



Education & Skills  
Funding Agency

# **Funding guidance for young people 2021 to 2022**

**Funding regulations**

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## Summary

### Education and Skills Funding Agency: Funding guidance for young people 2021 to 2022

This guidance document covers the period 1 August 2021 to 31 July 2022 and is our current advice for the funding year. We know that providers are working through exceptional circumstances due to coronavirus (COVID-19). We may publish further updates to this guidance document about the impact of coronavirus (COVID-19) on our funding rules as these become clear. We will tell you about any changes in our [ESFA updates](#).

You might find our [published information](#) about what colleges and other providers need to do during the coronavirus (COVID-19) outbreak useful.

This document is part of a series of booklets providing ESFA funding guidance for young people for the 2021 to 2022 academic year.

Funding regulations (this booklet)

Rates and formula

Individualised learner record (ILR) funding returns

Subcontracting funding rules for ESFA funded post-16 funding (excluding apprenticeships) – we expect to publish a new single book for 2021 to 2022 that applies to both 16-19 and adult education funding streams later this year.

This summary applies to all of these booklets which will be available from the [ESFA funding guidance on GOV.UK](#) once published.

These documents outline the main features of ESFA funding arrangements for young people in 2021 to 2022 and are an integral part of ESFA's funding agreements for young people aged 16 to 19 and those aged 19 to 24 with an education, health and care (EHC) plan. All of these documents should be read in this context, unless specifically stated otherwise. This is the definitive ESFA guidance for 2021 to 2022 and supersedes any previous funding guidance for young people.

Subcontracting funding rules for ESFA funded post-16 funding (excluding apprenticeships) applies to institutions either with subcontractors or those considering subcontracted delivery. The published document for 2020 to 2021 [Subcontracting control regulations document](#) should be used until Subcontracting funding rules for ESFA funded post-16 funding (excluding apprenticeships) the replacement book for 2021 to 2022 is published.

Institutions must take into account the General Data Protection Regulation (GDPR) regulations in respect of the information they retain, particularly when it is personal or

sensitive. It is the institution's responsibility to ensure it is fully compliant with these regulations.

ESFA sets out in its [privacy notice](#) how data is collected and used to perform statutory functions on behalf of the Secretary of State. We will rarely ask for data from you outside of the ILR and school census.

Where we do ask for information outside of the ILR and school census, we will set out clearly what we need and why we need it. We will always request that all personal or sensitive information is sent via a secure method of transfer which is fully compliant with GDPR regulations. You must not send us personal or sensitive information at any other time or in any other way.

For further information or to contact ESFA, please use our [online enquiry form](#). Maintained schools should contact their local authority.

## What's New?

We have made the following additions and updates to this guidance document:

- updated student eligibility advice for EU and EEA students in [paragraphs 30 to 31](#) and in [paragraphs 38 to 40](#)
- included advice on our specific subcontracting restrictions for 16 to 19 delivery in section 6; this advice was previously found in [Subcontracting control regulations for 2020 to 2021](#)

## Coronavirus (COVID-19) and impact on 'Planned hours for 2021 to 2022'

We have issued some additional advice to assist any funded institutions having difficulty in calculating planned hours as part of their early ILR returns for this year. Any institution who has already resolved these issues for themselves does not need to amend any planned hours for the advice below.

In normal years, to derive planned hours for the year ahead, institutions look back at delivery in the current year and then use this information to update their course master files, which then feed through the planned hours for every student for the following year. It was clear in April 2020 that the in-year delivery for 2020 to 2021 was not normal and in responding to issues relating to coronavirus (COVID-19), it was too early for some funded institutions to determine how they should alter planned delivery for 2021 to 2022.

Some institutions have simply used their planning assumptions from the start of the 2018 to 2019 funding year for the current funding year and we are content with this approach, subject to advice below. As funded institutions go through this funding year, they are now expected to consider how they need to adapt their planning of delivery so they can put in place more up to date planning assumptions for 2021 to 2022. This includes building on the knowledge of their education delivery to individual students during both the previous and current funding year.

Any funded institution intending to 'roll over planning assumptions from 2018 to 2019' must, however, also take into account any funding audit advice received on their funding data for either 2018 to 2019, 2019 to 2020 or 2020 to 2021. This is so that any issues found in those years are not simply repeated as planning assumptions for 2021 to 2022 or any future year.

If planned funded activity becomes impossible to deliver due to local social distancing requirements or other challenges, we expect institutions to arrange substitute activities. For example, where external work experience becomes impossible then students should be offered alternative arrangements that help them meet their original study programme objectives.



The advice above, together with the additional advice we have already given in [Annex B](#) on evidencing planned hours to funding auditors, may also help in planning hours for students in these current difficult circumstances and avoiding any funding audit issues later in the funding year.

# 1: Introduction and background

## Introduction

1. The funding guidance for young people 2021 to 2022 is written on behalf of the Secretary of State for Education who funds the provision of education, using their powers through the Education and Skills Funding Agency (ESFA).
2. This document sets out the ESFA funding guidance for all funded programmes for young people in 2021 to 2022 and covers all 16 to 19 funding provided by ESFA, other than the separate funding arrangements that apply for 16 to 19 apprenticeships.
3. The national funding methodology has been used to determine the funding allocations for 2021 to 2022. ESFA expect to confirm these allocations for individual institutions by March 2021.

## Background

4. All institutions that receive young people's funding from ESFA (either directly or through local authorities (LAs)) for provision that falls within the scope of this document as defined below must comply with the guidance.
5. Directly funded ESFA institutions must treat ESFA as their funding body and for queries on this guidance, use the [online enquiry form](#). For all ESFA provision, where funding is paid by ESFA to LAs (usually LA maintained school provision), the LA should usually be treated as the funding body for queries on this guidance.
6. The term 'institutions' is used to cover academies, schools, colleges and all other providers. The individual institution types will be used where the Funding guidance for young people applies only to that specific type of institution. Similarly 'students' is used as a constant reference to guidance applying to all students and pupils.
7. ESFA young people's funding is paid on a funding year starting 1 August and ending on 31 July (1 September to 31 August for academies). LAs pay schools on a standard treasury or LA financial year basis, usually starting 1 April and ending 31 March.
8. This document is expected to be used by funding body auditors in their funding audit testing of institutions for the necessary evidence of compliance with the guidance. The advice on planned hours is all together within [section 4](#) of this document, so all funding audit and funding compliance work by both institutions and funding auditors is as easy as possible.
9. Definitions of the terms used in this document are set out in [section 5](#) and a list of useful acronyms is included in [annex A](#). [Annex E](#) relates only to provision delivered by

academies or school sixth forms whose data is returned through the school census return.

## Scope of this document

10. This sets out our guidance that applies to institutions delivering ESFA young people's funded provision for the funding year 1 August 2021 to 31 July 2022.
11. This document sets out ESFA funding conditions for provision to students who meet both the student eligibility requirements in [section 3](#) and one of the following criteria:
  - a. are aged 16 to 19, or
  - b. are aged 19 to 24 and have an Education Health and Care (EHC) plan, or
  - c. are aged 14 to 16 and meet the funding criteria set out in [paragraphs 48 to 55](#) and in the [Funding rates and formula](#)
12. At the time of publication, all the web links in this document were correct.

## 2: Principles and conditions of funding

### Principles of funding learning

13. Institutions must:
- a. only record as funded those students assessed as eligible for ESFA funding under [Section 3](#) of this document
  - b. not record as funded those students who are enrolled on study programmes funded by ESFA at other institutions
  - c. avoid duplication of provision or multiple funding for the same provision within a student's study programme
  - d. avoid recording ESFA funding for any part of a student's study programme that duplicates that received from another source, for example, other ESFA programme funding, Office for Students (OfS) higher education funding, or funding from any other source
  - e. ensure when entering the planned hours on data returns that the hours entered are realistic and deliverable to each individual student and that this can be evidenced if necessary to funding auditors, and
  - f. take all reasonable steps to ensure that students can complete their programme once they are enrolled
14. We only expect institutions to discuss with ESFA circumstances that affect groups of students. For circumstances that only affect an individual student, ESFA expects the institution to make funding decisions itself within the spirit of this guidance and record their decisions as audit evidence in accordance with usual student enrolment processes.

### Funding agreements and conditions

15. ESFA will enter into grant agreements or contracts for services with individual institutions paid directly by ESFA and with each LA for their maintained school provision. These funding agreements will set out the funds that ESFA has agreed to pay for the education and training provision for young people expected in return for that funding. These include ESFA conditions in respect of charges to students for their provision. The separate condition of funding that applies to all provision in respect of the delivery of English and mathematics within study programmes is set out in [Annex D](#). To assist institutions in planning to meet the condition of funding, ESFA have issued detailed [guidance on the condition of funding](#).

### Funding conditions in respect of charges to students

16. ESFA attaches conditions to its young people's funding in accordance with the following guidance by the Secretary of State:

- a. tuition fees cannot be charged to students aged 16 to 18 in full time or part time education by either ESFA-funded institutions or their subcontractors. For the purposes of the funding agreement and this document, '18', means under 19 on 31 August in the teaching year when the student commences a study programme
- b. such students must continue to receive free tuition in any consecutive subsequent year of study on the same study programme as recorded in their learning agreement
- c. no compulsory enrolment, registration or examination fees can be charged to students aged 16 to 18 in full time or part time education, other than in the following circumstances:
  - i. institutions can apply reasonable conditions of attendance in order to qualify for free examination entry
  - ii. institutions can charge for examinations and resits as follows:
    - where the required attendance or completion of work has not been achieved
    - where the student fails without good reason to sit the examination for which the institution has paid
    - where a student resits an examination resulting from an initial examination failure
    - where a student resits an exam with the aim of achieving marginal improvements in grades
    - qualifications leading to a GCSE grade 4 to 9 or A\* to C in English and/or maths where the student has not yet achieved either a grade 4 to 9 or A\* to C in these subjects are not treated as resits for this purpose
    - institutions must ensure that requirements for attendance and coursework are applied reasonably and set out to students from the commencement of their programme. Absences or non-completion of coursework because of illness or other acceptable reasons are not grounds for charging
- d. institutions may set conditions for, and seek voluntary contributions from, students or their sponsors. Requests for voluntary contributions must make it clear that there is no obligation to contribute, and that students will not be treated differently according to whether they or their sponsors have made any contribution in response to the request
- e. no fee must be charged to students aged 16 to 18 for instrumental tuition which is part of the syllabus for a prescribed public examination which includes music qualifications on the [ESFA list of qualifications](#) approved for funding 14 to 19 (formerly called the Section 96 list)
- f. no tuition fees can be charged for provision funded by ESFA for students with learning difficulties or disabilities aged 19 to 24 who have an EHC plan

- g. institutions may choose to charge students aged 16 to 18 in full time or part time education for other elements of their study programme as set out here. There is no requirement to charge for optional extras. The institution funding the activity is free to determine whether any charge should be made for it and, if so, how much should be charged and to whom:
  - i. where clothing or equipment is necessary for the student's health or safety, a charge may be made for clothing and equipment that the student retains, but only if the student also has the option of borrowing the clothing or equipment free of charge
  - ii. for the sale of learning materials in bookshops, or similar facilities in institutions, that enables students to secure discounts on books, stationery or similar materials
  - iii. fines for the late return of library books or other disciplinary fines (provided such penalties have been made known in advance); and deposits on lockers, ID cards, keys, library cards or smartcards and equipment that are fully refundable except in cases of damage or theft. Fines and deposits are not fees
  - iv. photocopying and printing, including computer printouts, are not fees as long as they are not course-specific, are optional and there are alternative sources for these services
  - v. the recreational use of leisure and other non-academic facilities where the activity taking place is not a requirement of a course syllabus or not part of a student union membership free entitlement
  - vi. travel, board and lodging and other additional costs, including any tuition costs, associated with field trips and similar activities that may form part of or be outside the requirement of the course syllabus or agreed study programme
  - vii. optional extra activities where the activity is taking place outside a required part of an agreed study programme, and charging is at the discretion of the institution that would otherwise meet the cost of provision. Examples of optional extra activities include theatre, cinema or museum visits or other day or residential visits that are not a requirement of course syllabuses

## **Evidence and record-keeping**

- 17. Institutions must retain evidence and keep records to support the information given in data returns and to justify the funding the data generates.
- 18. Where data or evidence is identified as being incorrectly recorded in the data return, the institution must revise their data returns and funding claim accordingly.
- 19. Institutions must ensure they are fully compliant with the requirements in the General Data Protection Regulation (GDPR) in all parts of their student record systems including all individual records kept for funding audit assurance purposes.

