



Skills Funding  
Agency

# Accountability Reviews - Guidance for Colleges and Training Organisations and Skills Funding Agency Staff

April 2013

Of interest to colleges and training organisations and Skills Funding Agency staff

**This Guidance has been prepared by Provider Finance for both Providers and Skills Funding Agency Staff so that:**

- **Both Providers and Skills Funding Agency Staff can appreciate why Accountability Reviews have been introduced and understand the scope and purpose of such reviews.**
- **Providers can prepare for an Accountability Review if selected for one.**
- **Skills Funding Agency Staff can undertake an Accountability Review at a Provider selected for a review.**

## CONTENTS

<b>Paragraphs</b>	<b>Section</b>
1 – 9	Executive Summary
<b>Detailed Guidance</b>	
10	Background
11 -13	The Remit for an Accountability Review
14 -16	The Agency's Schedule of Provider Accountability Reviews
17 - 19	Key Risks
20 – 23	Scope of the Accountability Review
24 – 27	Assurance Work
28 – 29	Preparation for the Accountability Review
30 – 31	Responsibilities of the Corporation
32 - 35	Evidence Requirements
36	Provider Finance Support
37	Feedback Arrangements
38 - 43	The Opinion
44 - 46	Reporting Arrangements
47 - 48	Follow-Up Visits
49	Future Developments
<b>Annexes</b>	
I	FE Colleges Detailed Work Programme
II	Non-College Providers Detailed Work Programme

## **EXECUTIVE SUMMARY**

### **The Introduction of Accountability Reviews**

1. As part of the Skills Funding Agency (the Agency)'s continued work on simplification, Providers were notified in September 2012 that they were no longer required to complete and submit an annual Financial Management and Control Evaluation Return to the Agency. However, the Agency did make it clear that it was still the intention to undertake some reviews of Provider's "financial management and control arrangements" to gain assurance that Providers have effective systems in place to manage and monitor the funds given to them.<sup>1</sup>
2. These reviews are to be termed "Accountability Reviews" in order to emphasise that they will cover governance arrangements and strategic oversight arrangements as well as financial management and internal control arrangements and will be carried out by staff in the Agency's Provider Finance Team.
3. Due to the above this guidance has been prepared for both Providers and Agency Staff so that:
  - Both Providers and Agency Staff can appreciate why Accountability Reviews have been introduced and understand the scope and purpose of such reviews.
  - Providers can prepare for an Accountability Review if selected for one.
  - Agency Staff can undertake an Accountability Review at a Provider selected for a review.

### **Schedule of Provider Accountability Reviews**

4. The Agency will prepare its own Schedule of Provider Accountability Reviews using a risk based methodology as opposed to adhering to Ofsted's Inspection Schedule. The Agency's resources will be prioritised on undertaking reviews at those Providers on its own Schedule. Accordingly, it is unlikely that Provider Finance will be in a position to attend any routine Provider inspections with Ofsted.
5. The key risks that the Agency will normally consider in determining which Providers will feature on its Schedule and thus will be eligible for an Accountability Review are documented in the Detailed Guidance. However, this list of key risks is not though meant to be either exhaustive or prescriptive in what constitutes a risk. Accordingly, the Agency (the Provider Enquiry Group<sup>2</sup> will take this decision) reserves the right to undertake an Accountability Review at any Provider.

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<sup>1</sup> This is one of the Chief Executive of Skills Funding's responsibilities as Accounting Officer and provides a remit for the review.

<sup>2</sup> The Provider Enquiry Group is a senior committee of Agency Staff.

## **Preparing for an Accountability Review**

6. Providers will be notified that they have been selected for an Accountability Review some three to four weeks before the review start date. It is not the Agency's intention to require Providers to complete either pre-visit or self-assessment documentation prior to the Accountability Review. However, this guidance and its annexes will assist Providers prepare for an Accountability Review. Also, detailed support and guidance on how to prepare for it will be provided by the Provider Finance team assigned to undertake the review. This may include the holding of a planning meeting prior to the actual visit to discuss the process and evidence requirements in more detail.

## **Scope of an Accountability Review**

7. There are three elements to each Accountability Review namely "Management" (including Governance and Strategic Oversight arrangements where applicable); "Financial Management" and "Internal Control Arrangements" and each of these elements will have a number of modules associated with it. The modules identified for FE Colleges and non-college Providers do vary because of the differences in how these two types of Provider are funded. The detailed audit work programmes which form the annexes to the guidance outline the assurance work we aim to undertake on these modules.

## **Reporting Arrangements and Follow-Up Visits**

8. The resulting report will only contain our opinion on the adequacy and effectiveness of the Provider's Accountability Arrangements (unqualified or qualified); the weaknesses we have identified in the Provider's Accountability Arrangements and our recommendations to address them. A qualified opinion which indicates that fundamental weaknesses exist in a Provider's Accountability Arrangements will normally result in the issue of a Notice of Concern – Financial Control<sup>3</sup> and it is only in these situations that Providers will be subject to a follow-up visit.

## **General Information**

9. If Providers need any further general information on these Accountability Reviews they should contact either Daniel Canham (daniel.canham@skillsfundingagency.bis.gov.uk) or Brian Lister (brian.lister@skillsfundingagency.bis.gov.uk).

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<sup>3</sup> There will be exceptions to this approach. If Ofsted conclude overall that a Provider is "Inadequate" then it follows that there is a fundamental weakness in the Provider's Accountability Arrangements. Where in these circumstances a resultant Accountability Review does not identify a further fundamental weakness then the report will provide a qualified opinion but no Notice of Concern –Financial Control will be issued.

## DETAILED GUIDANCE

### Background

10. The Detailed Guidance covers in more depth the procedures and processes associated with Accountability Reviews. The Agency believes that these new procedures and processes will result in a reduction in the bureaucracy placed on Providers generally because:
- Due to the risk based methodology that will be followed in preparing the Agency's own schedule of Accountability Reviews, it is anticipated that the number of reviews undertaken by Provider Finance on an annual basis will be significantly less than the number of reviews undertaken in previous years.
  - Those Providers selected for an Accountability Review will not be required to either undertake either a self assessment of its own arrangements or prepare any significant pre-visit documentation before the Accountability Review. Furthermore, there will be no requirement for these Providers to collect and retain evidence in an Evidence File.
  - Those Providers not selected for an Accountability Review which will be the vast majority of Providers the Agency funds, will not be required to submit any kind of annual return to the Agency.

### The Remit for an Accountability Review

11. The Chief Executive of Skills Funding's responsibilities as Accounting Officer provides the basis for these reviews because she has to:
- ensure that there are effective systems in place within the Agency to manage and monitor the funds granted to her and
  - be satisfied that those organisations the Agency funds also operate in an appropriately controlled environment.
12. Thus Provider Finance, when undertaking these Accountability Reviews at Providers that the Chief Executive of Skills Funding takes the "lead"<sup>4</sup> for on assurance matters, will seek to ensure that these Providers have effective systems in place to manage and monitor all the public funds that they receive from whatever source.
13. These Accountability Reviews will form a key element of the Agency's intervention strategy.

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<sup>4</sup> JACOP Part 1 covers the principle of lead arrangements, that is, "one learning provider, one funding assurer". Thus only one of the successor organisations to the Learning and Skills Council is involved in assurance work for a specific learning provider, and that body takes the lead for assurance matters on behalf of the others.

