a change is made, it is the Provider's responsibility to ensure that a Learner's eligibility is correctly assessed prior to them starting an aim.

16-18 Year-Old Apprentices

- 7. The Agency will also consider the following groups of 16–18 year-old Learners as eligible for funding for an Apprenticeship:
 - a) 16-18 year-olds who are accompanying or joining parents who have the right of abode or leave to enter or remain in the UK (or accompanying or joining parents who are EEA nationals), or those who are children of diplomats
 - b) 16-18 year-olds who are dependants of teachers coming to the UK on a teacher-exchange scheme
 - c) 16-18 year-olds entering the UK (where not accompanied by their parents) who are British (or EEA) citizens, or 16-18 year-olds whose passports have been endorsed to show they have the right of abode in this country
 - d) All 16–18-year-old asylum seekers
 - e) All 16-18 year-old Learners (including unaccompanied asylum seekers) who are placed in the care of social services.

Access to Apprenticeships

8. In order to be eligible for the Access to Apprenticeship Pathway the individual must be:
 - aged 16 year or over, but not more than 25 years or greater on the day they start and,
 - be assessed and able to fully participate in an Intermediate Level or Advanced Level Apprenticeship, and
 - either be defined as NEET immediately prior to start date, or
 - be assessed and eligible for ALS or ASN or both.

Continuing Learners

9. Learners who are following aims or a programme of more than one funding year's duration, and are eligible for Agency funding at the start of their programme, will be eligible for funding for the whole duration of the aim or programme. Any subsequent Agency-funded aims or programmes studied immediately end-on to their initial funded aim or programme will need to be reassessed.
10. Learners previously funded by the EFA who become the responsibility of the Agency when continuing their aim or programme after their 19th birthday will be eligible for Agency funding in the following academic year.
11. For all ages of individuals, eligibility for funding is based on the premise that any Learner must be able to complete and achieve the aim or programme of study within the time that they have available. For example, a Learner who is planning to leave England in three months and this is known to the Provider before starting an aim cannot be funded for an aim that is planned to take 12 months to complete and achieve.
12. Any learning aim that has been started and is not funded by the Agency for any reason, but is funded by the Learner or from another source, cannot be funded by the Agency at a later date even if the Learner's circumstances change or if funding becomes available.

Definitions:

Ordinarily Resident

13. For funding purposes, the Agency regards as ordinarily resident in a given country, any person who habitually, normally and lawfully resides from choice and for a settled purpose in that country. Temporary absences from the relevant areas should be ignored. Someone who has not been ordinarily resident because they or the person's parent or spouse was working temporarily abroad and they were required to accompany them will be treated as if the person had been ordinarily resident in the relevant area.

Spouses and Civil Partners

14. All eligibility references to a spouse must now be read to include a person who has participated in either a formal state-recognised marriage or a state-recognised civil partnership ceremony.

'Relevant Date'

15. This is the date on which the learner starts learning. This not the date of enrolment or induction but when the learning activity commences.

No Recourse to Public Funds

16. An individual who has 'no recourse to public funds' included in their passport stamp, would not be in breach of their immigration conditions if they had access to state-funded education in the UK. 'Public funds' are defined in the immigration rules, and the benefits and services listed do not include education or any education funding. This condition in a passport therefore makes no difference to a Learner's eligibility, which must be determined under the normal eligibility criteria.

Learners from Wales, Scotland or Northern Ireland

17. Wales, Scotland and Northern Ireland have their own funding arrangements. Providers must develop arrangements with the devolved administration where they are planning to deliver a significant quantity of learning to non-English residents.
18. However, there may be exceptional circumstances where an individual or a very small group of non-English resident individuals may wish to travel to or reside in England to study and learn. This can only be for specialist provision not offered anywhere else other than in England. Where this specialist provision is offered to very small groups of non-English residents the Provider must contact their Agency Account Manager for authorisation before recruitment commences. This does not mean that Providers should actively recruit Learners from outside of England. If the group or provision is sufficiently large then the Provider will be required by the Agency to approach the respective devolved administrations with a view to obtaining funding directly for those Learners. Although the Agency will take into account the circumstances of any request, it is unlikely that such a group of more than ten individual starts within a funding year will be authorised.
19. For workplace learning the Agency is content in specified circumstances to fund non-English resident Learners (usually those Learners resident in Wales, Scotland or Northern Ireland) whose substantive employment and normal working premises are in England. Where an employer, based in the UK, locates their training provision solely in England and this would include non-English residents the authority to recruit must be sought from the Provider's Agency Relationship Manager. It is unlikely that a group of more than ten individual starts within a funding year will be authorised.
20. Reciprocal funding arrangements exist with the funding councils for Wales and Scotland for Providers, who are close to the borders, to deliver learning in England to non-English residents, who fall within a Provider's catchment area or vice versa.

21. All Learners, whilst resident in the Channel Islands and Isle of Man, remain ineligible for Agency funding, as the funding responsibility for their programmes remain with their own independent Governments.