20. In all circumstances, the institution must retain original documents including, for example, attendance records, enrolment records and learning agreements. In considering how long these documents should be retained, all documentation that underpins funding claims or returns must be treated as financial and legal records. Methods and decisions relating to retention must be consistent with the institution's usual rules and methods for financial record retention.

21. Under no circumstances must these documents be retained by subcontractors or at subcontractor premises.

22. The institution itself will normally be registered with the awarding body for the core qualification being studied and students must be registered with the awarding body in order to be eligible for ESFA funding.

### **Action on ineligible students**

23. When an institution has claimed funding for ineligible students, they must revise their data return to record the students as not eligible for ESFA funding.

24. When an institution intends to deliver provision that is not clearly identifiable within the 4 books that make up Funding guidance for young people, they must contact ESFA and seek written clarification before proceeding and retain for audit purposes any documentary evidence of guidance given.

### **Action on ineligible planned hours**

25. When ESFA or its funding auditors find evidence of planned hours being systematically recorded, where the evidence of delivery is not realistic or deliverable, then ESFA will require institutions to reduce the funded planned hours. The amended planned hours will be those that can be clearly evidenced as delivered to each individual student. ESFA will then apply these revised hours to all future lagged funding values.

## 3: Student eligibility

### Introduction

26. This section sets out the rules on student eligibility for ESFA young people's funding, together with guidance on evidencing student eligibility to assist institutions in their enrolment processes.

27. Funding eligibility for young people post-16 is similar to the pre-16 school eligibility rules and students will consistently be either eligible or ineligible for ESFA funding at all institution types.

28. Most young people legally residing in England will be eligible for 16 to 19 study programme funding and the exceptions to this are set out in paragraphs 71 to 73. The advice in paragraphs 38 to 41 provides further information on the detailed eligibility requirements. To assist our funded institutions in keeping the student eligibility administration burden to a minimum, most students will simply need to confirm on their post-16 enrolment form they have legally lived in the UK for the 3 previous years. For the small number of eligible students who do not meet this test, institutions should take steps to satisfy themselves that the student is legally resident in the UK. To assist institutions and funding auditors further advice on compliance evidence of student eligibility is set out in paragraphs 74 to 83.

29. We have based the three year evidential advice on provisions of the Education (Fees and Awards)(England) Regulations 2007 (these are expected to be updated later in 2021), which provide the basis for home-fee status for publicly funded Higher Education providers. We expect our funded institutions to make sure students on Level 3 programmes are made aware of the eligibility requirements in these Regulations, as part of their planning for Higher Education studies.

### EU and EEA students

30. The United Kingdom (UK) left the European Union (EU) and free movement between the UK and the EU has ended. The UK's new [points based immigration system](#) applies and treats EU (other than Irish citizens) and non-EU citizens equally. Students who are nationals of EU (or European Economic Area (EEA)) countries (other than Irish citizens) who enter the UK after 31 December 2020 are not automatically eligible for funding and must be able to demonstrate that they are legally resident in the UK to be funded.

31. Students who are nationals of EU (or EEA) countries or children of Turkish workers who are living in the UK and have started their programme before 31 December 2020 must be treated equally to UK residents. Once enrolled they will be eligible for funding for the full duration of their study programme. All Irish citizens continue to be



automatically eligible for funding under immigration concessions agreed with the Irish Government before the UK was a member of the EU.

## **Residency eligibility**

32. The following paragraphs set out the ESFA funding eligibility criteria for study programmes. Students only need to be eligible under any one point or sub-paragraph of the individual points or sub-paragraphs in paragraphs 38 to 40. All students eligible to start their study programme are eligible for the full duration of their study programme. Paragraphs 67 to 73 explain the main exceptions covering ineligible students for funding purposes.

33. For funding purposes, institutions must establish a student's eligibility at the start of their programme. Institutions must seek advice from their funding body regarding any case where they are having difficulty assessing student eligibility.

34. To be eligible for funding the student must have the legal right to be resident in the United Kingdom at the start of their study programme. A person subject to a Home Office deportation order will ordinarily be ineligible for funding until their situation has been resolved to the satisfaction of the Home Office.

35. In determining student eligibility, institutions must also satisfy themselves that there is a reasonable likelihood that the student will be able to complete their study programme before seeking funding for the student. This should include the practicality of providing a place for a student who may be unable to complete their programme if they are likely to leave the country permanently during their study programme. For the purposes of this paragraph, institutions must assume that all EEA students resident in the UK before 1 January 2022 have the legal right to remain in the UK for the duration of their study programme. Once a student is enrolled, the institution is expected to take all reasonable steps to ensure that the student can complete their programme.

36. Students who are attending programmes of more than one term's duration, and are eligible for funding at the start of their programme, will usually be eligible for funding for the whole duration of their study programme as well as subsequent funded study programmes studied immediately end-on to their initial funded programme. This includes students studying consecutive study programmes with no break in studies other than normal holiday periods. Similarly, students who are not eligible for funding at the start of their study programme are very unlikely to become eligible for funding during the period of their study programme.

## **Definition of ordinarily resident**

37. For funding purposes, ESFA 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 area should be ignored.

Someone who has not been ordinarily resident because he or she or the person's parent or spouse or civil partner was working temporarily abroad will be treated as if they have been ordinarily resident in the relevant area.

## Students eligible for funding

38. The following persons will be eligible for funding (these groups correspond to some of the groups in Schedule 1 to the Education (Fees and Awards)(England) Regulations 2007 (these are expected to be updated later in 2021):

- a. a person on the 'relevant date'<sup>1</sup> 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 3 years preceding the 'relevant date'. 'Settled' means having either indefinite leave to enter or remain (ILE/ILR) or having the right of abode in the UK. British citizens and certain other people have the right of abode in the UK as follows:
  - i. British nationals who hold a United Kingdom of Great Britain and Northern Ireland passport
  - ii. Irish nationals
  - iii. European Union nationals or family members of EEA and Swiss workers (resident in the UK before 1 January 2021) with settled or pre-settled status
  - iv. students who are children of Turkish workers where the Turkish worker has been lawfully employed and resident in the UK before 1 January 2021
  - v. British Dependent Territory Citizens (now known as British Overseas Territory Citizens)
  - vi. those whose passports have been endorsed to show they have right of abode in the UK
  - vii. those who have a certificate of naturalisation or registration as a British Citizen
  - viii. those with Hong Kong British National (Overseas) (BN(O)) visa who have been given Home Office permission to reside in the UK

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<sup>1</sup> In the student eligibility paragraphs, the term 'relevant date' refers to 'the first day of the first academic (or teaching) year of the course' and this is defined as:

- a. 1 September if the academic year starts between 1 August and 31 December
- b. 1 January if the academic year starts between 1 January and 31 March
- c. 1 April if the academic year starts between 1 April and 30 June
- d. 1 July if the academic year starts between 1 July and 31 July

39. In addition to the groups outlined above, ESFA will also consider the following groups of students (including those who may not have lived in the UK for the last 3 years) to be eligible for funding:

- a. people with refugee status (RS) or humanitarian protection (HP) or discretionary leave (DL) or exceptional leave to enter or remain (ELE/ELR), their spouses, civil partners 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 3 years immediately preceding the start of the course)

40. In addition to the groups above, ESFA will also consider the following groups of students (including those who may not have lived in the UK for the last 3 years), aged up to and including the age of 18, as eligible for funding as follows:

- a. those who are accompanying or joining parents or spouses or civil partners<sup>2</sup> who have the right of abode or leave to enter or remain in the UK (or accompanying or joining relevant family members, usually parents, who are UK or Irish nationals), or those who are children of diplomats
- b. those who are dependants of teachers coming to the UK on a teacher exchange scheme
- c. those who are residing legally in the UK (including those entering the UK in the last 3 years who are or were not accompanied by their parents) who are British (or Irish) citizens or those whose passports have been endorsed to either show they have the right of abode in this country or to show that they have no restrictions on working in the UK
- d. those who are dependants of adults residing legally in the UK who have been given immigration rights as workers to reside in the UK
- e. those who are dependants of foreign students where the accompanying parent or legal guardian has a Student visa (the accompanying parent or legal guardian is excluded from our funding as set out in paragraph 71)
- f. asylum seekers
- g. those having been granted leave under section 67 of the [Immigration Act 2016](#) (the 'Dubs' amendment)
- h. those having been granted Calais leave to remain
- i. those who are (including unaccompanied asylum seekers) placed in the care of social services or those in receipt of Section 4 support

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<sup>2</sup> All eligibility references to a spouse should now be read to include a person who has participated in either a formal state-recognised marriage or a state-recognised civil partnership ceremony.

41. In addition to considering students in the categories listed in the 3 paragraphs above, the funding body will consider other exceptional circumstances. When an institution believes that a student should be considered for ESFA funding under exceptional circumstances, it must contact ESFA for guidance before claiming funding.

## **EEA, Switzerland and the overseas territories**

42. For funding eligibility purposes only, we have defined the EEA on 31 December 2020 as including Switzerland, as well as all members of the EU, Iceland, Liechtenstein, and Norway and each of their overseas territories as listed in [annex F](#). Students who are nationals of certain British Overseas Territories are eligible for funding. Certain European Overseas Territories citizens will also be eligible for funding but only if they moved to the UK before 1 January 2021. Qualifying territories are listed in annex F.

## **No recourse to public funds**

43. Someone 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 student's eligibility, which must be determined under the normal eligibility criteria described in the paragraphs above.

## **Age**

44. A 16 to 18-year-old student is a student who is aged 16, 17 or 18 on 31 August 2021. Such students are normally eligible for ESFA young people's funding, subject to the other regulations in this guidance.

45. To maintain eligibility for funding for individual students during a learning programme, a wider definition is used by the funding bodies. A student who was aged 16, 17 or 18 on 31 August at the start of the funding year when they began a learning programme, as recorded on their learning agreement, continues to be funded as a 16 to 18-year-old student. If they become 19 years old during their learning programme such students are funded at 16 to 18 rates to complete their learning programmes.

46. A learning programme comprises all of a student's activities that lead to a set of outcomes agreed with the student as part of their information, advice and guidance (IAG) process. A learning programme may be composed of one or more learning aims and may span more than one funding year. A learning programme will generally be centred around learning aims at a single level, with a minority of, if any, learning aims at a different level being used to support the wider needs of the student (for example, a GCSE in mathematics may be appropriate for a student studying non-mathematical A levels). An A level subject taken over 2 years is a single learning programme, (as is an AS level and

an A level in the same subject) whereas progression from GCSEs to A levels is 2 separate learning programmes.

47. Students aged 19 to 24 on the 31 August 2021 that have an EHC Plan are eligible for young people's funding by ESFA, subject to the other paragraphs in this guidance. All other students aged 19 and over on 31 August 2021 would not normally be funded at young people's rates.

## Students under 16

48. There is a single date when young people can legally leave school in England, which is the last Friday in June for those people who have completed year 11. For the purposes of funding, 'under 16' means aged under 16 on 31 August 2021.

49. ESFA advises institutions to involve the school and LA in discussions when parents seek to enrol a young person of compulsory school age on a full time programme, and that young person has previously been in provision funded by a local authority (a maintained school, alternative provision or 'education otherwise') or in an academy or free school. In most cases, an institution wishing to enrol a student aged under 16 on 31 August 2021 should seek funding from the LA, school or academy if appropriate.

50. ESFA may fund provision for students of compulsory school age within the young people's funding methodology as set out in the following paragraphs.