## **The Agency's Schedule of Provider Accountability Reviews**

14. Traditionally Provider Finance has undertaken its reviews at the same time as a Provider was inspected by Ofsted. These parallel visits with Ofsted will no longer be the standard practice as the Agency aims to prepare its own Schedule of Provider Accountability Reviews (Schedule) based on an assessment of risk within Providers. The Agency's resources will be utilised in undertaking reviews at Providers on its own Schedule which will differ from Ofsted's Schedule of Inspections. Accordingly, it is unlikely that Provider Finance will be in a position to attend any routine Provider inspections with Ofsted.
15. The Providers who will initially feature on the Agency's Schedule and thus will be subject to an Accountability Review in 2013 are those Providers:
  - where Provider Finance provided an "Inadequate" opinion on a Provider's financial management and control arrangements during 2011/12 and
  - that are currently in receipt of a Notice of Concern – Financial Control (NoC-FC) and one of the conditions of lifting this is the need for an unqualified opinion on the Provider's "financial management and control arrangements" to be provided by Provider Finance.
16. In respect of the second bullet point above, if it is either the Agency's view or the Provider's own view that insufficient progress has been made to lift the NoC-FC, that is, provide an unqualified opinion then we could exercise the option of undertaking what we term as an "Accountability Review Monitoring Visit". The purpose of this type of visit would be to highlight:
  - The progress the Provider has made since the NoC-FC was issued.
  - Those areas within the Provider's Accountability Arrangements that remain weak and where improvements still need to be made.

### **Key Risks**

17. Other Providers will only be added to the Agency's Schedule following a risk assessment and the following list identifies some of the key risks that will be considered during the risk assessment:
  - An existing Financial Notice to Improve (Health or Control).
  - Inadequate financial health and/or other financial health related concerns (the outturn was significantly worse than expected; nil cash generation; supernormal profits and advances of funds).
  - A failed Ofsted inspection; worse than expected inspection results, for example, previous inspection and/or self assessment outstanding but recent inspection outcome only Satisfactory/Needs to Improve.
  - Qualified audit opinion (funding audit, internal audit annual opinion, financial statements opinion or regularity audit opinion) or emphasis of matter.
  - Consistent under-performance against allocations.

- Significant drop in funding allocations and/or the removal of large contracts.
  - Key senior personnel changes or concerns.
  - High levels of sub-contracting and/or concerns with specific sub-contractors.
  - Levels of complaints, allegations and investigations.
  - Trends in success rates that might indicate potential Minimum Levels of Performance issues or Ofsted failure.
18. The above list is not meant to be either exhaustive or prescriptive in what constitutes a risk and as such this will not prevent the Agency from identifying further risks. Furthermore, the Agency (the Provider Enquiry Group) may decide that a Provider should be placed on the Agency's Schedule for reasons other than because of one of the risks currently listed above. In such circumstances the reason(s) why the Provider has been placed on the Agency's Schedule and thus will be subject to an Accountability Review will be made clear to the Provider.
19. In respect of Non-College Providers the Agency will also consider factors as the contract size and the Provider's dependency on Agency funding. However, in normal circumstances, it is not anticipated that Accountability Reviews will be undertaken at Non-College Providers with aggregate contracts under £10m.

## **Scope of the Accountability Review**

### The Three Elements

20. There are three elements to each Accountability Review namely:
- "Management" (for FE Colleges<sup>5</sup> this element includes the College's governance arrangements and its strategic oversight arrangements)
  - "Financial Management"
  - "Internal Control Arrangements".

### Modules

21. Each of these three elements has a number of modules associated with them. However, due to the differences in the relationship between the Agency and FE Colleges and the Agency and non-college Providers, there will be different modules identified for FE Colleges and non-college Providers. These relationship differences occur because:
- FE Colleges are funded by grant-in-aid given under the *Financial Memorandum* between the Chief Executive of Skills Funding and the

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<sup>5</sup> Paragraph 5 of the *Financial Memorandum* Part 1 states that "The Corporation is responsible for the management of the College.



College which allows the College to spend its funding as it sees fit, provided it fulfils the conditions of funding.

- Non-College Providers are funded under contract and are not normally restricted in their use of funds, once the Agency is satisfied that the contracted learning provision has occurred and is in accordance with the qualitative and quantitative measures of the contract.

22. Accordingly the respective modules identified reflect the following:

- In respect of FE Colleges, the modules primarily relate to the funding conditions embodied in the *Financial Memorandum*<sup>6</sup> (March 2012) and other responsibilities included in the *Audit Code of Practice, Instrument and Articles of Government* and other similar documents.
- In respect of Non-College Providers, the modules primarily relate to the qualitative and quantitative measures required of them by the terms and conditions included in the *Contract for Services – Education and Training (May 2012)*.

23. Generally Provider Finance will review all the identified modules at every visit. However, Provider Finance would not necessarily have to review some of the identified modules if these did not represent a significant part of the Provider's overall activities. Thus, for example, the sub-contracting module would not be reviewed if sub-contracting was not a significant part of a Provider's overall activities.

### **Assurance Work**

24. Detailed audit work programmes have been prepared which outline the assurance work Provider Finance intends to undertake on each of the modules. In the spirit of transparency these are attached as annexes to this guidance (Annex I for FE Colleges and Annex II for Non-College Providers) so that Providers have ready access to them.
25. Provider Finance will also interview some of the Providers' staff and, where applicable, governors.<sup>7</sup> The visit letter will provide details of who Provider Finance would like to interview.
26. Provider Finance will also meet with relevant Agency colleagues before the review itself so that it is fully conversant with all relevant issues.

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<sup>6</sup> The *Financial Memorandum* sets out the conditions which the Chief Executive of Skills Funding provides funding to Further Education Corporations who are then responsible for the use of these funds. These conditions are intended to enable the Chief Executive of Skills Funding to carry out her statutory functions and ensure she can fulfil her responsibilities as Accounting Officer to Parliament for ensuring that these funds are used properly. The Accounting Officer of the College has to ensure that there is compliance with the *Financial Memorandum* and advise the Governing Body if any action or policy is incompatible with the *Financial Memorandum*.

<sup>7</sup> At FE Colleges we may like to see, as in the past, certain governors namely the Chair of the Corporation, the Chair of the Audit Committee and, the Chair of the "Finance" Committee (if there is one in existence).

27. Providers should note that our assurance work is not designed to identify all weaknesses and deficiencies in each module but is designed primarily for the purpose of expressing our opinion on the College's Accountability Arrangements. In consequence, our assurance work does not encompass a detailed review of all aspects of every module and should not be relied upon necessarily to disclose all weaknesses or to include all possible improvements in internal control that a more extensive special examination may develop.

### **Preparation for the Accountability Review**

28. Provider Finance will aim to send out a visit letter to Providers selected for an Accountability Review at least three weeks before the review takes place so that the Provider can make appropriate preparations for the review.
29. The Agency will no longer require Providers to either undertake a self assessment of their own arrangements or prepare any pre-visit documentation before an Accountability Review. However, Providers may wish to use the relevant detailed audit work programme:
- to prepare for an Accountability Review; and
  - as a self assessment tool in order to facilitate continuous improvement and help them improve the effectiveness of their Accountability Arrangements.

### **Responsibilities of College Corporations <sup>8</sup>**

30. In respect of FE Colleges we would also point out that, *The English Colleges' Foundation Code of Governance* <sup>9</sup> states that "The governing body should ensure ....that appropriate and effective systems of financial and operational control, and risk management and governance are established and monitored." To meet this recommended standard each Corporation needs to be assured that the College's Accountability Arrangements are effective.
31. It will not be possible for Corporations to be provided with the required assurance in the manner it has been provided in the recent past because there is no longer a requirement for Providers to undertake an annual self-assessment of their own arrangements. Furthermore, due to the reduced number of Accountability Reviews which Provider Finance will undertake on an annual basis, only a very limited number of Corporations will be provided with assurance directly from this source. Accordingly, Corporations need to ensure that assurance on the effectiveness of the

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<sup>8</sup> This paragraph of the guidance will also apply to those non-college providers who are reliant on public funds and have non-executive scrutiny or supervision arrangements at board or committee level.