Learners in the Armed Forces

22. The Agency recognises that British Armed Forces (Armed Forces) personnel may wish to continue in education and training while serving their country. The Agency will fund eligible programmes of study for service personnel, Ministry of Defence (MoD) personnel or civil servants, their spouses and dependants via a Provider in the following circumstances:

- where the individual normally resides in other parts of the UK but is on a posting in England or is accompanying a member of the service personnel, Ministry of Defence (MoD) personnel or a civil servant
- where an individual normally resides in England but is posted outside England as part of his or her work with the Armed Forces or is accompanying a member of the service personnel, Ministry of Defence (MoD) personnel or a civil servant. This includes both cases where the individual begins an aim or programme in England and is posted elsewhere while enrolled on this aim or programme and cases where the individual commences an aim or programme while posted outside England. In either case, the Agency will fund the aim or programme to completion.

23. Members of the British Armed Forces who are posted outside of the EU are deemed to be still resident in the UK for eligibility purposes. This means that when they return to England they do not have to be resident for three preceding years before being eligible. This also applies to the family members of these individuals. Where the ex-member of the British Armed Forces does not return immediately to the UK this eligibility lapses three years after leaving the British Armed Forces.

24. Individuals of other nationalities serving as members of the Armed Forces are considered eligible for funding throughout their period of service on the same basis as their British national counterparts. This includes the funding eligibility provided under the conditions described above and extends to their spouses and dependants on accompanied postings. This does not apply to spouses and families who do not join members of the Armed Forces and instead remain outside of England.

Learners Employed Temporarily Outside England

25. Where, as part of the requirements of employment, a person who is ordinarily resident in England is required to work outside England for short periods, that person and their spouse and dependants where the spouse

or dependants are also ordinarily resident in England, will be considered eligible for funding as long as some of the learning takes place in England.

Periods of Study Outside of England

26. The Agency recognises that Learners who are eligible for funding as ordinary residents and are undertaking a substantial Agency-funded programme in England may spend a short period outside England as part of this aim or programme. The Agency will consider such provision eligible for funding where this provides a minor but essential part of a qualification, which cannot be provided in England. No additional funding is available to fund such activity.

Higher Education Learners

27. The Agency does not fund aims or programmes for groups of HE Learners. The funding provided by HEFCE for HE Learners is intended to fund all of the Learners' programmes. If, in order to gain their HE qualifications, a group of Learners requires, for example, key skills, additional tuition in mathematics or sports coaching awards, then this would be funded out of the resources provided by HEFCE for the HE programme.

28. Responsibility for the funding of all prescribed HE lies within HEFCE. Prescribed HE encompasses Foundation Degrees and, since August 1999, Higher National provision.

Qualifying Countries and/or Areas that Establish Individual Eligibility for Agency Programme Funding

29. Member States of the European Union:

Austria	Germany	Netherlands
Belgium	Greece	Poland
Bulgaria	Hungary	Portugal
Cyprus	Ireland	Romania
Czech Republic	Italy	Slovakia
Denmark	Latvia	Slovenia
Estonia	Lithuania	Spain
Finland	Luxembourg	Sweden
France	Malta	United Kingdom

Notes on Certain Territories that Fall Within the EU

30. The following notes help to define those territories that must be regarded as part of the EU for the purposes of the fees regulations:

Cyprus: The whole island became part of the EU on 1 May 2004. Ordinary residence is defined as any part of the island to qualify for EEA residency

Finland: includes Aland Islands

France: the French Overseas Department (DOMS) (Guadeloupe, Martinique, French Guiana (Guyana), Reunion and Saint-Pierre et Miquelon) is part of metropolitan France and is part of the EU

Germany: includes territory of the former German Democratic Republic prior to German unification. The tax-free port of Heligoland is included within the EU

Portugal: Madeira and the Azores are part of the EU. Macau is not

Spain: the Balearic Islands, the Canaries, Ceuta and Melilla are part of the EU

United Kingdom: Gibraltar is part of the territory of the EU. The Channel Islands and Isle of Man are not part of the EU

Other territories: Andorra, Monaco, San Marino and the Vatican are not part of the EU

EEA and Eligible Overseas Dependent Territories

31. For funding eligibility purposes, the EEA is defined as all members of the EU and Iceland, Liechtenstein, Switzerland³³, Norway and all the eligible British Overseas Territories and EU overseas territories listed below.

32. Learners who are nationals of certain British Overseas Territories and of certain European Overseas Territories will also be eligible for funding, subject to the usual three-year rule on residency.

Eligible British Overseas Territories

- Anguilla
- Bermuda
- British Antarctic Territory
- British Indian Ocean Territory

³³ For simplicity, for Providers that have to assess individuals for eligibility for Agency funding, Switzerland is treated as within the EEA. In law, Switzerland is not part of the formally recognised EEA but its nationals are similarly eligible under various international treaties signed by the UK and Swiss governments.