51. Groups of compulsory school age students in eligible colleges are funded through the separate funding arrangements for the 14 to 16 age group, as described in full in [the enrolment of 14 to 16 year olds in full time further education guidance](#). Where a college meets the requirements and has notified ESFA of its intention to recruit 14 to 16 year olds direct then funding for all 14 to 16 year olds studying below level 3 will be through the separate 14 to 16 funding arrangements detailed in the [Funding rates and formula](#). If independent learning providers (ILPs) wish to deliver provision for 14 to 16 year olds, they must either register with the Department as an independent school or ensure their provision for this age group is such that they do not meet the definition of an independent school set out in legislation. Guidance is provided in relation to the definition and the process of registration in the departmental advice in respect of the [registration of independent schools](#).

52. ESFA funds children who are currently electively home educated (EHE) who attend general further education (FE) and sixth form colleges. EHE children who attend schools and academies are not eligible for ESFA young people's funding. You can find more information in the [Funding rates and formula guide](#).

53. Colleges may claim ESFA young people's funding for children of compulsory school age who have completed their statutory education, have achieved qualifications at

least equivalent to a full level 2, and who want to enrol on a level 3 course. Colleges do not need to seek approval from ESFA, as we will count these students for lagged funding purposes. This advice also applies to schools and academies placing students in their sixth forms earlier than usual.

54. In exceptional circumstances, for example, students arriving in the UK for the first time during school year 11, ESFA will consider provision for individual students of compulsory school age to be eligible for ESFA young people's funding in colleges. Groups of students would not be eligible for funding, since by inference such circumstances are unlikely to be exceptional.

55. Students who finish school in the early summer each year are funded and counted for government purposes as part of the year 11 group (including those enrolled after the school leaving date of the last Friday in June) in academies and secondary schools. Short programmes for year 11 students in June and July will therefore not be funded and will not be counted when calculating lagged student numbers for future funding allocations. Institutions are free to offer taster or induction programmes to students but they should not be included in ILR or school census data returns for the same funding year that students complete their year 11 (or earlier year) studies. Similarly for students starting study programmes in the summer term we will not recognise for all funding purposes students who have already completed full time 16 to 19 study programmes at other funded institutions earlier in the funding year.

## **Students enrolled in schools**

56. ESFA will not fund FE institutions directly for students who are enrolled full time in any school and who wish to follow part of their programme at a FE institution during school hours. In such circumstances, whatever the age of the student, this provision should be treated as collaborative or link provision, and the school is expected to meet the costs of this provision.

## **Groups of students**

### **Normal recruitment area of institutions**

57. ESFA public funding is intended to fund education and training for young people resident within England before starting their individual programmes. Institutions therefore must not recruit entire groups of students from outside their local area without explicit permission from ESFA. Distance subcontracting arrangements must comply with the guidance in the [subcontracting control regulations](#). ESFA reminds institutions not to jeopardize the reputation of either themselves or the funding agency in terms of safeguarding public funds in their general student recruitment policy and practice.



58. ESFA will usually regard an institution's normal recruitment area as the area in which the institution is physically situated, taking into account students normal travel to learn patterns. This may include parts of Scotland or Wales where an institution is situated close to the border and this is explained in more detail in the paragraphs below.

59. This definition may be varied more tightly or loosely by the funding body, depending on the institution location. If an institution has any doubt about the definition of their normal recruitment area, they must contact ESFA for clarification in the usual way.

60. We recognise the benefits of exchange programmes for young people but we only recognise the term 'exchange students' where our funded institutions can show a matching number of UK students going overseas to attend a part of their study programme that is funded by the foreign government that our student attends. To qualify as a self-funded exchange, if the foreign student (particularly those from inside the EEA area) are being recorded for ESFA 16 to 19 funding purposes on our funded institutions funded data return to ESFA (either ILR or school census) then we need to see a matching deduction in the cost being claimed for a home student attendance on their study programme. We allow institutions to work together to demonstrate this but in claiming funding for a foreign student the funded institution (usually a college/school/academy) must be able to show a student at another institution that no longer needs an equivalent amount of funding.

## **Students from Wales, Scotland or Northern Ireland**

61. Wales, Scotland and Northern Ireland have their own funding arrangements. There may be exceptional circumstances where, on occasion, individual Scottish or Welsh students wish to travel to or reside in England to study when specialist provision is not offered locally. For institutions close to the borders some local areas within Wales and Scotland will form part of their normal recruitment area.

62. Students of all nationalities who are dependants of serving members of the British Armed Forces and studying in England must be considered eligible for funding throughout their period of service on the same basis as other young people legally living in England where they attend funded institutions.

## **Higher education students**

63. ESFA does not fund FE qualifications or other programmes for groups of higher education (HE) students. If, in order to gain their HE qualifications, a group of students requires, for example, key skills, additional tuition in mathematics or sports coaching awards, then this would normally be funded out of the resources provided for the HE programme.

## Enrolment at more than one ESFA-funded institution

64. While ESFA recognises that students may occasionally enrol at more than one institution, groups of students enrolled on a full time programme at one institution (whether that institution is publicly funded or not) must not be enrolled for funding purposes on part time programmes with other institutions, including through subcontracted provision. For example, it is not appropriate for a student enrolled on a full time sports and leisure programme to be enrolled at another institution to undertake a first aid or sports coaching qualification.

## Parents-to-be

65. Students who are expecting to be unavoidably absent from learning for a period of time, such as for maternity or paternity leave, should not be discouraged from entering into a learning agreement. Institutions should ensure that the planned start and end dates for the student's programme, as agreed at the commencement of the programme, reflect the overall planned duration of study.

## Provision for offenders

66. Institutions delivering agreed ESFA-funded programmes to students detained in English prisons or young offenders institutions may treat detainees as students eligible for ESFA young people's funding without the need to refer to the [residency eligibility advice](#). This concession only applies to students detained in prison and not to students serving community sentences, those under supervision in the community or those detained in immigration centres.

## Students not eligible for ESFA funding

67. Students are usually only eligible for one ESFA funding model as the funding provided is intended to cover the whole of their learning programmes. For example, a school sixth form student will be ineligible for other ESFA funding. All and any additional educational programmes that are appropriate for individual students should be claimed through their full time institution. All students attending private fee paying institutions are ineligible for 16 to 19 study programme funding at all ESFA funded institutions and any of their subcontractors.

68. There is one exception to the above paragraph, agreed by the Secretary of State, that students who are studying the Diploma in Sporting Excellence in the academic year 2021 to 2022 will be able to combine study of these awards with academic or vocational learning. These students must have their chosen sport's governing body approval and be enrolled with specific ESFA institutions whose funding agreement/contract contains the relevant annex.



69. Students whose whole programme is delivered through distance subcontracted arrangements must comply with the guidance in the [subcontracting control regulations](#).
70. Students undertaking full time higher education (HE) programmes are ineligible for ESFA young people's funding.
71. All students who require a Confirmation of Acceptance of Studies (CAS) in order to obtain Home Office Student visa to study in UK are ineligible for ESFA funding. Students from overseas whose main reason for residence in England has been attendance at a fee-paying school or non-maintained school are not usually eligible for funding. Periods spent in the UK as overseas fee-paying students in either public or private education do not count towards the 3 year period of legal residency in the UK that is usually required from all overseas students to be eligible for ESFA funding.
72. For funding purposes, an 'overseas' student will be defined as one who does not meet the criteria defining a 'home' student as also set out in paragraphs 38 to 41 above. Overseas students are not eligible for funding and institutions can charge these students full-cost tuition fees.
73. All students living in the Channel Islands and Isle of Man are ineligible for ESFA funding as the funding responsibility for their programmes remain with their own independent governments.

## **Compliance evidence of student eligibility**

74. This is the core ESFA funding compliance or funding audit guidance on evidencing existence and eligibility of all students on ESFA young people's funded study programmes.
75. ESFA recognises that different procedures and emphasis will be appropriate to different types of student. It is for institutions to decide what procedures to carry out. Institutions that choose not to carry out any procedures will put their programme funding at risk. Therefore, institutions must have auditable evidence of:
- the process used for the enrolment
  - the record of teaching or support activity for each student
  - evidence of the students age to support the safeguarding of all students attending the institution
76. Institutions must scrutinise applications for study by all students to ensure that they are eligible for ESFA funding according to all advice in this section and to support the student's case for consideration as ordinarily resident in England.

77. In line with the GDPR, we advise institutions to record documentation, rather than take copies to prove eligibility. This includes relevant documentary evidence to support individual student eligibility granted for students who have not been ordinarily resident for 3 years. When institutions record that they have seen documentation, they must be fully aware of the implications of the documents they are approving. In particular, ESFA advises institutions that they do not need to copy passports and should record passport numbers or references only where necessary.

78. Foreign nationals will have Home Office documentation that outlines their status, for example, refugee status, humanitarian protection, discretionary leave or ELE/ELR in the UK. Asylum seekers will be able to produce an application registration card (ARC) which is issued on or close to the date of their asylum claim. The date of issue will be recorded on the ARC. EU, EEA or Swiss students can use an [online service](#) to prove their immigration status. Institutions can continue to accept EU citizens' passports and identity cards as evidence of their immigration status until 30 June 2021.

79. Institution management must check enrolment forms to see if evidence has been gathered on the residency status and eligibility of the student.

## Learning agreement and enrolment forms

80. ESFA considers it essential that students have access to clear and full information on any charges for their programme (that must comply with the guidance in paragraph 16) before enrolment and that they are provided with pre-entry advice and guidance. The successful outcome of pre-entry advice and guidance is a learning agreement or enrolment form signed by the student and the institution. While recognising that different types of student may require different approaches to advice and guidance, the learning agreement/enrolment form (either as separate or combined forms) must provide confirmation that the following broad areas have been covered:

- a. the choice of learning programme
- b. entry requirements for each learning aim within the learning programme
- c. an assessment of the suitability of the learning programme
- d. support for the student, and
- e. the nature of the procedures involved in the process of advice and guidance

81. An institution must retain a learning agreement and/or enrolment form signed on behalf of the institution and by the student as compliance evidence to support its funding claim. While all students funded by ESFA must have a learning agreement, the detail should be proportionate to the length of the learning programme. ESFA is aware that some institutions have invested in electronic signature recording systems and these are acceptable where the student has made an electronic or digital signature and the document has also been appropriately signed by a member of staff of the institution. In such cases the students must be given either an electronic or paper copy of the

document they have signed. We have included our standard advice on how to evidence electronic signatures in paragraphs 134 to 137 and advice on additional flexibilities for any coronavirus (COVID-19) lockdown periods in paragraphs 138 to 142. Institutions must ensure they are not recruiting students already enrolled on study programmes with other funded institutions or act in any way to entice students away from any existing study programmes.

82. The learning agreement and/or enrolment form must include the following key details:

- a. the student's name, address (including the postcode and time spent at that address), age and residency status, which will indicate whether the student is a home or overseas student. For students not resident in the United Kingdom for the 3 years prior to the commencement of their programme, institutions must be able to evidence alternative student eligibility as set out in paragraphs 39 to 41
- b. the learning programme and expected student outcomes, including start and end dates for all learning aims
- c. the number of planned hours or other planned funded activities in each year of the programme
- d. where provision, including IAG for the student, is delivered by a subcontractor the ESFA-funded institution should make sure that IAG of an equivalent quality is being delivered to these students
- e. evidence of the assessment and guidance process by which the learning agreement was reached must be recorded
- f. all students must have seen the privacy notice (formerly the data protection statement) included in the ILR Specification Document Appendix F during their enrolment process
- g. confirmation that part time students are not enrolled on any funded study programmes at other institutions must be included within these documents. Institutions enrolling students on short part time study programmes must use the Learner Record Service and the student Personal Learning Record to verify that such students are only attending their own institution

83. All institutions must make sure that they and all of their subcontractors fully understand the rules on student eligibility. Enrolment forms completed by subcontractors must fully address the issue of evidencing student eligibility. This is particularly important if the subcontractor is only recording that they have seen any necessary supporting documentary evidence, rather than copying the documentation with the enrolment form to the institution. Institutions must ensure that their subcontractors make available, on a sample basis at least, either clear records or actual copies of the documentation being used to support the eligibility of their students.