<sup>9</sup> John Hayes, the then Minister of State for Further Education commended the *The English Colleges' Foundation Code of Governance* to Colleges. It "establishes a common set of recommended threshold standards of good governance practice expected of all governing bodies."

College's Accountability Arrangements is provided to them by alternative means.

### **Evidence Requirements**

32. Provider Finance will not require Providers to collect and retain evidence in an Evidence File if they are selected for an Accountability Review. Instead when Provider Finance undertakes an Accountability Review, it will initially seek to obtain and review evidence either already held by the Agency or which can be readily accessed from other sources including:
- the internal auditors' annual report
  - the external auditors' management letter
  - the Financial Statements
  - the Financial Plan
  - copies of relevant correspondence
  - copies of Corporation and Committee minutes (these should be available from the College's web-site).
33. Provider Finance will though need access to all the full Corporation and Committee papers. Provider Finance believes that the full papers should, in most cases, provide it with all the necessary additional information and evidence needed to complete the required assurance work and thus provide a valid opinion on the College's Accountability Arrangements.
34. The situation is different with Non-College Providers as the Agency only routinely collects a copy of their Financial Statements. Provider Finance will need to examine these but it may also need to review budgets; financial plans; performance and MI reports; internal audit/quality reports; board/committee meeting minutes (where applicable); risk management and evidence that there has been appropriate monitoring of these documents<sup>10</sup>.
35. Provider Finance will detail any additional information and evidence it will need access to in the visit letter and any subsequent planning meeting.

### **Provider Finance Support**

36. When a Provider is selected for an Accountability Review, support and guidance on how to prepare for it will be provided by the Provider Finance team assigned to undertake the review. This support may include undertaking a planning visit before the Review. Thus all specific queries can be addressed by the Provider Finance team itself.

### **Feedback Arrangements**

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<sup>10</sup> For monitoring and evaluation purposes, Agency staff are permitted to "view operations relating to the provision and to inspect relevant documents" at non-college providers as per paragraph 12.2 of the Contract.

37. It is Provider Finance's intention to simplify the feedback arrangements associated with an Accountability Review. Thus Provider Finance will not feedback the strengths it has identified in the Provider's Accountability Arrangements and it will only normally feedback:
- Its opinion<sup>11</sup> on the adequacy and effectiveness of the Provider's Accountability Arrangements.
  - Any weaknesses it has identified in the Provider's Accountability Arrangements (the recommendations to address these weaknesses and thus improve the effectiveness of the Provider's Accountability Arrangements will be included in the draft report).

## The Opinion

38. The Agency believes a simple "Yes/No" (unqualified/qualified) type of opinion is the preferred way of providing a conclusion. This type of opinion is consistent with the opinions provided by Provider Finance on other reviews it carries out; and also with opinions provided by other auditors in general.
39. A "No" (qualified) opinion means that the Provider does not have effective Accountability Arrangements in place and a fundamental weakness (or fundamental weaknesses) has (have) been identified. Such an opinion would result in the issue of a NoC-FC which would set out specific conditions which had to be met within a set time period otherwise the Chief Executive of Skills Funding may cease funding the Provider.
40. An exception to this approach of issuing a NoC-FC may occur where the fundamental weakness relates to the "Education and Training." Module. Where Ofsted conclude overall that a Provider is "Inadequate" it follows that there is a fundamental weakness in the Provider's Accountability Arrangements. Where in these circumstances a resultant Accountability Review does not identify a further fundamental weakness beyond that relating to the "Education and Training" module then the report will provide a qualified opinion but no NoC-FC will be issued. Conversely, if additional fundamental weaknesses are identified then a NoC-FC will be issued.
41. The proposed opinion is shown below:
- "We are satisfied that sufficient assurance work has been undertaken on (the Provider's) Accountability Arrangements to draw a reasonable conclusion as to their effectiveness. Accordingly we can conclude that:
- (the Provider) does have/does not have effective Accountability Arrangements in place to manage and monitor its public funds
  - during the course of our Accountability Review at (the Provider) we have not/have identified any fundamental weaknesses<sup>12</sup> which necessitate the issue of a Notice of Concern – Financial Control."

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<sup>11</sup> There may be occasions where we have to liaise with our Agency colleagues before confirming our opinion. In these situations we will not be able to provide the opinion at the feedback meeting.

42. Fundamental weaknesses which may result in a qualified opinion include:
- the Corporation has not exercised its responsibilities for the determination and periodic review of the educational character and mission of the College, the oversight of the College's activities, the effective and efficient use of the College's resources, the solvency of the College or the safeguarding of the College's assets
  - the College's Chief Executive fails to ensure that there is compliance with the *Financial Memorandum* and all other terms and conditions of funding
  - for non-college Providers, a serious breach of its contract with the Agency
  - an overall qualified opinion from any of the Provider's auditors as this would suggest there are significant weaknesses in the Provider's whole system of internal control
  - major deficiencies in the operation of the Provider's financial management arrangements including rapidly declining financial health, non-compliance with accounting standards and the use of inappropriate accounting policies and practices which could mean it is not possible to provide a true and fair view of the Provider's financial position and of the income and expenditure for the year
  - the Provider's use of funding is considered to be irregular or could be the subject of public concern
  - non-compliance with legislation, other regulations and the Chief Executive of Skills Funding's requirements
  - fundamental weaknesses raised in previous Notices of Concern issued by the Agency and/or previous PFA reports where remedial action remains incomplete.
43. Providers should note that the above list is not meant to be either exhaustive or prescriptive in what constitutes a fundamental weakness. There may be other weaknesses, not identified above, which the Agency may also view as being fundamental ones.

### **Reporting Arrangements**

44. A draft report will be issued after the visit and its contents should be consistent with the contents of the formal feedback notes. However, on occasions additional issues not included in the feedback notes may be

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<sup>12</sup> We recognise that there may already be a fundamental weakness (or fundamental weaknesses) in existence at some Providers we visit because this was the reason that caused the Provider to appear on the Agency's Schedule of Provider Reviews. In such cases the opinion will be amended to reflect this scenario. At such Providers the Provider Finance team will want to ascertain the progress being made to address the fundamental weakness (or fundamental weaknesses) in existence and also ensure no further fundamental weaknesses are in existence.

raised during our quality assurance process and such issues will have to be included in the draft report.

45. The weaknesses and associated recommendations in the draft report will be classified as follows :
- fundamental weaknesses – as described above. Fundamental weaknesses will result in the issue of a NoC-FC
  - significant weaknesses – these are weaknesses which require action to be taken by management as quickly as practicable because if the weaknesses identified are not addressed on a timely basis they could have an adverse impact on the effectiveness of a Provider's Accountability Arrangements
  - merits attention weaknesses – whilst we classify these as “merits attention” weaknesses the Agency believes that these recommendations should be implemented within a specified timescale because they should improve the effectiveness of a Provider's Accountability Arrangements.
46. Every Provider will be asked to confirm the factual accuracy of the draft report and then prepare an Action Plan which demonstrates how it will address the recommendations contained in the draft report. The final report will only be issued to the Provider once it has confirmed the factual accuracy of the draft report and provided Provider Finance with a copy of its Action Plan.

### **Follow-Up Visits**

47. There will be no follow-up visit if an unqualified opinion is provided and the receipt of the Provider's Action Plan confirms all the action Provider Finance expects the Provider to take will be/has been taken. However, if Provider Finance provides a qualified opinion then this will normally result in the issue of a NoC-FC. The main condition specified in the NoC-FC will be the need for the Provider Finance to provide an unqualified opinion on the Provider's Accountability Arrangements within a specified timeframe. Accordingly there will have to be a follow-up visit in such circumstances.
48. Provider Finance will share the outcomes of all its reviews with the relevant Relationship Team and, irrespective of whether or not there will be a Provider Finance follow-up visit, the relevant Relationship Team may wish to pursue specific issues included in the Action Plan with the Provider.