- British Virgin Islands
- Cayman Islands
- Falkland Islands
- Henderson Island
- Montserrat
- Pitcairn, Ducie and Oeno Islands
- South Georgia and the South Sandwich Isles
- St Helena and its Dependencies
- Turks and Caicos Islands

Eligible Overseas Territories of other EU Member States

Denmark

- Greenland and Faroe Isles

Netherlands

- Antilles (Bonaire, Curacao, Saba, St Eustatius and St Maarten) and Aruba

France

- New Caledonia and Dependencies
- French Polynesia
- Wallis and Fortuna
- Mayotte
- French Southern and Antarctic Territories

Financial Contributions

33. The following Learners will be entitled to full funding for their learning programme:

- Individuals on Job Seeker's Allowance (JSA)³⁴ or Employment and Support Allowance (ESA) in the Work Related Activity Group (WRAG) for skills training in order to help the individual into work or to remove a barrier to getting the individual into work. This includes units and awards as well as full qualifications. Where there is a joint claim, then both individuals are eligible for fee remission. Where an individual is a dependant of a claimant (but not part of a joint claim or claiming themselves), they are not

³⁴ Including those in receipt of JSA National Insurance Credit only.

automatically eligible for full fee remission but they may be eligible under other criteria.

- Learners aged 19 - 23³⁵ years of age studying their first full Level 2 qualification
- Entry or Level 1 aims (excluding Basic Skills) where a Learner has an entitlement to a full Level 2 qualification, in that they must have a highest prior attainment of Level 1 or below, but need a step up from basic skills in order to progress to a full Level 2 and are aged 19 – 23³⁵ years of age
- 19-24³⁵ year-old Learners studying their first full Level 3 qualification
- 19-24³⁵ year-old Level 4 ‘jumpers’ studying their first Level 4³⁶ or above without having attained a first full Level 3 qualification
- Learners studying English and Maths learning aims set out at Annex 2 paragraph 20. New standalone English and Maths QCF qualifications as they are approved for funding in 2012/13
- Trade Union representatives studying Trades Union Congress (TUC) learning aims
- An individual³⁷ studying their first full Level 3 qualification who has left the British Armed Forces³⁸ after completing four or more years of service or has been medically discharged, due to an injury in active service, after completing basic training
- An individual who has not reached GCSE level C or above in English and Maths undertaking GCSE English and Maths
- Unemployed individuals who are in receipt of a state benefit³⁹ (other than JSA or ESA (WRAG)), who want to enter employment and need skills training to do so are, at the discretion of the Provider, eligible for full funding for units and other learning aims that will help the individual into work or removes a barrier to getting the individual into work
- Classroom-based ESOL provision will only be fully funded for those who are on JSA, ESA (WRAG) or unemployed and on a state benefit, where it is identified as a barrier to employment.

³⁵ As prescribed in the Education Act 2011 the upper age limit, 23 or 24 years of age, is the Learner’s actual age on the day the Learner starts the relative learning aim and not the Learner’s age at the start of the funding year.

³⁶ Learning aims at Diploma Level 4

³⁷ Armed Service personnel not civilian.

³⁸ This can be up to ten years after the member left the British Armed Forces.

³⁹ A ‘State Benefit’, in relation to Skills Funding Agency funding, is defined as any monetary grant that is paid to an individual, based on their individual circumstances or characteristics, by central government or local government.

34. Learners continuing an aim or aims from 2011/12 will continue to receive the fee remission as established in 2011/12. This only applies to continuing aims or programmes. For example, a Learner progressing from an Intermediate Apprenticeship to an Advanced Apprenticeship is 'continued' learning and not 'continuing' and, therefore, the changes would apply to the new programme.
35. LLDD Learners who have a learning difficulty assessment (LDA) and have not completed the learning programme identified in that LDA as meeting their needs when they reach the age of 25 during the academic year 2012/13 will receive full funding to complete that programme in the following circumstances:
- a. where the learner is placed at an Independent Specialist Provider (ISP) the Learner had a Learning Difficulty Assessment which confirmed that the Learner's needs could only be met by the ISP
 - b. the Learner is following a programme of learning which is identified in their LDA as meeting their needs and they cannot complete before reaching their 25th birthday because of an unavoidable delay in the Learner commencing the programme
 - c. learners will continue to make progress on the programme.

Employer Contributions in Workplace Learning

36. All 16-18 Apprenticeships will be fully funded by the Government for their learning programme.
37. All 19+ Apprenticeships competency and technical knowledge qualifications will be co-funded. The Government contribution will be 50 per cent. The Government contribution towards Key, Functional Skills or GCSEs within an Apprenticeship will be 82.5 per cent.
38. Providers are reminded that expected employer contributions in Apprenticeships and all other workplace learning can be made in the form of cash or by contributions to the delivery of the activity (for example, by the use of the employers' own staff, premises, materials and/or equipment in the delivery of the Apprenticeship). This paragraph does not apply to Joint Investment Programme funding.
39. The employer contribution is mandatory where the learning is defined within scope of State Aid or is funded through the Joint Investment Programme. The Provider must be able to evidence that the employer has made their contribution.

Ministry of Defence – Enhanced Learning Credits

40. Eligible Learners will continue to be funded outside of the legal entitlements for a first full Level 3 learning aim. This activity must be delivered in classroom learning provision.