## 4: Study programme eligibility

### Introduction

84. The programme eligibility guidance reflects the government's view that it is not for the government or its agencies to determine which study programme or individual qualifications a student should take. However, institutions must comply with the rules in [annex D](#) on the delivery of English and maths to meet the funding condition.

85. Institutions through their information, advice and guidance (IAG) processes, should determine the curriculum offer to meet the needs of students, including their HE entry and employment entry needs.

86. For 14 to 19-year-old students, we expect institutions now and in the future to deliver qualifications from regulated awarding bodies while taking account of the concerns expressed in the Wolf Review that students need 'a balanced and broad programme of study'.

### Educational progression

87. Institutions must be able to demonstrate educational progression for students recruited onto programmes funded by ESFA and be able to record evidence of good educational reasons for individual students recruited to programmes which do not provide progression. All such students should only make up a small percentage of the total student cohort. However, we exclude programmes funded under the one-year offer for 18 and 19-year-olds from this consideration, as the offer is intended to deliver programmes in high value subjects to students who are otherwise at risk of being not in education, employment or training (NEET).

### Resits and retakes

88. When learning programmes are designed to enable students to resit or retake examinations and assessments these are not generally eligible for funding as the activity has already been funded.

89. When there are exceptional circumstances outside the control of the student or institution, such as a period of long term sickness or good educational reasons then the retake delivery hours for individual students may be included in the funded study programme hours. These students must only make up a small percentage of the total 16 to 19 student cohort. However, we exclude programmes funded under the one-year offer for 18 and 19-year-olds from this consideration, as the offer is intended to deliver programmes in high value subjects to students who are otherwise at risk of being NEET.

90. Where a student fails to complete a learning aim in the expected time span and stays on for additional time, including revision sessions or resits, institutions must not record any further funding. Institutions must not include any planned hours in data funding returns for students who are only retaking examinations.

91. GCSEs in English and/or maths where the student has not yet achieved either a grade 9 to 4 or a A\* to C in these subjects are not treated as retakes for funding purposes.

## Eligible provision

92. In the majority of cases young people should be enrolled either in learning which leads to:

- a. an external certificate offered by a regulated awarding organisation and approved on the ESFA list of qualifications approved for funding 14 to 19, or
- b. a substantial work placement to prepare them for progression to an apprenticeship or other employment
- c. or enrolled on a T Level

93. ESFA does not fund study programmes of less than 2 weeks' duration. Whilst there is no minimum number of hours that a study programme must have, from this year no student's planned hours should exceed 40 hours per week.

94. The start qualifying period is set at 6 weeks for students with study programmes of 450 or more planned hours or programmes of more than 24 weeks and 2 weeks for all part time students below 450 planned hours whose programme is due to take between 2 weeks and 24 weeks. You can find more information on the qualifying period in the [Funding rates and formula guidance](#).

95. Students whose programmes do not meet the full time criteria within the funding year will be treated as part time for funding purposes. This includes students whose programme crosses 2 academic years but is not full time within either year. This should not affect the normal delivery of full time programmes across 2 funding years where students undertake more organised examination preparation in the second year.

96. Full time students are not eligible for part time funding at a different institution if enrolled at more than one institution at the same time, in the same academic year.

## Planned hours for study programmes

97. Funding for study programmes is based on their size, measured in planned hours. Hours are categorised as either qualification hours (planned learning hours) or non-qualification hours (planned employment, enrichment and pastoral (EEP) hours). The number of hours a student may study during a week should not be greater than the

maximum number of hours a young person can legally work during a week and from this year the number of hours a student may study should not be greater than 40 hours per week and both the study programme's planned hours and planned dates will need to reflect this.

98. Planned hours are those that are directly related to the student's study programme and that:

- a. are timetabled, organised and/or supervised by the institution
- b. take place in line with the institution's normal working pattern

## Qualification hours for study programmes

99. For funding purposes, study programmes must only include qualifications approved for teaching to 16 to 19 year olds on the [ESFA list of qualifications approved for funding 14 to 19](#), or any alternative list which may be published by the Department for Education (DfE) in the future. The qualifications must also be listed as valid for 16 to 19 funding in the [Find a learning aim](#) which will replace the [Learning Aim Reference System \(LARS\)](#). However only those applied and technical qualifications that have been approved by DfE will be reported in performance tables.<sup>3</sup>

100. For students capable of studying and achieving either A levels or a substantial vocational qualification, the qualification should usually be at a level above the student's prior achievement. For students on programmes for which a core aim needs to be recorded, this substantial qualification must be recorded as the core aim. You can find more information on core aims in the [Funding rates and formula guidance](#).

101. For students who are not yet ready to study and achieve substantial qualifications, their study programme may consist of substantial work experience and employability skills plus English and maths qualifications that meet the condition of funding requirements if they have still to achieve these qualifications.

102. When students are allowed time away from the institution's premises to revise and prepare for exams this must also meet the criteria of being planned, being explicit in the student's timetable, and supervised and/or organised by a member of staff. Study leave should be time-limited and the weekly number of hours must not exceed the student's planned weekly hours for the overall study programme. Study leave must be supervised or organised by the institution, for example by requiring the completion of structured revision or practice papers that are marked by a member of staff and where the student is given feedback. These hours can be counted for both years 12 and year 13.

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<sup>3</sup> ['16 to 18 accountability headline measures: technical guide'](#), Department for Education (DfE).

## Non-qualification hours for study programmes

103. Non-qualification hours cover employment, enrichment and pastoral (EEP) activity. These hours must be timetabled, organised and/or supervised by the institution.

104. Non-qualification hours can include, for example:

- a. time spent working towards internally certificated qualifications, that is, qualifications developed, assessed, and awarded within the funded institution
- b. time spent gaining experience or other non-qualification activity (including activity to give young people the skills they need to live more independently and be integrated within their community)
- c. tutorial time
- d. time spent on work experience, other work-related activities
- e. volunteering and/or community activities or enrichment activities organised and quality assured by or on behalf of the institution whether paid or not, including activity such as the Duke of Edinburgh Award that might lead to an award but is not listed on the [ESFA list of qualifications approved for funding 14 to 19](#)
- f. enrichment activity, such as personal and social development

105. Work experience and other work-related learning or activities are designed to help students secure experience, job-related or specialist skills of direct benefit to their future employment or study goals. Work experience that the provider has planned, organised and supervised will be recorded as non-qualification activity and should be identified in ILR data returns using the work placement entity, or in the school census using the work experience learning aim references.

106. Institutions must only include planned hours for work experience that takes place outside the institution's normal working hours when this is necessary to give students realistic experience of their chosen industry. The institution must also have evidence of support given outside normal working hours for such work experience. We recommend that institutions document and retain justification for delivering work experience out of normal working hours.

107. Many students will look for work experience opportunities independently, or take part time jobs. This independent work experience or part time work is not funded as part of a study programme. Non-qualification hours must not include the hours for T Level industry placements.

108. Virtual or distance learning elements of the study programme must be planned, timetabled and organised by the institution.

109. Non-qualification hours must not include time spent on externally certificated qualifications that are not approved for funding. These are not eligible for funding and must not be recorded under learning aim [class codes](#).



110. Non-qualification hours must not include homework or independent study/research that is not timetabled.

111. The time when a student is taking exams can also be included in the total planned hours.

112. Voluntary extracurricular activities and clubs that operate during breaks or outside the institution's normal working day must not be included as part of the study programme.

## T level planned hours

113. The planned hours recorded for T Levels must not include industry placements, maths and English study, or additional qualifications that are not required for completion of the T Level but will include EEP. [Industry placements have a separate funding rate](#), there is an [additional payment for maths and English study in level 3 programmes](#), and the [large programme uplift](#) gives extra funding for AS and A levels taken in addition to a T Level.

## Recording planned hours

114. The planned qualification and non-qualification hours for the student for the funding year are recorded in the ILR and in the school census. From 2021 to 2022 onwards study programme and T Level programme planned hours are recorded in separate fields. Study programme planned hours reflect the hours planned for the academic year whereas T Level planned hours are recorded for the length of the T Level programme. For more information please refer to guidance for submitting the [ILR](#) and [school census](#).

115. If the student is on a study programme that spans more than one funding year, the planned hours recorded in the data return must be set at the start of each funding year to only reflect the planned hours for the funding year from 1 August 2021 and 31 July 2022.

116. Institutions must ensure that the planned hours entered on data returns are realistic and deliverable to each individual student and are supported by auditable evidence that the eligible activity offered to students is timetabled and exists.

117. If the programme content changes within the first 6 weeks of the programme, the institution must update the planned hours.<sup>4</sup>

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<sup>4</sup> Questions and answers on changes to planned hours are included in [annex C](#) to this document (Q10 to Q14); full guidance is in the ['Funding rates and formula' document](#).



118. When institutions calculate planned hours using expected standard student attendance, institutions must use the average planned hours attended by students. This average must take account of students who both complete early and finish later than average.

119. When institutions recruit students to start short study programmes, they must only record the planned hours for those associated planned short programmes. Institutions may plan programmes for students with the intention of starting the student on a small or nested qualification and progressing them onto a larger qualification when they are successful in the smaller one. In such cases, the planned hours for the programme must only include the hours for the smaller or nested qualification. When the institution is sure that the student will progress onto the larger qualification, they can update the planned hours to include the additional delivery. This advice applies equally whether or not there is a gap between a student's initial short study programme and their longer study programme.

120. When an institution (or its subcontractors) closes a delivery centre during the funding year they must remove all planned hours after the closure date from all their data returns unless they have retained the students in a different delivery centre to complete their study programmes. This includes removing all planned hours after the closure date for students who withdrew from their study programme before the closure date.

121. [Annexes B](#) and [C](#) include more detail on planned hours' eligibility and qualifying periods.

## **Eligibility evidence for study and T Level programme hours**

122. ESFA expects a timetable or learning plan to be available as part of each student's enrolment process. It should set out the study programme that the student will follow, covering all the learning aims and other activities that make up the funded hours submitted in data returns. This document is likely to be the primary source of funding audit evidence. More information, including example summary timetables, is in [annex B](#).

123. Institutions must be able to demonstrate that a robust system is in place for planning student programmes which are timetabled or roomed and align with staff timetables. There must be evidence that the significant majority of the students are attending the majority of their planned programme. It is inevitable that some planned activities will not run and that some student individual plans will change in year but this should not be the case for most students. Institutions must be monitoring/managing and

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reporting on student compliance with their study programmes and should also be monitoring delivery of study programmes by curriculum colleagues.

124. For non-qualification activity to be eligible for funding, institutions must be able to evidence that they have incurred a cost in delivering the activity. For this reason, for example, homework after the end of the teaching day remains a non-fundable activity.

125. Institutions must also be able to demonstrate how non-qualification activity improves either progression to further levels of study or entry into employment.

126. Institutions must have evidence that students have both started and attended for the year. When there is evidence of success in an externally awarded learning aim, this should be sufficient evidence that the student started and was retained on that aim.

127. Institutions are responsible for the content of students' study programmes, although ESFA expects them to follow the [advice set out on planning and delivering study programmes](#).

128. When students have not achieved a GCSE grade 4 or grade C in maths and/or English, institutions must be able to show how they are assisting the student to achieve these qualifications. In study programmes, the provision of maths and English is enforced through the condition of funding, as set out in [annex D](#). You can find full information on the [condition of funding on GOV.UK](#). T Levels have a maths and English exit requirement, as set out in [T Level action plan 2019](#).

## **Student attendance**

129. Institutions must have evidence that individual students were undertaking the specified study programme during the learning period for which funding and retention is being recorded.

130. For most students this will take the form of registers of attendance. Experience has shown these to be key records in supporting the accuracy of data returns. Regular management review of registers may, therefore, help institutions to ensure they make accurate data returns and to reduce the risk of making ineligible funding returns or claims to the funding body.