### **Future Developments**

49. The Chief Executive of Skills Funding welcomes comments from Providers on these Accountability Reviews and how these could be further developed and refined in the future, particularly in respect of their scope, usefulness and content.

## **ANNEX I - FE COLLEGES DETAILED WORK PROGRAMME**

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### **INTRODUCTION**

#### **Status of this Guidance**

1. This Annex which has been primarily prepared for Provider Finance purposes, outlines the assurance work Provider Finance intend to undertake on each of the modules.

#### **Scope of our Assurance Work**

2. Our assurance work is not designed to identify all weaknesses and deficiencies in each module but is designed primarily for the purpose of expressing our opinion on the College's overall Accountability Arrangements. In consequence, our assurance work does not encompass a detailed review of all aspects of every module and should not be relied upon necessarily to disclose all possible improvements in internal control that a more extensive special examination of each module may identify.

#### **Financial Memorandum**

3. The references below are to the *Financial Memorandum* of March 2012. We will need to update the detailed work programme when the *Financial Memorandum* is revised and when JACOP Part 2 is issued.

#### **College Foundation Code of Governance (CFCoG)**

4. Whilst the CFCoG has no legal standing, it "establishes a common set of recommended threshold standards of good governance expected of all governing bodies." and John Hayes, the then Minister of State for Further Education, commended the CFCoG to Colleges. Accordingly we will make reference to this document in Annex I.

#### **Freedoms and Flexibilities**

5. We should be aware of the new freedoms and flexibilities allowed Colleges by the Education Act 2011. It was stated in the BIS publication, *New Challenges, New Chances*<sup>13</sup> issued on 1 December 2011 that:

"we have removed a wide range of restrictions and controls on college corporations, putting colleges on a similar footing to charities operating within the independent/private sector. Corporations no longer need to seek permission to change their Instrument and Articles and the legislative requirements for these are now reduced to a minimum core of essential requirements. A Corporation can decide to dissolve the college itself, if this seems the best approach to ensure the provision of high quality, flexible provision to meet the needs of their local areas.

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<sup>13</sup> Colleagues should also refer to the letter dated 13 February 2012 to all Chairs of FE Colleges from the Minister of Skills. Which outlined the processes a College should follow if it wished to change its structure and delivery model.

6. The legislative requirements which still must be included in all Colleges' *Instrument and Articles of Government* are shown below:
- Corporation: number of members, eligibility for membership, staff/student members, parent members (Sixth Form colleges only); appointment of members.
  - Provision about the procedures of the corporation and the college, in particular how the Corporation may resolve for its dissolution and transfer of its property, rights and liabilities.
  - Provision for there to be a Chief Executive and Clerk<sup>14</sup>.
  - Respective responsibilities of the corporation, Chief Executive and Clerk. The responsibilities of the corporation must include: the determination and periodic review of the educational character and mission of the institution and the oversight of its activities; and the effective and efficient use of resources, the solvency of the institution and the governing body and the safeguarding of their assets.
  - Requirement that the Corporation publishes arrangements for obtaining the views of staff/students on the matters for which the Corporation are responsible.
  - Provision permitting the Corporation to change its name with the approval of the Secretary of State.
  - Provision specifying how the Corporation may modify or replace the Instrument or Articles<sup>15</sup>, with a prohibition that any such changes must not result in the College ceasing to be a charity.
  - Provision for copies of the Instrument and Articles to be available to members.
  - Provision for the authentication of the application of the College seal.
7. In respect of the above legislative requirements, we will primarily be concerned during our review of the College's Accountability Arrangements in ensuring that the respective responsibilities of the Corporation, Chief Executive and Clerk are met. If certain key responsibilities of the Corporation and Chief Executive are not met then these would probably be viewed as being fundamental weaknesses.

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<sup>14</sup> We will cover the College's clerking arrangements during our interviews with governors and the Clerk to the Corporation.

<sup>15</sup> We will during our interviews with governors and the Clerk to the Corporation ascertain if the Corporation has made any changes to its *Instrument and Articles of Government*.



## MANAGEMENT

### Responsibilities

8. The Corporation is responsible for the Management of the College (Part 1 paragraph 5) and:
  - It has to appoint an Accounting Officer (Part 1 paragraph 7).
  - It has to ensure that there is an Accounting Officer in place at all times (Part 1 paragraph 8).
  - It will require the Accounting Officer to have personal responsibility, which shall not be delegated, to assure it that there is compliance with the *Financial Memorandum* and all other terms and conditions of funding (Part 1 paragraph 9).

### Modules

9. The modules we will normally examine under “Management” include (where relevant and material if applicable):
  - College structure
  - performance against funding allocations
  - capital
  - sub-contracted provisio
  - value-for-money
  - education and training
  - termination payments to holders of senior posts
  - subsidiary companies.
10. We would point out that the Management element does encompass both a College’s Governance Arrangements and its Strategic Oversight Arrangements. However, we have not identified either a separate Governance module or a separate Strategic Arrangements module because we are of the view that all the key governance matters and strategic oversight matters will be satisfactorily covered in the other modules we will normally examine. Thus if there are any fundamental weaknesses within a College’s Governance Arrangements or its Strategic Oversight Arrangements then these should be identified during our assurance work on these other modules.

### College Structure

11. Due to the BIS publication, *New Challenges, New Chances* issued on 1 December 2011 we will need to ascertain if the structure of the College has been changed.

**The scope of the College Structure module will normally encompass:**

1. we need to establish if the College has reviewed its structure and delivery model. If so, we need to ensure that the required processes were followed.
2. we need to establish if the College is part of a group and is itself a subsidiary. If so we need to gain an understanding of the group structure.
3. we need to consider the relationship between the College and the other organisations in the group.

## **Performance against Funding Allocations**

### **Responsibilities**

12. The responsibilities relating to specifically to performance are:
  - the Chief Executive of Skills Funding must secure education and training of a reasonable quantity (Part 1 paragraph 3) and
  - the maximum value of the Adult Skills Budget...may not be exceeded for any reason, except by an agreed variation in writing (Part 2 paragraph 3.2).
  
13. We also need to recognise though that:
  - if the College's performance against its funding allocations from whatever source is poor then this:
    1. Will probably have financial implications which could impact on the College's financial viability (Part 1 paragraph 5) and its solvency (Part 1 paragraph 19 ).
    2. Could suggest that the Corporation did not have an effective policy of risk management (Part 1 paragraph 18) as one of its key risks (failure to meet funding allocations) had not been properly addressed.
    3. Could suggest that the Corporation has not met its statutory responsibilities for and the oversight of the College's activities and the effective and efficient use of resources.
  - If there were significant weaknesses in this module then the College would not have established "appropriate and effective systems of financial and operational control" as required by the CFCoG.

**The scope of the Performance against Funding Allocations<sup>16</sup> module will normally encompass:**

#### **Funding Allocations**

1. We need to ascertain if the College's allocations from all funding bodies are going up or down, the reasons for these changes and that the governors have been informed of this situation. If allocations are going

<sup>16</sup> We need to consider performance against allocations from all funding bodies, that is, the Agency, EFA, and HEFCE etc.

down then we need to ensure that governors are fully aware of the possible ramifications of this situation and that this risk has been recognised in the College's risk register.

2. We need to ascertain if there are any significant contracts (by value £) which have either been lost or are in danger of being lost. If so, we need to ensure that the governors are fully aware of the possible ramifications of this situation and that this risk has been recognised in the College's risk register.
3. We need to establish if the achievement of the College's planned turnover is particularly dependent on the delivery of any one specific contract (by value £) or the allocation from one funding body (by value £). If so we need to ensure that the Corporation is fully aware of the risk involved with this situation and that this risk has been recognised in the College's risk register.