41. All eligible Learners will be fully funded in 2012/13 for their first Level 3 learning aim. The age of the eligible Learner does not preclude full funding.
42. Enhanced Learning Credits Learners must be identified in the ILR using Learning Delivery Monitoring (LDM) code 128 in the Learning delivery funding and monitoring fields.
43. The Learner must also contact the Enhanced Learning Credits Administration Service who will confirm eligibility and send the Provider proof of this.

Learner Support Funding – Consideration of Other Publicly-Funded Benefits

44. Discretionary Learner Support funds must not be used where other sources of funding are being made available.
45. From August 2011 all claimants who have been mandated to training (whether on a full or part-time basis) will have their travel and childcare costs met by Jobcentre Plus where required. JCP advisers will also have discretion to pay these expenses for customers who access skills training on a voluntary basis.
46. Disability Living Allowance should be ignored when assessing disabled Learners' income in relation to Discretionary Learner Support, to avoid the risk of discrimination under the Disability Discrimination Act 1995.
47. The Social Security Amendment (Students and Income-related Benefits) Regulations 2000 establish how Discretionary Learner Support should be treated for benefit purposes. If a regular payment is made other than for living costs then it will be disregarded and will therefore not affect the level of benefit to which the Learner may be entitled. However, it is very important that Providers and local authorities make clear at the time they are making the payment to the Learner the purpose for which the payment is given and whether it is one of a series, or a single lump sum payment.
48. The funds may not be used to replace support already provided for through national policy or legislation – for example, through welfare benefits. They can however be used to provide temporary support with domestic emergencies and short-term emergency accommodation whilst the Learner is waiting for benefit support.
49. Providers should be aware that Discretionary Learner Support falls within the definition of Access Funds for Income Support (IS)/JSA/ESA purposes. A Learner in receipt of welfare benefits – for example income support or housing benefit – must declare if they received payments from Discretionary Learner Support.
50. The general rule is that if the payment is a lump sum, one-off payment it is treated as capital. If it was intended for items covered by benefit, that is, food, ordinary clothing or footwear, household fuel, or rent for which housing benefit is payable – then the payment would count towards the

person's total capital and would affect the benefit payable if the Learner had savings/capital exceeding £6,000.

51. If the lump sum payment was intended for other items, not covered by benefit, then it would be disregarded as the person's capital for 52 weeks. If the Learner received a series of payments then Jobcentre Plus would regard it as income. If the payments were intended for items covered by benefit then a £20 a week disregard would apply with the remainder being taken into account as the person's income and reducing the amount of benefit payable. If the payments were intended for other items not covered by benefit then they would be fully disregarded.

Learning Agreement

52. The Learning Agreement is the primary evidence to prove the existence, eligibility and activity of the Learner in respect of whom funding has been claimed and enables the Provider to demonstrate that the information supplied by the Learner has been confirmed as correct by the Learner and that the information reported by the Provider to the Agency in the ILR is correct.
53. The Learning Agreement must be confirmed by the Learner and Provider as a true record before the end of the threshold period of funded learning. The absence of this confirmation would lead to the funding being removed.
54. The Learning Agreement is also an ongoing record of the Learner in learning and must be updated as required and necessary. Learning Agreements must be retained by the Provider.
55. A Learning Agreement is not necessarily a single document but can be a collection of naturally-occurring documents and information brought together to form a single point of reference relating to the learning that is taking place. It may be in paper or electronic format or a mixture of either. For example, enrolment forms, ILR data capture forms, induction checklists, initial assessments, training plans, confirmation letters to learners, self-declarations, attendance records, copies of certificates, result forms and so on.
56. Where information for multiple Learners is held centrally, such as result lists, only a reference to that central store is required. For example, where confirmation of achievement is evidenced by access to an awarding organisations online database it is not required that a copy of the result is captured and put in the Learning Agreement. Only the data on achievement is required to be recorded with reference being made to the source of that evidence.
57. While recognising that different types of Learners may require different approaches, the Learning Agreement in respect to funding must provide confirmation of the following as a minimum:
- all information reported to the Agency in the ILR, and where applicable, the supporting evidence to the data being reported

- the assessment of eligibility for funding and a record of the evidence provided by the Learner and seen by the Provider
- all initial, basic skills and diagnostic assessments
- in respect of 'personalised learning programmes', for example non-accredited formal learning, full details of all the aspects of the learning to be undertaken
- outline how the learning and skills will be achieved
- the assessment for Learner and employer contributions including the reason for full funding and the contribution to be made by the Learner or employer
- the additional learning support identified through assessment provided to the Learner
- records of attendance to validate continued participation in learning or claims made in respect of GLH for unlisted learning aims
- Learner support provided to the Learner, including the Learner's application (where applicable) and the methodology of payment (grant or loan)
- appropriate self-declarations made by the Learner

And in addition all apprentice's Learning Agreements must contain:

- the Apprentice's job role and the framework associated with it
- relevant experience and prior achievements both in and outside their current working role
- the mandatory learning and skills to be undertaken whilst on their apprenticeships outside of named qualifications
- the name of the employer and the agreed contracted hours of employment, the total planned duration of the Apprenticeship
- confirmation of an Apprenticeship Agreement is in place, plus a copy of the Apprenticeship Agreement, or confirmation that the employer has been informed of the legal duty in respect to Apprenticeship Agreements where a copy is not available.