131. All institutions should consider the benefits of a good register system to help them to monitor student attendance and progress. This will also support accurate data returns and funding claims. Register systems need to be proportionate in delivering benefits to institutions that offset the costs involved in running these systems and appropriate to the mode of delivery. ESFA offers no advice or preference on types of systems, which may be either paper-based or electronic, or a mixture of such systems. Advice on evidencing non face-to-face delivery is in Annex C paragraph 4 which states a withdrawn student who cannot attend registered sessions would be one failing to meet the following guidance on participation or contact:

- receipt of work or projects by the tutor (electronic or hard copy)
- log-on evidence to learning materials given to students by the institution
- communication with the tutor that indicated that the student was still active on their learning aim, including planned contacts

132. Institutions must ensure that subcontracted organisations can evidence claimed student contact time with tutors to avoid eligibility issues over their subcontracted provision.

133. The following advice on registers must also be taken into account:

- a. each specific session must have a register (only one register is needed where, for example, sessions are continuous or where only small breaks occur). It should include the day, time and duration of each session, and the number of planned hours to be delivered. For example, some institutions may simply use morning and afternoon registers or use electronic register systems to meet these requirements
- b. each register must include the name of the student, the student reference number and the name of the tutor(s). It must be completed at the start of each session with the relevant date and indicate attendance, absence or lateness. In the case of authorised absence, appropriate evidence of prior approval must be available
- c. the register must either be signed or initialled by the tutor at each session or record who approved the register entries
- d. the details recorded on the register must be consistent with the learning aims and other funded activities recorded on the student timetable
- e. this must include the location at which the provision is being delivered where this is outside the institution's usual premises
- f. institution management must undertake sample checks on student attendance in classes. Checks are especially important in the case of subcontracted delivery or provision

## **Evidencing electronic signatures**

134. We accept electronic evidence, including electronic/digital signatures. Where evidence is electronic, you must have wider systems and processes in place to assure you that learners exist and are eligible for funding.

135. Both electronic and digital signatures are acceptable, we do not specify which should be used, only that a secure process to obtain and store signatures is followed.

136. An electronic signature is defined as any electronic symbol or process that is associated with any record or document where there is an intention to sign the document by any party involved. An electronic signature can be anything from a check box to a signature. A digital signature is where a document with an electronic signature is secured

by a process making it non-refutable. It's a digital fingerprint which captures the act of signing by applying security to a document. Usually documents which have a digital signature embedded are extremely secure and cannot be accessed or amended easily.

137. Where an electronic or digital signature is being held, from any party for any reason, you must ensure it is non-refutable, this includes the definitions of both wet and dry signatures. Systems and processes must be in place to assure to us the original signature has not been altered. Where any document needs to be renewed, and a new signature taken, it must be clear from when the new document takes affect and both must be held.

### **Alternative evidence for electronic or digital signatures during coronavirus (COVID-19) restriction period**

138. A wet signature is created when a person physically 'marks' a document. Where a provider has no digital or electronic systems and processes in place to capture a learner or employer signature, then under normal circumstances a wet signature is required for recruitment and evidence of continuing learning.

139. It is recognised that providers delivering training and/or recruiting learners during the coronavirus (COVID-19) pandemic will experience difficulty in obtaining learner and employer wet signatures. Where providers do not have systems and processes in place for electronic/digital signatures, during the coronavirus (COVID-19) restrictions, we will allow confirmation/evidence to be obtained through email as detailed below.

140. For the purpose of audit evidence, we expect a record of acknowledgement or adoption of a genuine electronic message or document. Acceptable alternative evidence includes:

- an email from the learner (or for work experience employer email address) with details of the confirmation and their typed name at the end of the message
- a typed name on an electronic form or document emailed from the learner
- a signed scanned document attached to an email from the learner; or
- a photo taken on a camera/digital medium of the signed document attached to an email from the learner

141. We are allowing institutions to use this type of electronic confirmation (as detailed above) during the period of restrictions due to coronavirus (COVID-19) only where no other useable digital or electronic processes exist. This is not to be used as alternative evidence as part of the institution's business as usual process once the coronavirus (COVID-19) restrictions are lifted.

142. Following the period of coronavirus (COVID-19) restrictions, institutions using the above alternative evidence must resume their usual process for obtaining wet signatures

on relevant documentation. Institutions must ensure that all alternative evidence replacing wet signatures received during the coronavirus (COVID-19) restrictions is genuine and irrefutable, and the evidence is retained for funding audit purposes.

## **Ceasing to attend, withdrawal from course and learning agreement amendment forms**

143. When a student withdraws from their programme or course, transfers to another programme or changes one of their learning aims or their mode of study, this must be indicated on an appropriate form used by the institution. This must be signed by the tutor, and used to ensure that the information on the data return is correct and that the learning agreement is amended correctly. Institutions should consider whether students should sign as well to confirm their consent to the change in their programme. We remind institutions that they have a legal duty to notify their local authority if a young person aged 16 or 17 leaves learning before their planned leaving date.

144. In some circumstances, institutions must amend the planned hours for students who withdraw from learning aims. Further guidance on withdrawals is set out in [annex C](#).

## **Ineligible provision**

145. The following provision is not eligible for ESFA funding and must not be included within students' funded planned hours:

- a. qualifications falling out of approval. ESFA will only fund continuing students enrolled on programmes before the funding validity's last date for new starts, in order to enable them to complete. The course itself (that is, the teaching and learning, and not just the student induction) must have started before the approval end date. When students are enrolled on a qualification nearing the end of its approval, institutions are responsible for checking qualification availability, final registration and certification end dates with the awarding body
- b. whole prescribed HE qualifications (see ['Higher-level programmes for students'](#) for more information)
- c. company-specific learning aims
- d. vendor-certificated courses, unless they are either approved or are embedded within and contribute directly towards the generic learning required to achieve an approved qualification on the [ESFA list of qualifications approved for funding 14 to 19](#). Examples of vendor certificates include those of information technology companies that are specific to those companies' own products and services
- e. primary and advanced driving skills (for example, defensive driving) or piloting skills
- f. short study programmes of fewer than 2 weeks, including those delivered through subcontracted arrangements

- g. other learning aims that are considered to be fully funded from other sources, including all full cost-recovery provision
- h. approved qualifications not identified on the [Find a learning aim](#) which will replace the Learning Aim Reference Service (LARS) as eligible for funding
- i. qualifications that are offered by external organisations (those outside the funded institution) that are not approved for funding
- j. students are also ineligible for funding if they are recruited to attend short programmes at one institution while they are already enrolled on either funding bodies funded provision or are full time HE students at another institution. The funding principle remains that students must only be funded at one institution at a time
- k. students who have been fully funded, that is, recorded at the highest funding bands 5 or 4a or for T Levels and where retention has been recorded are ineligible for further study programme funding at other funded institutions during the summer term
- l. students are also ineligible for funding if their whole programme is delivered through distance subcontracted arrangements which do not comply with the guidance in the [subcontracting control regulations](#)

## 5: Definitions and terminology

146. This section provides detailed definitions and funding explanations of some of the key terms used in the 4 books that make up the document called funding guidance for young people and of relevance to funding. Explanations of acronyms are provided in [annex A](#).

### Absence and actual leaving date

147. An institution may continue to record funding for reasonable student absences of up to 4 consecutive weeks (28 days) if the student continues in learning after the absence. Institutions must withdraw students from their programmes if they do not return to learning after being absent for 4 weeks. ESFA does not distinguish between authorised and unauthorised absence for funding purposes.

148. The actual leaving date is the date when the student completes their learning activity, or the date when the student is deemed to have terminated the learning activity, if this is an earlier date (as set out in the [ILR specification 2021 to 2022](#)). Full guidance on withdrawals is available in [annex C](#).

### Access to HE

149. All QAA-recognised Access to HE courses will lead to the award of the Access to Higher Education Diploma and will be identifiable by a qualification title using a standard format: Access to HE Diploma (subject/area of study). This and other requirements are detailed in the Diploma credit and qualification specifications available from the [Access to HE website](#). Access to HE programmes are designed to support adults seeking entry to HE and ESFA only funds young people on these programmes by exception.

### Achievement

150. The current data arrangements continue the historical process of recording actual achievement in data returns. Achievement gives institutions easy audit compliance evidence of retention particularly in relation to the student's core learning aim.

151. Evidence that a student has achieved must be available. This could be:

- a. evidence of entry to and completion of a relevant programme
- b. an official results list or slip, or a certificate issued by the awarding body (either by paper or electronic records), or
- c. for institution-accredited programmes, a record of achievement, institution certification, or progress reports indicating achievement of the student's learning programme



152. Institutions must have evidence that supports records or claims for achievement of non-accredited learning aims that is as robust as that for qualifications that are regulated by Ofqual.

153. Where achievement is recorded, institutions must retain learning outcomes records with the associated initial assessment records or learning agreements, showing that the student has met the agreed learning aims and achieved the appropriate objective.

## Approved qualifications and FaLA as it replaces LARS

154. An approved qualification is a current qualification listed on the [ESFA list of qualifications approved for funding 14 to 19](#).

155. The [Find a learning aim](#) which will replace the [Learning Aim Reference Service \(LARS\)](#) is the repository for detailed information on learning aims. If you have queries or questions on FaLA or LARS, please contact the [ESFA service desk](#).

## Bursary funding

156. ESFA gives financial support for particular groups of young students. This includes student support funds that support the student to stay in learning. You can find [further information on this funding](#) on GOV.UK.

## Collaboration

157. Consortia must ensure that students within the consortium are recorded on only one institution's records. The institution at which students are recorded for funding at the start of the year must record on their own ILR or school census returns the qualifications studied by its students at other institutions through collaborative arrangements.

158. Institutions must not record for funding purposes on either their ILR return or their school census students who are already studying qualifications with other institutions who are recording the students for funding purposes.

## Full time and part time students

159. For funding purposes a full time student (aged 16 to 17 or aged 18 to 24 with an EHCP) is one enrolled on a programme of at least 540 planned hours and a part time student is engaged in a study programme of less than 540 planned hours in the academic year. For students aged 18 and who are not recorded as students with high needs the full time threshold is 450 planned hours.



160. For some purposes other than funding calculations, it is important to measure whether a student is in full time education and training over a period other than a year. In this context, students engaged in education or training of more than 16 planned hours a week are also considered full time during this period.

## Higher-level programmes for students

161. ESFA will support qualifications which enable students on level 3 programmes, to do some study above level 3 (known as higher-level study).

162. Section 28A of the Education Act 2002 gives governing bodies of maintained schools in England (and Wales) the power to arrange the provision of higher level study for students in schools.

163. We fund higher-level study under the following conditions:

- a. the HE provision must be a small part of the provision, typically instead of an AS level and the young person must be enrolled on a full level 3 programme including the HE provision
- b. institutions must substitute higher-level and more stretching provision in place of courses and qualifications that students might otherwise pursue
- c. the provision must involve an appropriate amount of teaching or appropriate distance learning; it would not be acceptable for HE provision to be undertaken purely as private study
- d. where distance or online learning is involved, there must be no charge to the student for course materials, supporting books, access to IT and similar activities or matters
- e. we do not fund any students whose study is funded through the government's funding streams for higher education (HE). Students who are eligible for student finance (such as Tuition Fee Loans and Maintenance Loans) will be HE students, and not eligible for ESFA 16 to 19 funding.

## Prescribed HE

164. ESFA can fund component parts of prescribed HE qualifications, but not whole qualifications. The full list of prescribed HE qualifications is set out in paragraphs 1(a) to 1(f) of [schedule 6 to the Education Reform Act 1988](#). It principally covers:

- a. Higher National Diplomas (HNDs)
- b. Higher National Certificates (HNCs)
- c. first (undergraduate) degrees
- d. postgraduate degrees

## Non-prescribed HE

165. ESFA funds whole non-prescribed HE qualifications.

166. Non-prescribed learning aims are higher-level vocational learning aims that are generally professional learning aims leading to accreditation by a professional body. Non-prescribed HE qualifications are defined in paragraphs 1(g) and 1(h) of schedule 6 to the [Education Reform Act 1988](#).