### **Performance against Funding Allocations**

- 1 We need to establish if the College has a history of under-performance against its allocations. Consistent poor performance against funding allocations has to be viewed as an area for improvement irrespective of whether or not there is any immediate in-year financial impact.
2. If there are Agency or EFA concerns over the College's performance against its funding allocation(s) then we need to ensure that these concerns are formally reported to the Corporation.
3. We need to establish if the College is able to identify poor performance against its funding allocation(s) on a timely basis and thus take the required remedial action.
4. We need to ensure that the Corporation is formally informed of the College's performance against its funding allocations from all funding bodies, changes in its funding allocations from all funding bodies and the implications/risks of such.

### **Ramifications of Poor Performance**

1. We need to ascertain if poor performance has resulted in any staff restructuring and /or any cost cutting exercises.
2. If the College is continually reducing its cost base then we need to consider the possible impact on the overall provision being offered by the College because if certain courses are no longer being provided then the College will become less attractive to students and recruitment may be adversely affected.
3. We need to ascertain if the Agency has recovered all the funds it should have done if performance against its funding allocations was poor.
4. We need to ascertain if the College is considering delivering, or actively delivering, "new provision" and/or pursuing new ventures/initiatives including engaging in overseas activity in order to compensate either for poor performance in say its traditional areas of provision or to simply generate additional income. If so, we need to ensure that:

i) all “new provision” and new ventures/initiatives including any overseas activity are subject to Corporation consideration and approval

ii) the Corporation is kept fully aware of the success or otherwise of all “new provision” and new ventures/initiatives and the full income, expenditure and risks associated with such delivery/activity.

## Capital

### Responsibilities

14. The relevant responsibilities are:

- the College has to notify the Chief Executive of Skills Funding of its proposals to dispose of assets which have been acquired, developed and/or refurbished or modernised with the help of capital grants from the Agency (Part 1 paragraph 15)
- the Chief Executive of Skills Funding, in considering education and training, has to take account of the places where facilities are provided, the character of these facilities and the way they are equipped (Part 1 paragraph 3)
- the Corporation has to properly manage and develop its property with regard to good practice (Part 1 paragraph 15 )
- the Corporation has to ensure that it maintains premises which are properly equipped to deliver education and training (Part 1 paragraph 15 )
- the Corporation has to discharge its responsibilities in relation to safeguarding assets (Part 1 paragraph 19). The Corporation has a statutory responsibility for the safeguarding of the College’s assets and if it fails to exercise this statutory responsibility then we would probably view this as a fundamental weakness
- the Corporation has to provide a safe, healthy and supportive environment which meets the needs of learners (Part 2 paragraphs 5.1.5 and 7.1).

**The scope of the Capital module will normally encompass:**

#### **Capital Budget/Programme.**

1. We need to ensure that the capital budget/programme; the financial implications of capital budget/programme including the impact on the College’s financial health and the required funding decisions have all been considered and approved by the Corporation.
2. We need to ascertain if the College has applied for any grants to support its capital budget/programme. If so, we need to ensure that the College has adhered to the conditions attached to the grant.
3. We need to ensure that the related revenue costs have been included in the College’s annual budget and Financial Plan.

### **Monitoring Arrangements**

1. As the Corporation is statutorily responsible for the safeguarding of the College's assets, we need to ensure that there is effective monitoring of the College's capital expenditure by the Corporation otherwise there is a risk that this statutory responsibility will not be met.
2. We need to ascertain if there have been any overspendings as this may suggest that there could be management, internal control and value-for-money issues.
3. We need to consider any revisions made to the capital budget/programme during the year; ascertain the reasons for the revisions and ensure such revisions were approved by the Corporation.

### **Disposals**

1. If the College has disposed of any assets then we need to ascertain the purpose behind these disposals and how the price of the disposals was arrived at, for example, an independent valuation from appropriate professionals may have been obtained.
2. Furthermore, we need to ascertain if the College has considered repaying any of the funds received for these disposals back to the Agency

### **Other Related Capital Matters**

1. We need to ascertain if there has there been appropriate Corporation consideration and approval of an up-to-date accommodation/estates strategy.
2. We need to ascertain if the College has a pipeline of capital projects ready to implement if and when funding for such becomes available.
3. We need to ascertain if any condition surveys, maintenance plans and/or repairs and renewal schedules exist. If so, we need to ascertain whether these have been considered by the Corporation and actioned.

## **Sub-Contracted Provision**

### **Responsibilities**

15. The College must comply with the requirements on sub-contracting delivery of the provision set out in the Chief Executive's Funding Rules (Part 2 paragraph 4.2).
16. The Corporation is statutorily responsible for the oversight of all the activities of the College so it needs to monitor the College's sub-contracting arrangements to ensure it meets this statutory responsibility. If the Corporation fails to do this and sub-contracting is at a significant level within the College then we would view this as being a fundamental weakness.

**The scope of the Sub-Contracted Provision module will normally encompass:**

**Compliance with the *Financial Memorandum Part 2***

1. We need to ensure that what is delivered is consistent with the details on the Agency's declaration form (one form has to be submitted in August and a further one in April as per Part 2 paragraph 4.1).
2. We need to ensure that if there is second level sub-contracting the Agency's permission has been obtained.
3. We need to ensure that the College has got in place a legally binding contract with all its sub-contractors as required by Part 2 paragraph 4.4.
4. We need to ensure that the College has obtained Agency approval to use sub-contractors it has not previously used as required by Part 2 paragraph 4.7.

**Level of Sub-Contracting**

1. We need to ascertain the current level of sub-contracting and compare it to the level in previous years. The reasons for the changes need to be ascertained.
2. We need to consider any recent growth in the level of sub-contracting or any plans for future growth in the level of sub-contracting and ascertain the reasons for this.
3. We need to ascertain if the College has been struggling to meet its funding allocations with its own direct delivery and thus either has introduced sub-contracting arrangements for the first time or has increased its current level of sub-contracting to ensure it meets the funding allocations.

**Reporting Arrangements to the Corporation**

1. We need to ascertain the reporting arrangements to the Corporation. We would expect there to be an annual report to the Corporation but more regular reporting would be warranted depending on the extent of the College's sub-contracting arrangements.

**The Effectiveness and Robustness of the College's Sub- Contracting Arrangements**

1. We need to ascertain how the College obtains independent assurance over the effectiveness of its sub-contracting arrangements. This independent assurance could be provided by the College's internal auditors if they regularly review this system. However, if no independent assurance has been obtained on this system then we should view this as an area for improvement and include this in our feedback notes and report.
2. We need to establish how the College ensures its sub-contractors comply with the Agency's funding requirements and delivers provision to an acceptable standard as required by Part 2 paragraph 5.1.8., for example, the College may have in place a planned programme of visits to its sub-contractors.

3. If the College does have in place a planned programme of visits to its sub-contractors then we need to ascertain the controls in place to ensure that this programme is followed and that the outcomes of these visits to sub-contractors are reported to someone in a senior position at the College and/or to the governors.
4. We need to ascertain if the College is dealing with any sub-contractors which are causing it concern and/or causing the Agency concern. In respect of the latter we need to ascertain whether or not the College has been required by the Agency to take any action.

#### **Management Fee**

1. We need to consider whether the management fee charged by the College is reasonable and justifiable.
2. We need to ensure that the governors are aware of the management fee being charged and how it is utilised.