58. If any provision for the Learner is delivered by a subcontractor, then the name of the Provider as well as the subcontractor must be clearly stated, if applicable, to the Learner and their employer. This must match the information reported to the Agency in the Provider's ILR.

59. A Provider must retain a Learning Agreement, as compliance evidence to support the funding claimed. The Learning Agreement must be

proportionate to the length of the learning programme and the characteristics of the Learner. Learning Agreements may also be combined with other complementary documents to prevent any unnecessary document duplication, such as enrolment and induction material.

Government Contributions for Learners aged 19 years and older

2012/13	Unemployed on active benefits or wider offer to unemployed	19-23 year old	Classroom based		Workplace learning Small and Medium Enterprises (SME) Less than 250 employees		Workplace learning Large employer [^] 250 employees or more	
			24+, without a first Level 2	24+ qualified to Level 2 or above	24+, without a first Level 2	24+ qualified to Level 2 or above	24+, without a first Level 2	24+ qualified to Level 2 or above
Stand alone units Excluding Basic Skills	Fully funded	Not funded	Not funded	Not funded	Not funded	Not funded	Not funded	Not funded
Basic Skills English and maths (see Annex 2 para 19)	Fully funded	Fully funded	Fully funded	Fully funded	Fully funded	Fully funded	Fully funded	Fully funded
ESOL (see Annex 2 para 20)	Fully funded	Co-funded (classroom)	Co-funded	Co-funded	Not funded	Not funded	Not funded	Not funded
		Not funded (workplace)						
Progression Funding (Entry & Level 1 vocational and PSD aims)	Fully funded	Fully funded* (classroom)	Co-funded	Co-funded	Not funded	Not funded	Not funded	Not funded
		Fully funded* (vocational Level 1 only, workplace)						
Full Level 2	Fully funded	Fully funded (for those without a Level 2)	Co-funded	Co-funded	Co-funded	Co-funded	Not funded	Not funded
		Co-funded (with Level 2 or above, classroom)						
		Co-funded (with Level 2 or above, workplace SME only, otherwise not funded in workplace)						
Other Level 2	Fully funded	Co-funded (classroom)	Co-funded	Co-funded	Not funded	Not funded	Not funded	Not funded
		Not funded (workplace)						

* Fully funded if the Learner has not attained Level 2 and needs the additional step up from basic skills in order to progress to a full Level 2, otherwise co-funded

[^] Large employer in the context of eligibility (reduction in funding still applies to employer with 1,000 employees or more)

2012/13	Unemployed on active benefits or wider offer to unemployed	19-24 year old	Classroom based		Workplace learning Small and Medium Enterprises (SME) Less than 250 employees		Workplace learning Large employer ⁴⁰ 250 employees or more	
			25+, without a first Level 2	25+ qualified to Level 2 or above	25+, without a first Level 2	25+ qualified to Level 2 or above	25+, without a first Level 2	25+ qualified to Level 2 or above
Full Level 3	Fully funded	Fully funded (for those without a Level 3)	Co-funded	Co-funded	Not funded	Not funded	Not funded	Not funded
		Co-funded (with Level 3 or above, classroom)						
		Not funded (with Level 3 or above, workplace)						
Other Level 3	Fully funded	Co-funded (classroom)	Co-funded	Co-funded	Not funded	Not funded	Not funded	Not funded
		Not funded (workplace)						
Full Level 4* or above ⁴⁰	Fully funded	Fully funded (for those without a Level 3)	Co-funded	Co-funded	Not funded	Not funded	Not funded	Not funded
		Co-funded (with Level 3 or above, classroom)						
		Not funded (with Level 3 or above, workplace)						
Apprenticeships (all Levels)	Not funded	Co-funded (workplace)	Not funded	Not funded	Co-funded	Co-funded	Co-funded	Co-funded

⁴⁰ Large employer in the context of eligibility (reduction in funding still applies to employer with 1,000 employees or more).

* Learning aims at Diploma level

⁴⁰ Non-prescribed HE only

Notes

- Progression funding is available to a Learner who is 19 to 23 years old, has a Level 2 entitlement and needs the additional step up from basic skills in order to progress to a full Level 2 and the Provider is assured they can progress to a Level 2, otherwise the provision is co-funded.
- Personal and Social Development aims and Entry Level provision are not available to workplace learning.
- Where provision is delivered in the workplace, for example, Apprenticeships, the Government contribution will be 50 per cent. The Government contribution towards Key, Functional Skills or GCSEs within an Apprenticeship will be 82.5 per cent.
- All Apprenticeship delivery is a mixture of workplace and classroom delivery as specified in the Apprenticeship Framework and cannot be delivered solely in the classroom.
- Funding for units of qualifications is also available through other parts of the 2012/13 unit offer, such as, the Joint Investment Programme and the Unit Delivery Trials for participating colleges and training organisations.
- Active benefits are Job Seeker's Allowance (JSA)⁴¹ or Employment and Support Allowance (ESA) in the Work Related Activity Group (WRAG).
- At the discretion of the Provider a wider offer is available to individuals who are unemployed, in receipt of a state benefit (other than JSA or ESA (WRAG)), who want to enter employment and need skills training to do so, can be fully funded for units and other learning aims that will help them achieve this goal.
- The offer to the unemployed on active benefits or the wider offer to the unemployed must be skills training in order to help the individual into work or where it will remove a barrier to getting the individual into work.
- The ages for eligibility for funding for up to Level 2 and Level 3 and above are different. In 2012/13, the age for Level 2 entitlement is 19-23 and 24+. The rules for Level 3 are for 19-24 and 25+. This was confirmed in [New Challenges, New Chances, Skills Investment statement 2011-14: Investing in a World Class System](#), December 2011