167. The part time certificates in HE and the high level qualifications that are delivered to students of high ability on dance, drama, and musical theatre courses are non-prescribed HE, but are not funded by ESFA's 16 to 19 funding model.

## Individualised learner record (ILR)

168. The ILR is used by institutions (other than those recording data using the school census) to record all relevant funding data about ESFA-funded students. More information can be found in the [specification of the Individualised Learner Record 2021 to 2022](#).

## Pre-entry information, advice and guidance (IAG)

169. The funding for each student's programme is based on the principle that students are provided with clear pre-entry advice and guidance. Such advice and guidance are crucial if the study programme is to match a student's aspirations, expectations and abilities. The [Government database on 14 to 19 courses](#) should assist these processes.

170. The successful outcome of pre-entry advice and guidance is a learning agreement/enrolment form signed on behalf of the institution and by the student.

## Prevent duty

171. The [Prevent duty](#) applies to all delivery arrangements including subcontracted provision. It requires institutions, to have due regard to the need to prevent people from being drawn into terrorism. All further education and independent learning providers must comply with relevant legislation and any statutory responsibilities associated with the delivery of education and safeguarding of students, and this includes students receiving provision under a subcontracting arrangement.

## Provision of information on courses for 16 to 19 year olds

172. Young people need to make informed choices about their post-16 education and training options and should be able to access comprehensive information about all options available. To facilitate this, the government has developed a [national database of](#)

[14 to 19 courses](#), linked to the existing database of post-19 courses, for which those with public funding already have to supply information. Institutions providing ESFA-funded courses for 16 to 19 year olds are expected to provide information to the government about the courses they plan to offer from 2021 to 2022, to agreed data standards which will be collated on this national database. To support institutions an [operational guide](#) is available on GOV.UK.

## Prince's Trust Team Programme

173. For the Prince's Trust Team Programme, the institution overhead rate (management fee) should be no more than a maximum of 15 per cent of the total ESFA funding. Any figure above 15 per cent will require prior approval from ESFA in collaboration with the Prince's Trust. For the purpose of the condition of funding, ESFA recognise that the Team Programme will support young people to progress towards GCSE standard and has been approved as a stepping stone towards a GCSE in these subjects.

## School census

174. The DfE collection of data from schools and academies is the [school census](#). This is the equivalent of ILR data collected from non-school institutions. Further information on the school census is included in [annex E](#).

## Start date

175. Start dates are used to determine when and whether funding should be recorded. They are determined by the date on which the student's learning aim begins. Further details of how start dates relate to funding and the qualifying periods of attendance to count as a funding start are given in [annexes B](#) and [C](#).

## T Levels

176. T Levels are funded as part of the young people's funding methodology, but in some respects are funded differently to study programmes.<sup>5</sup> They are subject to all the guidance within these documents. You can find [more information on T Levels](#) on GOV.UK.

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<sup>5</sup> You can find more information in the [funding rates and formula](#) guidance.

## **Traineeships and supported internships**

177. These are funded as part of the young people's funding methodology and are subject to all the guidance within these documents. You can find [traineeships advice](#) on GOV.UK.

## 6: Subcontracting

### Subcontracted provision

178. Subcontracted provision, including franchised or partnership provision, is learning provision that is delivered with the involvement of a third party and all institutions using third parties to deliver any of their funded provision must follow the guidance in the Subcontracting funding rules for ESFA funded post-16 funding (excluding apprenticeships). The published document for 2020 to 2021 [Subcontracting control regulations document](#) should be used until Subcontracting funding rules for ESFA funded post-16 funding (excluding apprenticeships) the replacement book for 2021 to 2022 is published. ESFA expect written contracts that meet this guidance to be in place before students are enrolled and are recorded on either ILR data or school census returns.

179. Schools (including academy schools) must not register a young person as a pupil while subcontracting the whole of a young person's programme. In addition, taking into account the known risks of irregularity, ESFA will not normally fund young people on distance subcontracting study programmes in other funded institutions. A range of factors to be considered by institutions when deciding whether distance subcontracting may be included in funding returns is set out in this document.

180. In exceptional circumstances only, institutions may make subcontracting arrangements for delivery that is outside their normal recruitment area. ('Normal recruitment area' is defined in paragraphs 58 to 59). Such 'distance subcontracting' arrangements carry more risk and it is inherently more difficult for institutions to exercise the appropriate level of control and to safeguard students. Institutions must remember that they are responsible for the young people enrolled on subcontracted provision and for the proper use of the public funding they claim.

181. It may be appropriate for institutions to make distance subcontracting arrangements for the whole of students' programmes; however, these circumstances will be rare. Schools and academies must not subcontract whole study programmes under any circumstances, as set out in the detailed paragraphs below. We are considering whether to put in place more formal requirements for institutions to agree distance subcontracting arrangements with ESFA in future years.

182. When funded institutions make distance subcontracting arrangements, they must exercise the same procedures and controls as for local subcontracting. They must also:

- have auditable evidence of the exceptional circumstances that make the distance subcontracting necessary
- consider the funding implications and assure itself that the arrangement will comply with all guidance in advance of any recruitment (for example, the

principles of funding and the design of study programmes set out earlier in this book)

- keep evidence that they are properly and effectively monitoring and controlling the provision and safeguarding the students as set out in this guidance

183. ESFA's auditors will do sample checks of institutions' distance subcontracting arrangements. When institutions are not compliant with this or any other ESFA guidance, we will take action as set out in this document's intervention section, and/or in the contract/funding agreement clauses.

184. ESFA will consider a range of factors when deciding whether distance subcontracting arrangements are within the letter and the spirit of guidance, including but not limited to:

- the extent to which the directly funded institution is involved in delivery (for example teaching part of the programme or just providing financial and quality assurance)
- whether the amount of funding retained by the directly funded institution is proportionate to the costs they incur in the management and administration of the contract
- the extent to which the provision being made available is already available via other directly funded institutions in the locality and is accessible to students in the area where the subcontract operates and why local provision is not meeting the students' needs
- the extent to which a gap in the provision of the type to be delivered under the proposed subcontract has been identified or supported by the local authority or an employer
- the location of delivery and the nature of travel to learn/travel to work patterns

## **Maintained schools and academies**

185. Schools and academies must not subcontract for students' whole programmes. This is because these institutions must comply with the Education (Pupil Registration) (England) Regulations 2006 and the underlying primary legislation, which requires schools to maintain a register of all pupils at the school. These regulations cover all pupils at the school (including those up to the age of 18). Only pupils at the school can be added to a school's roll. Section 3 of the Education Act 1996 defines a pupil as someone "for whom education is being provided at the school".

186. Legally, being a pupil and attending a school are based on physical presence. Although schools have powers to arrange some educational activities away from their

premises, these are not intended to allow the whole of a pupil's education to be delivered somewhere, and by someone, other than the school. This means that all whole programme subcontracted provision is in breach of the regulations.

187. Schools and academies can therefore only subcontract provision for pupils who:

- attend the institution for at least one element of their programme throughout the academic year
- attend the school or academy at least once a week for 19 to 25 high needs provision

188. In 2014, DfE legislated to restrict local authorities in their funding of special schools in respect of 19 to 25 year old students. This restriction effectively prevents special schools from routinely enrolling young people aged 19 to 25. This was in support of the objective of the SEND reforms to prepare young people for adulthood. Allowing students to remain in a single setting from age 5 to 25 could severely prejudice their chances of preparing for employment and independent living, and would simply push back the 'cliff edge' described by many parents when their children leave education. Requiring young people to move into further education if their Education, Health and Care (EHC) plans continue post-19 is far more likely to prepare them for adulthood. This provision, where appropriate, must include opportunities to experience the world of work, develop independent living skills and make independent choices and decisions in an adult context.

189. We do not expect colleges to enter into subcontracting arrangements with special schools for the whole, or for a substantial proportion of a students' programme where they are aged 19 to 25. Special schools have the option to set up a legally and financially separate entity to make provision for 19 to 25 year olds as advised in the [High needs funding: operational guide](#).

190. Arrangements may continue between colleges and special schools for part of a students' programme where appropriate, for example where this is serving the student's educational needs, or to access a sensory room or speech and language therapy. Such arrangements must not be for more than one day per week.

191. We will also continue to allow students to stay on for another year at a special school to finish a course of secondary education started before they were 18.

## **Transferring provision between institutions**

192. When a directly funded institution ends a subcontracting arrangement, they must inform ESFA, so that we are assured there is no negative impact on students and can adjust funding allocations as necessary.

193. If the directly funded institution ends a subcontracting arrangement and the subcontractor transfers the provision to a different directly funded institution, ESFA may remove one or both institutions from the lagged allocation process to ensure that the funding follows the student. The decision on whether to make an adjustment to lagged numbers will depend on the scale of the subcontracted provision, the timing and process followed in ceasing the contract, and the nature of any resulting gap.

194. We will then consider an evidence-based business case from the new directly funded institution to fund planned new starts.

195. When an institution ends a subcontracting arrangement, they must make sure there is continuity of provision for those students already on the programme and that there is no gap in provision created as a result. Directly funded institutions are responsible for students on subcontracted provision. They must make sure that existing students are funded to the end of their programme either by a phased withdrawal from the relationship or by transferring funded numbers and the funding to another institution that has agreed to pick up the continuing students.

196. If an institution plans to stop a subcontracting arrangement, they must give the subcontractor sufficient notice. This must be at least 3 months, but may need to be longer. The directly funded institution must work with the subcontractor to put plans in place to ensure that students who are part way through their programme are supported to complete.



## Annex A: Acronyms and glossary

This list includes acronyms that may be used in any of the funding guidance documents or ILR manual although some are not used in this publication.

Acronym	Description
2021 to 2022	Denotes ESFA funding year from August 2021 to July 2022
2021-21	Denotes financial year from April 2021 to March 2022
CDF	Capacity Delivery Fund (for work placements)
DfE	Department for Education
EEA	European Economic Area
EEP	Employment, enrichment and pastoral (planned hours)
EHC plan	Education, Health and Care Plan
EHE	Electively home educated
ESFA	Education and Skills Funding Agency
EU	European Union
FaLA	Find a learning aim (will replace LARS)
FTE	Full time equivalent
GCSE	General Certificate in Secondary Education
GDPR	General Data Protection Regulation
HESA	Higher Education Statistics Agency
HNS	High needs students
ILR	Individualised learner record
IMD	Index of Multiple Deprivation
Las	Local authorities
LARS	Learning Aim Reference Service
NAO	National Audit Office
NEET	Post-16s not in education, employment or training
Ofqual	Office of Qualifications and Examinations Regulation
QN	Qualification number (also known as Learning Aim Reference)
Section 96	This is replaced by the 'ESFA list of qualifications approved for funding 14 to 19'
SEN/SEND	Special educational needs and/or disabilities
SPI	Special post-16 institution

SSA	Sector subject area
UK exit	This was the 31 January 2021, the legal date the UK left the EU
UK Transition date	This is the 31 December 2021 and is the date the UK ceased to be in Transition arrangements with the EU
UTC	University technical college

## Annex B: Planned hours and timetable evidence

### Evidencing timetables to auditors for all students

1. Definitions of planned hours and what can be included is in [section 4, 'Planned hours'](#).
2. Institutions need to show in a simple format that they are recording planned hours in the ILR or school census accurately in accordance with the hours on the student timetable, learning agreement, or similar document.