### **Value-for-Money**

#### **Responsibilities**

17. The responsibilities are:
  - the Corporation shall demonstrate that all transactions achieve value for money for Public Funds (Part 1 paragraph 6)
  - the College has to deliver value-for-money (Part 2 paragraph 5.1.7)
  - the College has to demonstrate that all transactions achieve value-for-money (Part 1 paragraph 6)
  - the College has to use the resources provided by the Agency effectively and efficiently (Part 1 paragraph 28)
  - the Corporation to examine and evaluate its systems of internal financial and other control to ensure that they contribute to the proper, economic, efficient and effective use of the Corporation's resources (*Articles of Government*)
  - the Chief Executive of Skills Funding has to make best use of her resources (Part 1 paragraph 3).
18. Provider Finance has in the past considered value-for-money purely from the Chief Executive of Skills Funding's perspective in terms of outcomes for learners. Thus during 2011/12 Inadequate or Satisfactory Ofsted outcomes would indicate that the Chief Executive of Skills Funding could receive better value-for-money in respect of the funds paid to the College. The responsibilities outlined above suggest we may need to consider value-for-money from the College's perspective too.

**The scope of the Value-for-Money module will normally encompass:**

**Key Performance Indicators**

1. We need to ascertain if the College has developed key performance indicators which enable it to measure its actual performance against planned performance.
2. We need to ensure that these key performance indicators are monitored by the Corporation.
3. We need to ascertain the reasons for any significant movements in the key performance indicators especially any adverse movements and whether these movements were planned or came as a surprise to both management and governors.

**Cost Savings and Efficiency Reviews**

1. We need to ascertain if the College has engaged either its own staff or external consultants to undertake any efficiency reviews, cost savings reviews or any kind of similar reviews.
2. We need to ascertain if the College has developed any kind of indicators which enable it to measure its actual performance against comparable colleges.
3. We need to ascertain if there is a review of all aspects of the College's activities (departments; functions; individual courses) and whether or not the outcomes of these reviews reported to governors.
4. We need to establish if any cost savings and/or efficiency initiatives are being pursued. If so, we need to establish if these are specifically focussed or just geared to reduce costs across the College as a whole.

**Contracting Out and Shared Services**

1. We need to establish if the Corporation has considered this topic and identified which of the college's services currently provided in-house could possibly be contracted out.
2. If so, then we need to ensure that the success or otherwise of this course of action is being monitored by governors.
3. We need to ascertain if the Corporation has considered the possibility of shared services.

**Senior Staff Salaries**

1. We need to establish if the Corporation has a Remuneration Committee or equivalent which considers the salaries of its senior staff.
2. If not we need to establish what the basis is for determining such salaries.
3. We need to consider whether or not such salaries are affordable.



4. We need to consider whether the increases in levels of senior management remuneration are justified in the context of the College's overall performance.

#### **Poor Use of Funds**

1. We need to ascertain if there are any obvious examples of poor use of funds by the College.
2. If so, we need to ensure that the Corporation has been aware of these examples and considered the ramifications of such.
3. If so, we need to establish what action the College is taking to address this situation.

## **Education and Training**

### **Responsibilities**

19. The responsibilities are:
  - the College has to deliver education and training of a reasonable quality (Part 1 paragraph 11)
  - the College shall deliver provision to an acceptable standard of quality by using all reasonable endeavours (Part 2 paragraph 5.1).
20. The Corporation is statutorily responsible for the oversight of all the College's activities. Accordingly, there needs to be effective monitoring of the College's education performance by, if there is one, the "Standards Committee"<sup>17</sup> and the Corporation otherwise there is a risk that this statutorily responsibility will not be met.

#### **The scope of the Education and Training module will normally encompass:**

##### **Monitoring of the College's Education Performance**

1. We need to ensure that the "Standards" Committee, if in existence, and the Corporation receive reliable, suitable and timely information so that they can monitor and challenge the College's education performance.
2. We need to ensure that the "Standards" Committee, if in existence, and the Corporation are aware of the College's education performance compared with national standards, with its performance in previous periods and with its own targets (if set).
3. We should review the "Standards" Committee, if in existence, and the Corporation minutes to establish if governors are requesting action when such is required.

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<sup>17</sup> We will need to review the minutes of any "Standards" Committee to carry out this task.

### **Agency Concerns**

1. If there are Agency (or EFA) concerns over the College's education performance then we need to ensure that these concerns have been formally reported to the Corporation.

### **Inspection Outcomes**

1. We need to establish if the College's most recent Ofsted outcomes were worse/better than the previous inspection outcomes and worse/better than those expected by the College.
2. We need to establish if the College can demonstrate improvement in its education performance since the last inspection.
3. If not, then we need to ensure (if applicable) that the "Standards" Committee, if in existence, and the Corporation are aware why the College's education performance has not improved and/or deteriorated since the last inspection and establish what action the College is taking to address this situation.

## **Termination Payments to Holders of Senior Posts**

### **Responsibilities**

21. Payments to employees on the termination of their contracts must be regular and secure value-for-money (Part 1 paragraphs 22 & 23).

### **The scope of the Termination Payments to holders of Senior Posts module will normally encompass:**

1. We need to establish if there have been any termination payments and the basis of the payments.
2. We need to establish if appropriate legal advice was taken before these termination payments were agreed.
3. We need to establish if these termination payments have been approved by governors.
4. We need to consider whether or not these termination payments represent value-for-money from the College's perspective.

## **Subsidiary Companies**

### **Responsibilities**

22. We recognise that there are no specific responsibilities relating to subsidiary companies. Indeed, as a result of the Education Act 2011, Agency consent to establish a company is no longer required. However, despite the freedoms and flexibilities introduced by the Education Act 2011, a Corporation is still statutorily responsible for the oversight of the College's activities; the effective and efficient use of resources; the solvency of the College and the safeguarding of College assets. Accordingly we do need to review the operations of any subsidiary

companies to ensure these statutory responsibilities which have to remain in all Colleges' *Instrument and Articles of Government* are being met.

**The scope of the Subsidiary Companies module will normally encompass:**

**Companies in Existence or Acquired**

1. We need to ensure that there are appropriate oversight arrangements in place for the monitoring and control of any subsidiary companies by the Corporation.
2. We need to ensure that there was a valid reason for establishing or acquiring a company; that a fair price was paid for it; that such action was consistent with the College's overall strategies and that such action was considered and approved by the Corporation.
3. We need to establish the turnover and the financial year-end of any company.
4. We need to establish the VAT status of any subsidiary companies and ensure that appropriate professional VAT advice has been taken and implemented.
5. We need to establish why activity is carried out through the subsidiary as opposed to directly by the College.
6. If the subsidiary company is delivering training then we need to ensure there are appropriate arrangements in place to ensure the quality of the training meets the College's own standards.
7. We need to establish who the directors of the subsidiary companies are and whether any remuneration is paid to any of the directors.

**Company Disposals**

1. We need to establish that there was a valid reason for the disposal of a subsidiary company and that a fair price has been received for the company disposed of.
2. We need to ensure that such action was consistent with the College's overall strategies and was considered and approved by governors.

**Financial relationship between the College and the Subsidiary Company**

1. If there are any large inter company debtors/creditors then we need to gain an understanding of these.
2. We need to ascertain what are the material transactions between the College and subsidiaries during the year.
3. We need to ascertain how any management/service charges are determined the College and the subsidiary.
4. We need to establish if there are any assets (including under operating leases) held by the subsidiary and, if so, we need to ascertain the rationale for these assets being held by the subsidiary rather than the College itself.

## **FINANCIAL MANAGEMENT**

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### **Responsibilities**

23. There are several responsibilities relating to Financial Management and we have outlined these under the modules we will normally review. We appreciate that many of the responsibilities could sit under more than one module, for example, financial viability and solvency is arguably relevant to all the modules we review. However, we have only listed each responsibility once. The modules we will normally review are:
- Financial Planning
  - Financial Monitoring and Reporting
  - Financial Statements
  - Financial Health.
24. The CFCoG also states that “appropriate and effective systems of financial (and operational) control (and risk assessment and management,) are established and monitored.