⁴¹ Including those in receipt of JSA National Insurance Credit only

Annex 2 – Funding Rates and Enhancements – Technical Information

Funding Rates

1. The Agency will continue to use Standard Learner Number (SLN) as the basis of funding learning aims in 2012/13.

2. The national rates per SLN for 2012/13 that apply to learners are:

Workplace Learning excluding Apprenticeships	£2,615
Classroom Learning	£2,615
16-18 Learner Responsive	£2,920
16-18 Apprenticeships	£2,804
19-24 Apprenticeships	£2,615
25+ Apprenticeships	£2,092

3. Where a learning aim is classified as unlisted in LARA for the Adult Learner Responsive Funding Model 22, the value reported in ILR field Guided learning hours will be used to calculate the SLN value.

4. The 2012/13 rates for ALN and/or ASN are:

- £150.00 per month if aged 16-18 at start, or £122.00 per month if aged 19 or over at start
- apprentices with both ALN and ASN: £225.00 per month if aged 16-18 at start, or £184.00 per month if aged 19 or over at start

Unlisted Provision

5. Providers must ensure that the glh for unlisted provision are accurately assessed in order to claim the correct funding.

6. All unlisted provision must be reviewed to ensure that the planned glh agree with those actually delivered. Where they differ significantly, an in-year adjustment must be made to ILR data. Refer to the guidance notes for the Guided Learning Hours field in the ILR specification for details of when the glh value recorded should be amended.

7. Where glh have been incorrectly calculated, the provider must revise their ILR return to show the correct glh value where the variance in glh between actual and planned is more than 20 per cent.

Programme Weighting Factors

8. Programme weightings for all learning aims are taken from LARA. Further information on Programme Weighting factors can be found on the LARA Downloads section of The Data Service website.

PWF	PROGRAMME WEIGHTING
A	1.00
B	1.12
C	1.30
D	1.60
E	1.72
F	1.40
G	1.72/1.92
H	1.20
J	1.25
K	1.50
L	1.15

SLN Cap

9. A maximum of 1.75 SLN per learner per year will be applied to all classroom learning in Funding Model 22. For Learners aged 19+ who started their programme aged 16-18 (19+ continuing learners) and for who responsibility of funding transfers from the EFA to the Agency from one funding year to the next, the 16-18 Learner Responsive Funding Model 21 will continue to apply and so a cap of 1.56 SLN will be applied.

Threshold for Funding

10. A threshold applies to all learning based on the Learning Start Date and the Learning Planned End Date as set out in the Learner's ILR. In order for a Learner to be funded they still have to be evidenced as being in learning on the threshold day. Where the Learning Start Date and Learning Actual End Date is the same date then the number of days in learning is 1. A Learner who does not commence a learning aim must not be reported in ILR data.

Planned number of days in learning	Threshold days
<14	1
=>14 and <168	14
=>168	42

Disadvantage Uplift and Characteristics

11. For 2012/13 the disadvantage uplift will be based on the Index of Multiple Deprivation (IMD) 2010 either using historical data for Funding Model 22 or actual data for Funding Model 45.

12. Disadvantage Uplift is based on the Learner's home postcode and is applied to all Apprenticeship and classroom provision, but not to other workplace learning.

13. Disadvantage uplifts are not applied to Additional Learning Support.

14. Disadvantage uplifts must be recorded in ILR field 'Disadvantage uplift factor' for learners eligible for disadvantage uplift who are funded through the Adult Learner Responsive Funding Model 22. This will not affect the amount of funding paid to the Provider in the current funding year, but will be used as management information.

15. The following groups of Learners are eligible for the disadvantage uplift factor of 12 per cent:

- basic skills learners
- those living in hostels and residential centres
- those with mental health problems
- travellers
- those whose statutory education has been interrupted
- those in care or who have recently left care
- asylum seekers eligible for Agency funding
- refugees
- ex-offenders
- offenders serving their sentence in the community
- full-time carers
- those recovering from alcohol or drug dependency
- learners funded under Offender Learning and Skills Service (OLASS) arrangements.

16. A higher disadvantage uplift of 14 per cent may be claimed for the following groups of learners (supported accommodation in this context means foyers, hostels and other forms of managed accommodation providing housing management support to the residents):

- people living in supported accommodation provided by a registered social landlord (RSL) or housing association (HA) registered with the Housing Corporation, or provided by another non-profit making organisation in a building owned by an RSL or HA

- people living in supported accommodation provided by a registered charity
- people living in supported accommodation registered with the local authority or National Housing Federation.