**Table 1: summary of expected evidence of student existence and eligibility**

Evidence required for	Evidence required
Student eligibility for public funding	As set out in sections <a href="#">'Student eligibility'</a> and <a href="#">'Study programme eligibility'</a> .
Student eligibility for full or part time funding	Timetable or learning plan to be available that sets out the study programme the student will follow and that reflects the hours.
Eligible activities for inclusion in study programme	<p>All activities in a student's learning plan or timetable which are:</p> <ul style="list-style-type: none"> <li>• planned</li> <li>• supervised and/or organised by a member of staff</li> <li>• taking place usually within the institution's normal working pattern - including twilight sessions provided they meet the other principles</li> </ul> <p>The institution should be able to evidence that they have incurred a recognisable cost in delivering that activity.</p> <p>Institutions must ensure that the planned hours entered on data returns are realistic and deliverable to each individual student and are supported by auditable evidence that the eligible activity offered to students is timetabled and exists.</p>
Student retention	<p>If completed – either evidence from an external awarding body of success in the core qualification, or evidence, from registers or otherwise, that the student had completed the learning activities leading to the core qualification.</p> <p>If continuing – evidence (for example, registers) that the student was still attending the core qualification at the end of the academic year.</p>
Core aim	Learning plan indicating which qualification is the core aim of the study programme. Schools who make census returns must only identify a core aim for programmes that are vocational, or mixed programmes with a vocational core.

3. ESFA has included 2 examples of calculating individual student summary planned hours below to help institutions meet the requirement to evidence planned hours recorded on the ILR or school census. The summary planned hours in the examples must correspond to individual students' detailed timetable or learning agreement. Institutions who produce similar schedules for all funding audit samples should simplify their funding audit.

4. The number of planned hours a student may study should not be greater than 40 hours per week and both the study programme's planned hours and planned dates will need to reflect this.

5. Institutions choose their own management information (MI) system and we are aware of 2 main ways that MI systems record planned hours for programmes. For each way, institutions must make sure that additional evidence is either generated by the MI system or that they hold it separately. The 2 main ways that MI systems record planned hours for programmes are:

- a. recording planned hours at individual learning aim and activity level, and then adding these together to get the total planned hours for individual students. Institutions must have evidence for how they have calculated planned hours recorded in the ILR or census. This is particularly important when there are hours recorded as employment, enrichment and pastoral (EEP) hours in the ILR or census (for example, university preparation or pastoral support) that are not recorded under a learning aim
- b. recording planned hours at student study programme level. Institutions must have a breakdown showing how they have calculated the planned hours. This evidence can be 'naturally occurring evidence' such as a timetable, learning agreement, or enrolment form. The audit process will be more straightforward when the breakdown compares easily to other evidence of what is planned in the programme

## **Advice to funding auditors only**

6. We allow some funding auditor discretion before confirming whether the planned hours total have been correctly entered on funding returns. In order to try and reduce the amount of work needed by both funding auditors and institution staff in resolving any evidential issues for the current funding year we are issuing this advice to all funding auditors:

- a. The discretion set out below may also be helpful for some institutions for those students who attend the institution on a traditional 16 to 19 study programme and for the full funding year (students attending for all three Autumn, Spring and Summer terms) studying recognised qualifications that lead to a first full Level 3 or a Level 2 programme. Institutions must also be able to evidence a record of

success in delivering these learning aims to successful students. Funding auditors will usually apply these simplified funding audit evidence requirement rules where the learning aims shown below recommend a minimum guided learning hour (GLH) delivery for the funding year of at least 450 GLH. These will include the following learning aims:

- students doing 3 or more AS or A2 learning aims in a two year full Level 3 programme
  - students attending a study programme that includes at least 5 GCSEs
  - students attending full time BTEC Diplomas, or other vocational Diploma courses that are/have been traditionally regarded as a full Level 2 programme
- b. The discretion set out above in (a) above should not be applied to any other students.
- c. The concessions set out above in (a) will only apply to the entering of planned hours on the ILR and do not apply to the need for learning aim start, planned and actual end dates to be correctly recorded. Where these are incorrect and generate any funding errors they must be corrected before returning the institution's final ILR return. For every student in any funding audit sample a planned timetable as set out in this Annex must be provided to the funding auditor and the planned hours on the form should match the planned hours on the ILR. Any funding audit concerns or issues for students that meet the above criteria will usually be management letter points rather than reported as funding audit errors.

## Example student timetables for funding auditors

Example 1: Summary of planned hour timetable - shown for a full-time student taking 3 A levels together with some associated funded activities (year 1 August 2021 - 31 July 2022)

Subject or activity	Planned hours (qualification)	Planned hours (non-qualification)	Planned hours recorded in the data return
A level physics*	170	0	170
A level chemistry*	170	0	170
A level maths *	140	0	140
GCSE English	50	0	50
Student experience mentoring	0	10	10
Work experience	0	30	30
University preparation	0	10	10
Total study hours	530	50	580

\* The qualification planned hours include practical supervised laboratory work together with specific subject supported revision and the exam time as this is delivered as part of the qualification curriculum.

**Example 2: Summary of planned hour timetable - shown below for a part time student (year 1 August 2021 to 31 July 2022)**

<b>Subject or activity</b>	<b>Planned hours (qualification)</b>	<b>Planned hours (non-qualification)</b>	<b>Planned hours recorded in the data return</b>
Work experience (planned start October 2021)	0	220	220
Functional skills maths (planned start January 2022)	60	0	60
Functional skills English (planned start October 2021)	90	0	90
Interview coaching (summer term 2022)	0	20	20
Level 1 hairdressing (planned start March 2022)	80	0	80
<b>Total study hours</b>	<b>230</b>	<b>240</b>	<b>470</b>

## Annex C: Withdrawals

### Compliance evidence for withdrawals

1. ESFA's general guidance on withdrawals is set out below and gives advice on the funding position in relation to eligibility to count students as a start for funding purposes.
2. A student must be considered to have withdrawn from a study programme where they are known to have made a decision to withdraw from the study programme, or to transfer from a full time to a part time study programme or from a part time to a full time study programme. Either the student or the student's tutor should have confirmed this in writing.
3. In addition, for full time programmes and part time programmes of more than 24 weeks in duration that are not distance learning programmes, a student must be considered to have withdrawn where they have not attended classes for at least 4 continuous weeks, excluding holidays. This is unless there is auditable evidence of an intention to return. Compliance evidence includes a student's or employer's letter or formal internal notes such as tutorial reports, contracts of behaviour or personal action plans.
4. For distance learning provision, or where face-to-face delivery is against wider Government guidance, a withdrawn student would be one failing to meet the following guidance on participation or contact:
  - a. attendance at a centre or log-on to learning materials
  - b. receipt of work or projects by the tutor (electronic or hard copy)
  - c. communication with the tutor that indicated that the student was still active on their learning aim, including planned contacts
5. Institutions must ensure that students are withdrawn from a programme where they have not attended classes for 4 continuous weeks, excluding holidays. Withdrawals must be actioned in a timely manner, and where a student has not been withdrawn but has been absent for more than 4 weeks, there must be auditable evidence of an intention to return.
6. Where a student has not been in attendance during a programme, and is deemed to have withdrawn, then the institution must adjust the student record to reflect that the student has withdrawn.
7. Institutions must record student withdrawal dates promptly and accurately in order to reflect the last date of actual recorded attendance. Institutions must record all student withdrawals in the ILR or school census.



8. Institutions must not record withdrawn students as having completed their course, and they are not usually recorded as achieved students. Students must also be correctly recorded as having transferred to another qualification, or withdrawn without transferring.

9. In all circumstances, the date of a student's withdrawal must be the last date of their actual attendance, not the date on which the student's record was flagged as withdrawn. While students may not be classified as withdrawn until 4 weeks have elapsed since their last attendance, or for open and distance learning since the missed contact, the date of withdrawal must still be recorded as the date of last actual participation.

10. When checking the withdrawal mechanism, institutions must have robust systems in place to ensure that students with erratic attendance due to illness or other legitimate circumstances are identified. In the case of students with mental ill-health or other legitimate reasons for erratic attendance, institutions must retain evidence of assessment and/or notification from the student, parent, advocate or medical adviser that there is a strong intention to return. In these exceptional cases, the student need not be entered as withdrawn within the usual timescales. If the student fails to return, the withdrawal date must be the last date of attendance.

11. ESFA does not expect student withdrawals to occur in a systematic pattern. Where the number of students shown as withdrawing from courses shortly after meeting either the funding start criteria or other key dates appears to be disproportionate, institutions and funding auditors may wish to pay particular attention to the attendance records and associated management controls for such courses.

12. An institution should also always take active measures to ensure that the student is continuing on the programme and has not withdrawn. This should be done, for example, by providing a planned timetable for the receipt of assignments and then checking with students who have not provided an assignment on the due date. Good practice suggests that students should be contacted at regular intervals to check that they are still following the programme. It is not acceptable to assume that silence means a student is 'continuing'. Institutions are reminded of the advice in the ['Principles of funding learning'](#) of this document to do everything they can to help students complete their programmes, and should see early withdrawal from programmes as a last and not a first resort. Institutions need to check that subcontractors are implementing the guidance.

## **Additional clarification on withdrawals guidance**

13. The following is included to help clarify the funding situation for withdrawals, transfers and early completion.

Q1 If a student is studying 4 AS level learning aims over one year starting in September and withdraws from one of them after 5 weeks, may funding be recorded all year for the withdrawn learning aim?

A1 No. If the student withdraws from a learning aim before they meet the qualifying period of the study programme, the institution must exclude the hours for the withdrawn qualification from the total hours for the year. In reviewing the planned hours the institution may include planned hours for other activity that is planned to displace the hours lost by the student withdrawal from the initial AS level.

If the learner transfers from a qualification before the qualifying start period, then the timetabled hours up to the point of transfer may be included in this field if they would make a significant material difference to the learner's total planned hours such that they would move from one funding band to another.

If the learner withdraws from all their learning aims and leaves the provider, the hours recorded in this field must not be amended.

Q2 When a full time student reduces their programme, at what point do they become a part time student?

A2 If a student is a full time student after the funding qualifying start period they remain a full time student for statistical and funding purposes for the whole year.

Q3 What dates are used to determine a student's study programme qualifying period for funding purposes?

A3 This is determined using the student's earliest learning aim start date and latest learning aim planned end date.

Q4 If a student stops attending class with no notification to the institution, when is the date of withdrawal?

A4 The date of the last attendance on the learning aim is the date of withdrawal. This should be found in the class register.

Q5 If a student stops attending classes and a member of college staff telephones the student to discuss his or her learning progress, can this be counted as guided learning and be deemed the date of withdrawal?

A5 No. Learning must be specific to the course being studied. The telephone call described here is assistance of a general nature and is not counted for planned hours purposes.

Q6 If a student stops attending classes and some time later the student is persuaded to attend the institution to discuss his or her learning attendance, can this be counted as planned hours learning and be deemed the date of withdrawal?

A6 No. As in the previous answer, learning must be specific to the course being studied. The meeting described here is assistance of a general and administrative nature.

Q7 A student on a one-year learning aim stops attending at Easter to revise at home yet turns up and sits the examination in early June. When is the date of withdrawal?

A7 Early June. Sitting the examination is assessment of the student's achievement and will count as learning. In practice, given the relatively short period of non-attendance, it is unlikely institutions would treat such students who passed their examination and qualification as withdrawals, instead recording them as successful completions.

Q8 Is the date of withdrawal for open learning or distance learning provision worked out in the same way as for traditional provision?

A8 Yes. It is the date of the last participation.

Q9 If a student completes the first year of a 2-year programme and then fails to return for the second year, can the institution record a funding value for the second year?

A9 No. The student must meet the start criteria for each separate funding year.

Q10 For traineeships where the student achieves an early progression either into sustainable employment, full time education, other training or an apprenticeship, how should this be treated for funding retention purposes?

A10 Where the outcome meets the definition of successful progression from a traineeship then the institution must treat the student as completed on their ILR data return so the student is treated as retained for funding purposes. If the traineeship is completed within the first 6 weeks, the institution must revise the planned hours to the planned hours for the student's actual period of attendance as set out in the section ['Recording planned hours'](#).

Q11 If a young person completes their programme during but before the official end of the summer term do the institution still have a legal duty to inform the local authority that the student has left learning?

A11 Where students complete their studies during the summer term this is not usually seen as leaving learning. Most students leave in the summer as soon as they have completed either their last exam or handed in their last marked assignment for the year.