### **Fundamental Weaknesses**

25. Major deficiencies in the operation of a College’s Financial Management arrangements will be viewed as fundamental weaknesses and these include:
- rapidly declining financial health
  - non-compliance with Accounting Standards
  - the use of inappropriate accounting policies and practices which could mean it is not possible to provide a true and fair view of the College’s financial position and of the income and expenditure for the year.

### **Effectiveness**

26. If a College’s Financial Management arrangements are to be viewed as being effective then these will:
- support the delivery of high quality learning provision
  - contribute to effective self assessment, quality improvement and corporate governance
  - provide assurance to stakeholders
  - ensure compliance with all relevant statutory, contractual and funding requirements
  - demonstrate value for money.

## Financial Planning

### Responsibilities

27. The Corporation has to approve the annual estimates of income and expenditure (*Articles of Government*).
28. Each College also has to submit its Financial Plan to the Agency.

#### **The scope of the Financial Planning module will normally encompass:**

##### **The Annual Budget**

1. We need to ascertain if there is a defined budget timetable and a defined budget process.
2. We need to review the supporting budget reports presented to “Finance” Committee, if in existence, and to the Corporation and ensure that the assumptions underpinning the annual budget are outlined in the report.
3. We need to consider these assumptions and reach a view as to whether these appear realistic and valid (look at the income projections).
4. We need to ensure that there is review, consideration and approval of the annual budget by the “Finance” Committee, if in existence, and by the Corporation and that there is evidence available to suggest the governors are aware of, and understand, the assumptions underpinning the annual budget.
5. We need to ensure that the Annual Budget represents the first year of the College’s Financial Plan. If not we need to seek explanations and consider the impact on the validity of the Financial Plan.

##### **Revisions to the approved Annual Budget**

1. We need to ascertain if the revisions to the approved annual budget are done as part of the College’s normal financial procedures at specific points during the year or whether there are regular revisions due to unforeseen/unplanned circumstances.
2. We need to review the supporting report on any budget revision to ensure it explains the reasons for the revision
3. We need to ensure that there is appropriate review, consideration and approval by the “Finance” Committee, if in existence, and by the Corporation.

##### **The College’s Financial Plan**

1. We need to ensure that there is evidence of deliberation, review and approval of the College’s Financial Plan by the “Finance” Committee, if in existence, and by the Corporation.

2. We should consider the quality of the Commentary accompanying the Financial Plan, ensure that it follows the guidance in the Financial Planning Handbook and is consistent with that submitted to the Agency.
3. We need to ensure that the assumptions underpinning the Financial Plan are outlined in the Commentary, whether or not these assumptions appear realistic and valid (look at the income projections).and that there is evidence which suggests the governors are aware of, and understand, these assumptions..
4. We need to consider the review of the Financial Plan by the Agency and review any related correspondence on the Financial Plan.
5. The Financial Plan should be submitted to the Agency by the due date. If this has not happened that we need to ascertain why this has not happened and, potentially, include this is a weakness in our feedback notes and report.
6. We need to consider whether or not the Financial Plan especially the second year of it, appears realistic. We need to consider any excessive 'flat lining' of figures and the robustness of the College's plans to control costs over the period the Financial Plan covers.

#### **College Borrowings**

1. We need to ensure that the College followed its own financial regulations in securing the borrowings including ensuring that competitive bids were sought from the required number of finance providers.
2. We need to ensure that the planned borrowings, and the related risks, have been properly considered and approved by the Corporation.
3. We need to ensure that the College's Financial Plan reflects the costs of the borrowings.
4. We need to establish if the College can afford the borrowings.

### **Financial Monitoring and Reporting**

#### **Responsibilities**

29. The Corporation has to:
- ensure the financial viability of the College (Part 1 paragraph 5). Furthermore, the Chief Executive of Skills Funding has to be satisfied that the Corporation is financially viable (Part 1 paragraph 11);
  - ensure no transactions jeopardise financial viability (Part 1 paragraph 6);and
  - ensure the College has sufficient financial resources to enable it to continue to deliver the Provision (Part 2 paragraph 16.6.1).

**The scope of the Financial Monitoring/Reporting module will normally encompass:**

**“Finance” Committee<sup>18</sup>**

1. We need to establish if the Corporation has established a “Finance” Committee.
2. If so, we need to ensure that the “Finance” Committee complies with its Terms of Reference in respect of its financial responsibilities.
3. If not, we need to ensure there are appropriate and effective arrangements in place for governors to monitor the College’s financial position.

**Financial Information**

1. We need to consider the quality of the financial information and reports presented to the “Finance” Committee, if in existence, and to the Corporation. Governors need reliable, suitable, accurate and timely financial information so that they can monitor and challenge the College’s financial performance
2. We need to ensure that there is evidence of review, deliberation, challenges and decision making by the “Finance” Committee, if in existence, and by the Corporation...
3. We need to ensure that financial information and reports are presented to the “Finance” Committee, if in existence, and by the Corporation. on a regular basis throughout the year thereby ensuring governors are always fully aware of the College’s financial position.
4. We need to ascertain if the College has established key financial performance indicators. These are needed to enable the College to benchmark its financial performance.
5. We need to establish if the benchmarking information is presented to the “Finance” Committee, if in existence, and by the Corporation.
6. We need to consider the accuracy of year-end outturn forecasting. Widely fluctuating year-end outturn forecasts could indicate weaknesses and suggest the financial information presented to governors was not reliable.

**Actual Financial Performance**

1. We need to establish if the actual year-end outturn was significantly different to that planned (PFIAS have spreadsheet macros to assist with this analysis).
2. If so, then we need to establish the reasons for the difference.
3. If so, we need to consider then whether the original approved budget and the assumptions underpinning it were realistic.

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<sup>18</sup> There is no statutory requirement to have a “Finance” Committee but if one does exist then we need to review the minutes of this Committee to carry out our proposed work.

4. We need to establish whether or not a report on the actual year-end outturn explaining all the variances and the reasons for these has been presented to governors.

## Financial Statements

### Responsibilities

30. The Corporation has to:
  - keep proper accounts and proper records in relation to the accounts (*Articles of Government*)
  - prepare a statement of accounts for each financial year which give a true and fair account of the state of the Corporation's affairs at the end of the financial year and of its income and expenditure in the financial year (*Articles of Government*)
  - prepare Financial Statements in accordance with Chief Executive's requirements (Part 1 paragraph 11), submit these to the Agency (Part 1 paragraph 12) and make such available to the general public (Part 1 paragraph 12).
31. We also need to note that an evaluation of a College's corporate governance arrangements for each financial period has to be published within the Statement of Corporate Governance and Internal Control in the audited Financial Statements. Guidance on the minimum coverage of this evaluation, and the specific assurances required, is included in the Accounts Direction Handbook, which is updated annually.

### **The scope of the Financial Statements module will normally encompass:**

#### **Consideration of the Financial Statements**

1. We need to ensure that there is clear evidence of deliberation and review by, if in existence, the Finance Committee and by the Corporation before the 31 December deadline.

#### **Distribution of the Financial Statements**

1. Ensure the Financial Statements are submitted to the Agency by the due date. Late submission has to be viewed as a key weakness unless the Agency was notified of the reasons for the delay before the submission date.

#### **Actual Outturn as per the College's Financial Statements**

1. If there were significant differences between the actual year-end outturn position and the projected year-end position as per the final set of management accounts then we need to establish the reasons for these differences and ensure the "Finance" Committee, if in existence, and the Corporation have been informed of this situation.
2. We need to consider the actual outturn as per Financial Statements with the position shown in the Financial Plan submitted to the Agency.