17. Learners who fall into one of the following groups are not eligible for amended disadvantage uplift, unless they also meet one of the criteria outlined in the paragraphs above:

- the long-term unemployed
- single parents
- those living in areas of rural deprivation or isolation
- residents of former Coalfields Task Force areas
- learners enrolled on ESF-funded provision.

Area Cost Uplift Costs by Region

18. An Area Cost Uplift, intended to reflect variations in the cost of delivery based on location is applied to the value of each learning aim. Area Cost Uplifts are not applied to Additional Learning Support.

London A 1.20	London B 1.12
Camden	Barking and Dagenham
Greenwich	Bexley
Islington	Havering
Kensington and Chelsea	Redbridge
Lambeth	Barnet
Southwark	Enfield
Westminster	Waltham Forest
Wandsworth	Bromley
Hackney	Croydon
Tower Hamlets	Kingston upon Thames
Lewisham	Merton
Newham	Richmond upon Thames
Haringey	Sutton
Hammersmith	Brent

Fulham	Ealing
Hillingdon	Harrow
	Hounslow

Bedfordshire and Hertfordshire Non-fringe 1.03

Bedfordshire County Council	North Hertfordshire	Stevenage
Bedford	South Bedfordshire	Luton
Mid-Bedfordshire		

Berkshire, Surrey and West Sussex Fringe 1.12

Surrey County Council	Runnymede	Reigate and Banstead
Bracknell Forest	Slough	Tandridge
Crawley	Spelthorne	Waverley
Elmbridge	Surrey Heath	Windsor and Maidenhead
Epsom and Ewell	Woking	Mole Valley
Guildford		

Berkshire Non-fringe 1.12

Reading	Wokingham	West Berkshire
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Buckinghamshire Non-fringe 1.07

Aylesbury Vale	Milton Keynes	Wycombe
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Hampshire and Isle of Wight 1.02

Basingstoke and Deane	Isle of Wight	Portsmouth
East Hampshire	New Forest	Rushmoor
Eastleigh	Fareham	Winchester
Gosport	Southampton	Hart
Hampshire County Council	Test Valley	Havant

Cambridgeshire 1.02		
Cambridge	Huntingdonshire	South Cambridgeshire
East Cambridgeshire	Peterborough	Fenland

Hertfordshire and Buckinghamshire Fringe 1.10		
Broxbourne	South Buckinghamshire	Watford
Chiltern	St Albans	Welwyn Hatfield
Dacorum	Three Rivers	East Hertfordshire
Hertsmere		

Kent and Essex Fringe 1.06		
Basildon	Harlow	Thurrock
Brentwood	Sevenoaks	Dartford
Epping Forest		

Oxfordshire 1.07		
Oxfordshire County Council	West Oxfordshire	Vale of White Horse
Cherwell	Oxford	South Oxfordshire

West Sussex Non-fringe 1.01		
Adur	Arun	Worthing
Chichester	Horsham	Mid-Sussex

The Innovation Code

19. Provision can be delivered through Funding Model 22 or Funding Model 45. There are a number of learning aim reference numbers that can be used relating to the nature and size of the provision for Innovation Code delivery. These can be found on LARA.

Maths and English Qualifications

20. The learning aims defined as English and Maths qualifications are set out below. All of these qualifications are fully funded except where they are delivered as part of an Apprenticeship. They have a programme weighting of 1.0 apart from

Entry Level Maths which has a programme weighting of 1.4.

GCSE English Language - (A*-C)

GCSE Maths - (A*-C)

Functional Skills qualification in English

Entry Level

Level 1

Level 2

Functional Skills qualification in Maths

Entry Level (PWF1.4)

Level 1

Level 2

Adult Basic Skills NQF Certificate in Adult Literacy

Entry Level

Level 1⁴²

Level 2⁴²

Adult Basic Skills NQF Certificate in Adult Numeracy

Entry Level (PWF 1.4)

Level 1⁴²

Level 2⁴²

Non-NQF pre-Entry and Entry Level English and Maths learning aims coded CBSP0001 and CBSP0003 and CBSE0001 and CBSE0003 (based on the national standards and curriculum for adult English and Maths).

Units of SFL qualifications English and Maths – ZUNAELIT, ZUNA1LIT, ZUNA2LIT, ZUNAENUM, ZUNA1NUM, ZUNA2NUM.

English for Speakers of Other Languages (ESOL)

21. The qualifications defined as ESOL are set out below. All of these qualifications are funded at programme weighting 1.0.

Adult Basic Skills NQF Certificate in ESOL Skills for Life

Entry Level

Level 1

Level 2

Non-NQF pre-Entry and Entry level ESOL learning aims coded CBSP0002 and CBSE0002 (based on the national standards for adult English and ESOL curriculum).

Units of SFL qualifications (ZUNA) ESOL – ZUNAEESO, ZUNA1ESO, ZUNA2ESO.