Q12 If a young person withdraws from just one learning aim in their study programme within the first 6 weeks of their programme during the funding year, does the institution have to change the planned hours?

A12 Yes, the institution must update the planned hours to remove all of the hours for the aim from the total. This rule applies regardless of the original length of the study programme or the funding band of the student. If excluding the hours already delivered within the first 6 weeks would make a material difference to the student's

funding band, institutions can include just the hours that they have already delivered in the planned hours.

Q13 When does the first six weeks for setting and adjusting planned hours start for students who started their programme in the previous funding year?

A13 You must set and adjust the planned hours for a student's study programme in each funded year of their programme. No planned hours or start period completion rolls over from one funding year to the next. When the student's programme crosses into a new funding year, for the purposes of recording planned hours you treat them the same as a new start. This means that the earliest possible start date for every funding year is always 1 August.

Q14 When a student continues a programme from the previous year and the first date of attendance is after 1 August (for example, due to summer holiday arrangements), what date is used for calculating the planned hours?

A14 Institutions must use the student's first date of attendance for learning activity to calculate the 6 week period for determining planned hours. The number of planned hours a student may study should not be greater than 40 hours per week (and for example, for those who cease studying after 5 weeks the maximum planned hours will be 200).

Q15 When a student completes a study programme earlier than planned but after the initial 6 week period to start an Apprenticeship with the same institution are there any circumstances in which the planned hours should be amended?

A15 A student should only be in receipt of one ESFA type of funding at any one time at any individual funded (or their financially related) institution. If a student is recorded as having successfully completed a study programme early and is then transferred onto an Apprenticeship programme at the same institution, the institution must make sure it is not drawing down two sources of ESFA funding for the same period of time. In determining what constitutes early completion our advice is to review students who complete before the equivalent of the start period needed to qualify for funding. For full time students this would be those students completing their 16 to 19 study programmes more than 6 weeks early and for shorter part time students more than two weeks early.

It is particularly important that this advice is followed where multiple students are completing early, and any average student planned hour calculations are not taking into account the number of students completing early.

The institution has a choice for students who have attended for more than six weeks of either reducing the planned hours down to the period of the student's actual attendance or making sure that the Apprenticeship funding is reduced to remove any overlap in the period where two sources of funding are being claimed for the same

period. We are content that in these circumstances planned hours can be reduced even after the initial 6-week start period has passed as this maybe a much easier calculation than assessing the impact of the funding overlap on Apprenticeship funding.

Q16 When a student withdraws from their entire study programme before they meet the funding start criteria do their planned hours need adjustment?

A No. When a student withdraws from all their learning aims, and therefore withdraws from their whole programme, as long as they have not met the criteria to count as a funded start then providers do not need to change the planned hours. This can be checked by using the 16 to 19 funding claim report that only lists students who have met their relevant funding start criteria.

## Annex D: Condition of funding on provision of English and mathematics in 2021 to 2022

1. This annex gives a summary of the ESFA condition of funding for the provision of English and maths within young people's study programmes. To assist institutions in planning to meet the condition of funding, ESFA has issued detailed [guidance on the condition of funding](#) and the exemptions, which is available on GOV.UK.
2. Students must study maths and/or English as part of their programme in each academic year. This applies to students:
  - aged 16 to 18 and 19 to 25 with an education, health and care (EHC) plan who do not hold a GCSE grade 9 to 4, A\* to C (a standard pass grade) or equivalent qualification in these subjects
  - doing a programme of 150 hours or more, which started on or after 1 August 2014
3. The qualifications that meet the condition of funding are GCSEs and 'stepping stone' qualifications. Qualifications that meet the condition of funding have a record in the [Find a learning aim](#) which will replace the Learning Aim Reference Service (LARS) database that sets out how long they are valid for.
4. We made a change to our maths and English condition of funding guidance that will apply from the academic year 2019 to 2021, students with a grade 2 or below in maths or English can study towards a pass in functional skills level 2 (legacy or reformed) or they can still study towards a GCSE grade 9 to 4. Once they have achieved this, there is no requirement to undertake further maths or English qualifications to meet the condition of funding.
5. Full time students with a grade 3 must still study an eligible GCSE qualification in order to meet the condition of funding.
6. Part time students with a grade 3 can still study any qualification approved to meet the condition of funding as a stepping stone towards achieving a GCSE grade 9 to 4.
7. This adjustment allows providers and students with prior attainment of GCSE grade 2 and below, to choose which level 2 qualification is most appropriate.
8. To meet this requirement, individual institutions should use the flexibilities available to tailor a study programme, so that each student can improve in maths and/or English to the best of their ability.

## **Enrolments and exemptions**

9. To count as enrolled on a qualification that meets the condition of funding a student has to meet the qualifying period for funding (6 weeks for students with a planned length of 24 weeks or more and 2 weeks for students with a planned length of less than 24 weeks) against the maths and/or English aim. The condition of funding relates to enrolments rather than sitting the exam, this provides flexibility for providers to determine when best for a student to take their exam.

10. There are a small number of students who are not able to take a GCSE or an approved stepping stone qualification, for example, those with multiple and complex needs. These students can be exempt from studying qualifications but appropriate literacy and numeracy should still be included in their study programme.

11. Students who have studied in a country that does not provide GCSEs are also potentially exempt from the condition of funding where the overseas qualifications they hold are equivalent to GCSE grade 9 to 4.

12. If a 16 to 19 student achieves a GCSE 9 to 4 or A\* to C or qualification deemed as equivalent by other means. For example, entering for, and studying a qualification outside of their study programme, then they will have met the condition of funding for the remainder of their study programme.

## **Students not meeting the condition of funding**

13. For institutions with students who do not meet the condition of funding, we will remove funding from the allocation for 2022 to 2023. The institution will receive advance warning of this in their Allocation Calculation Toolkit (ACT).

14. We will continue to apply the current tolerance level of 5% until further notice and more information on the tolerance is available from the condition of funding webpage.

# Annex E: Academies and school sixth forms making school census returns

## Funding eligibility summary

1. In this annex the term sixth form refers to all types of institutions making school census returns and has been produced to:
  - a. summarise the main student eligibility section for academy and school sixth forms
  - b. include additional guidance that is only relevant to academy and school sixth form provision
  
2. Academies (including any former sixth form colleges) or schools that makes ILR returns must read and comply with the separate advice in [Funding guidance for young people: ILR returns](#).

## Closing sixth form centres or ceasing recruitment

3. When academies or local authorities are planning to close or run down their sixth form (either on a permanent or temporary basis) they must notify ESFA at the earliest opportunity and as a minimum before the start of the academic year in which they cease recruitment for year 12 students. In such cases, ESFA will wholly or partly withdraw the allocation made for that academic year, depending on whether there are year 13 students on roll. Late notification of closure, after the start of the academic year, will result in a recovery of funds from the year in which they cease recruitment for year 12 students.
  
4. Where an institution has not planned to close their sixth form but does not recruit or data returns reveal that no students have been enrolled for the academic year, ESFA will withdraw the allocation and will also action recovery of funds where payments have already occurred.

## Funding data arrangements

### Maintaining supporting records

5. By accepting funding from ESFA, sixth forms take on an obligation to:
  - a. maintain all records in accordance with ESFA funding guidance
  - b. allow the appointed auditor or audit firm access to the sixth form's premises to carry out the audit, and to the data records relating to the sixth form's funding from ESFA
  - c. ensure records are retained to enable ESFA to gain assurance



- d. ensure the accuracy of all data relating to sixth form funding
- e. have in place adequate control procedures to ensure error levels are kept to a minimum

## Collecting data

6. 16 to 19 young people's data collections occur as part of the school census. For sixth forms, data is collected on individual student learning aims (the qualifications each student is studying at any point during the year).
7. Schools need to identify and record the substantial (core) learning aim for those students undertaking a vocational or mixed study programme with a vocational aim as its core and school management information systems are expected to hold a data item 'core aim indicator'.
8. Schools and academies must record study programmes hours on the school census. The planned hours fields are available in each autumn census.
9. Qualification-level data is required for the following reasons.
  - a. to assist OFSTED with their success rates reviews to enable a fairer and more accurate comparison of the effectiveness of different institutions across the 16 to 19 sector
  - b. to allow sixth forms to monitor the performance of different groups of students
  - c. to calculate the retention rate for funding, as set out in the [Funding rates and formula](#)
10. In the census, sixth forms need to record:
  - a. each student and that student's details
  - b. the aims studied by each student, including the qualification number (QN)
  - c. the start, planned end, and actual end dates of each aim
  - d. the status of each aim
  - e. the student's prior attainment grades for GCSE maths and English
  - f. students who are exempt from studying maths or English GCSE or who have attained UK equivalent qualifications
  - g. the student's attainment in GCSE maths and English at the end of year 11 used to calculate disadvantage block 2 funding
11. It is important that institutions complete accurately the start and end dates (both planned and actual end dates) and the status of each aim.
12. Sixth forms must record all qualifications for which they expect to receive funding.

13. The data collected will provide a full history for an academic year, not just snapshot data on a particular date. This will allow the student record to be identified at any time of the year.
14. During the year, sixth forms must indicate the status of each aim. Four options are available.
- a. 'Transfer' - when a student ceases studying for one qualification in order to start on a new, often related, qualification
  - b. 'Withdrawal' - when a student ceases a qualification without a new or replacement qualification being started
  - c. 'Completed' - when the aim has been completed, irrespective of whether the aim has been achieved or not
  - d. 'Continuing' - when the aim is not yet complete and study is continuing
15. The difference between a transfer and a withdrawal is especially important for performance purposes as a transfer is not taken into account when calculating qualification success rates but a withdrawal is. A withdrawal is treated as if the student has stopped studying for that qualification.
16. Further support on [completing the census](#) is available on GOV.UK.

## Annex F: Defining EU, EEA and eligible overseas dependent territories as at 31 December 2020

1. This annex lists the qualifying countries and/or areas that establish student eligibility for ESFA young people's study programme funding. This annex applies up to the end of the United Kingdom transition arrangements with the EU on 31 December 2021.

### Member states of the European Union

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

### Notes on certain territories that fall within the EU

2. The following notes provide further guidance as to those territories which are regarded as part of the European Union (EU) for the purposes of funding eligibility for those who moved to the UK before the 1 January 2021:

- a. Finland: includes Aland Islands
- b. 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
- c. Germany: includes territory of the former German Democratic Republic prior to German unification. The tax-free port of Heligoland is included within the EU
- d. Portugal: Madeira and the Azores are part of the EU. Macao is not
- e. Spain: the Balearic Islands, the Canaries, Ceuta and Melilla are part of the EU
- f. UK: Gibraltar is part of the territory of the EU. The Channel Islands and Isle of Man are not part of the EU, nor are the sovereign bases on Cyprus
- g. Other territories: Andorra, Monaco, San Marino and the Vatican are not part of the EU

## Member states of the European Economic Area (EEA)

3. This includes all the EU countries and territories listed above, together with Iceland, Liechtenstein and Norway. For simplicity, for institutions that have to assess students for eligibility for ESFA 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.

## Eligible overseas territories

4. These will be either UK or EU overseas territories for which ESFA will allow institutions to claim funding (please refer to paragraph 42 in the main guidance).

### Eligible British overseas territories

Anguilla	British Virgin Islands	South Georgia and the South Sandwich
Bermuda	Cayman Islands	Isles
British Antarctic Territory	Falkland Islands	St Helena and its Dependencies
British Indian Ocean Territory	Montserrat	Turks and Caicos Islands
	Pitcairn, Ducie and Oeno Islands;	
	Henderson Island	

### Eligible overseas territories of other EU member states (for those who moved to UK before 1 January 2021)

Denmark	France	Netherlands
Greenland and Faroe Isles	New Caledonia and dependencies French Polynesia Wallis and Fortuna Mayotte French Southern and Antarctic Territories St Barthélemy	Antilles (Bonaire, Curacao, Saba, St Eustatius and St Maarten) and Aruba



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