⁴² Only continuing learners and those enrolled before 31 August 2012

Apprenticeships Alternative Completion Conditions – Occupations / Frameworks

Specified occupation	Framework
Assistant to the camera crew Broadcast assistant Post-production assistant Post-production runner Production assistant Production runner	Creative and Digital Media (Advanced)
Technical Illustrator Junior Graphic Designer	Design (Advanced)
Venue and stage crew	Live Events and Promotion (Advanced)
Venue and stage crew support	Live Events and Promotion (Intermediate)
Lighting Technician	Technical Theatre (Advanced)
Lighting Technician Assistant	Technical Theatre (Intermediate)
Deckhand within the sea fishing industry Share fisherman within the sea fishing industry	Maritime Occupations

Apprenticeships - Alternative Completion Conditions – List of Exempt Sports

Aquatics (Diving, Swimming, Synchronised Swimming, Water Polo)	Golf	Skiing - Freestyle
Archery	Gymnastics	Skiing – Nordic Combined
Athletics	Handball	Skiing – Ski Jumping
Badminton	Hockey	Skiing - Snowboarding
Baseball/Softball	Ice Hockey	Squash
Basketball	Ice Sledge Hockey	Table Tennis
Biathlon	Judo	Taekwondo
Bobsleigh & Skeleton	Luge	Tennis
Boccia	Modern Pentathlon	Triathlon
Boxing	Netball	Volleyball
Bowls	Powerlifting	Weightlifting
Canoeing	Rowing	Wheelchair Basketball
Curling	Sailing	Wheelchair Curling
Cycling	Shooting	Wheelchair Fencing
Equestrian	Sitting Volleyball	Wheelchair Tennis
Fencing	Snowsport	Wheelchair Rugby
Football (5 a side)	Skating (Figure, Short Track, Speed)	
Football (7 a side)	Skiing - Alpine	
Goalball (British Blind Sport)	Skiing – Cross Country	

Additional Learning Support (ALS) Funding Parameters

22. The types of ALS provided for learners must only include: classroom learning - (Adult Learner Responsive and Employer Responsive funding models)

- additional teaching, either to reduce class sizes as a result of Learner characteristics (not Learner demand) or to provide support in or out of the class
- other specialist staffing where such support is necessary to enable a Learner to achieve their learning goal, for example,
 - personal care assistant
 - mobility assistant
 - reader
 - amanuensis
 - in-class support assistant
 - dedicated technician (for supply, maintenance and training in the use of equipment for LLDD Learners)
 - specialist tutor (for example, teacher of the deaf, or teacher of learners with dyslexia)
 - communication support worker (for example, Brailist or support for deaf learners)
 - additional tutor support for counselling and guidance for individual learners that relate to their disability
 - personal counselling
 - material adaptation worker
 - educational psychologist
 - speech therapist and/or a physiotherapist (the provision of such support must follow an assessment by an appropriately qualified person).

23. Where the Employer Responsive funding model is used to report classroom learning then ASN may be recorded in the ILR to claim funding.

Workplace learning (Employer Responsive funding model)

24. ASN may be funded for an apprentice where two from the following list applies or where one is significant:

- recent or current offending behaviour
- poor or erratic attendance during the last year of education, exclusion from school or no record of school
- an unsupportive or unsupported home environment
- significant problems with confidence or self-esteem
- significant problems with motivation or attendance (on a programme)
- attitude or behavioural problems
- drug or alcohol problems
- health problems (including mental health and phobias)

- significant problems with communication and interaction
- single parents with particular difficulties finding time to learn.

Workplace Learning – Large Employers

25. Providers will report the employer reference number in ILR field ‘Employer Identifier’ in order to identify the employer in the Employer Responsive funding calculation. This ILR field is mandatory for all workplace learning provision. This value will be compared to the list of large employers (including all workplaces) and where applicable a reduction will be applied automatically in the funding calculation.

26. Temporary Agency Workers must be reported as relating to the employer to which the Learner is on hire and not that of the employment business. In the case of the public sector the Agency will use the same rationale as for the private sector, that is, where the organisation has more than 1,000 employees they will receive a reduction to the rates paid for learning.

27. Information held on public sector organisations and the size of their workforce, is highly variable. The Agency has therefore taken a cautious approach to defining public sector employers for 2012/13. This will include all central government and public sector defence organisations, for example the Army, Royal Navy and Royal Air Force, as well as all local authorities. Other public sector organisations will be identified by desk research from information already held in Employer Data Service (EDS). Inclusion in this large employer list does not confirm eligibility for funding and Providers must refer to 2012/13 eligibility rules.

28. Charities, schools, colleges and universities will be excluded from the reduction in funding.

29. The large employer rate is being applied to all Ministry of Defence (MOD) provision and in order to simplify the arrangements with the MOD the following Employer Reference Numbers (ERN) must be reported in ILR field ‘Employer Identifier’ regardless of locations or whether through a direct contact or delivered to the MOD by a college or training organisation. This includes both new starts in 2012/13 and carry over learners from 2011/12.

MOD Service	ERN
Army	154231517
Royal Navy	900523387
Royal Air Force	155146343
MOD Other	142179515

30. In addition large employers holding direct contacts with the Agency will be given a single ERN to use for all of their workplace learning provision.

31. A full list of all ERNs identified as large employers will be published on The Data Service website.