### **Outcomes of the External Audit of the College's Financial Statements**

1. We need to establish if any significant adjustments to the draft/unaudited Financial Statements have been identified by the external auditors.
2. We need to establish if the external auditors have made any general comments on the College's state of preparation for the external audit.
3. We need to establish if any debateable and/or inappropriate accounting practices been identified by the external auditors.

## **Financial Health**

### **Responsibilities**

#### 32. The Corporation:

- has to discharge its responsibilities in respect of solvency (Part 1 paragraph 19 )
- is responsible for the solvency of the college as per the *Articles of Government*.

### **The scope of the Financial Health module will normally encompass:**

#### **Financial Health Notice of Concern**

1. We should ascertain if the College is in receipt of, or has been in receipt of, a Financial Health Notice of Concern. If so, we need to establish the background to its issue. The issue of a Financial Health Notice of Concern has to be viewed as a key weakness because if the College does not take the actions required by the Notice of Concern then a Notice of Withdrawal of Funding may be issued.
2. We need to ensure that the Corporation is aware of this situation and understands why the Financial Health Notice of Concern was issued and that it is monitoring the actions being taken to address the issues identified in the Financial Health Notice of Concern.
3. We need to ensure that the Audit Committee has considered whether or not the issue of the Financial Health Notice of Concern suggests there are weaknesses in the College's governance, risk management and control arrangements

#### **Advances of Funding**

1. We need to establish if the College has had to request and receive advances of funding from the Agency in order to simply continue to operate due to unplanned cash flow/liquidity issues. The receipt of advances of funding in such circumstances needs to be treated as a potential fundamental weakness as such a situation could suggest there have been deficiencies in the College's financial management arrangements.
2. We need to ensure that the Corporation has been made aware of this situation, understands why the advances of funding from the Agency

were needed and understands why the College was not able to go to any other third parties for financial support.

3. We need to ascertain if there is a planned repayment schedule in existence, whether the College is adhering to the repayment schedule and that the scheduled repayments are properly reflected in the College's Financial Plan.

#### **Financial Health Assessment and Other Related Matters**

1. We should consider the Agency's financial health assessments and review any related correspondence.
2. We need to ensure that the Corporation is fully aware of the College's current and planned financial health.
3. We need to establish if the College is generating sufficient cash each year for its operational needs.
4. We need to ascertain if the College's financial health has changed during the year and whether these changes in the College's financial health were planned or unplanned.
5. We should ensure that the Corporation has been fully informed of, and considered, the reasons for the changes in the College's financial health.

#### **Dependency on Public Funding**

1. We need to ascertain if the College aims to reduce dependency on public funding by generating new income streams and/or expanding existing income streams.
2. We need to ensure that the Corporation has been made fully aware of, and properly considered the College's plans, including the risks associated with these plans, to generate new and/or expand existing income streams and thus reduce dependency on public funding.
3. We need to ensure that the success of the College's plans to generate new and/or expand existing income streams is being monitored by governors.

## INTERNAL CONTROL ARRANGEMENTS

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### Responsibilities

33. The Corporation:
- is responsible for ensuring the establishment and maintenance of an adequate system of internal control
  - it has to deliver financial regularity and probity (Part 2 paragraph 5.1.7).
34. The CFCoG also states that “appropriate and effective systems of (financial and) operational control, (and risk assessment and management) are established and monitored.

### Modules

35. The modules we could examine will normally encompass:
- Financial Control Notice of Concern
  - Risk Management
  - Student Data
  - Audit Committee
  - External and Internal Audit Arrangements
  - Audit Results
  - Frauds and Irregularities.

### Financial Control Notice of Concern

#### Responsibility

36. As some of the Colleges we will be visiting will be in receipt of a Financial Control Notice of Concern it is essential we establish how the specific conditions which had to be met within a set time period have been dealt with and addressed at the College. If these specific conditions have not been addressed then the Chief Executive of Skills Funding may cease funding the College.

**The Scope of the Financial Control Notice of Concern module will normally encompass:**

1. We need to ensure that the Corporation has been made formally aware of this situation and that it understands why the Financial Control Notice of Concern was issued and what action was needed to get it lifted.
2. We need to ensure that the Corporation has been formally monitoring the action being taken by the College to address the specific conditions

included in the Financial Control Notice of Concern so that it can be lifted.

3. We need to ensure that the annual report of the Audit Committee refers to the issue of the Financial Control Notice of Concern and that the implications of this are considered when the Audit Committee provides its own annual opinion on the College's governance, risk management and control arrangements.

## **Risk Management**

### **Responsibilities**

37. The Corporation has to have an effective policy of risk management (Part 1 paragraph 18). The CFCoG also states that "appropriate and effective systems of (financial and operational control, and risk assessment and management, are established and monitored.
38. We recognise that all colleges will have risk management arrangements in place and the list below identifies some of the risks colleges will need to manage:
  - capital developments and other fixed assets/building/property issues
  - a poor Ofsted inspection
  - financial problems
  - the costs of borrowings
  - the loss of key personnel
  - competition
  - reduced funding allocations and/or the loss of key contracts
  - a reliable student data system
  - failure to meet funding allocations
  - Minimum Levels of Performance issues.
39. We are not particularly concerned about the actual risk management systems employed by colleges, that is, whether such are paper based systems or computerised systems as our main focus will be on ascertaining the effectiveness of a College's overall risk management arrangements. So should some of the listed risks materialise because the controls and processes college had in place to ensure these risks do not materialise or can be managed have failed, for example, if the College suffers a poor Ofsted inspection then this would demonstrate the College's risk management arrangements had not been effective.
40. If a College's risk management arrangements are viewed as being ineffective then we would expect the Audit Committee to recognise this situation in its own annual report.

**The scope of the Risk Management module will normally encompass:**

**Expected Risk Management Processes**

1. We need to ensure that there is a risk champion in place.
2. We need to ensure that a risk register exists which should be reviewed, considered and updated on a regular basis.
3. We need to ensure that a risk management policy exists. This needs to be reviewed, considered and approved by the Corporation on the advice of the Audit Committee.
4. We need to ensure that there are appropriate and robust arrangements in place for the identification and assessment of risks that the College may be exposed to at both corporate and operational level.
5. We need to ensure that the action proposed by management in respect of the identified risks recorded in the Risk Register will manage or reduce these risks.
6. We need to ensure that regular risks reports are submitted to the Audit Committee.
7. We need to ensure that an annual risk report is prepared which is considered by the Audit Committee and then presented to the Corporation.
8. We need to ensure that all reports submitted to the Corporation requiring approval for a specific course of action have a section covering the risks associated with area covered by the report
9. We need to ensure that the College's risk management arrangements are subject to regular internal audit review.

**Effective Risk Management Processes**

1. We need to ascertain if all the relevant risks facing the College have been identified.
2. We need to ensure that the likelihood of such risks materialising have been properly assessed.
3. We need to ensure that the impact of risks that may materialise has been determined.
4. We need to ascertain if the College has a good track record of being able to manage and mitigate its key risks.

## **Student Data**

41. The student data system is arguably a College's most important and crucial system and thus every college needs to ensure this system operates effectively and efficiently, generates accurate and reliable data and is also subject to regular independent third party review.<sup>19</sup>
42. The responsibility for the accuracy of the funding claims rests with management and the Corporation. Thus if a College's funding auditors or internal auditors provide a qualified opinion here it will be treated as a fundamental weakness. This is because such qualified opinions would indicate that management and the Corporation had not met this key responsibility which means the College does not have an adequate system of internal control.

## **Responsibilities**

43. The College:
  - must supply information on each individual learner in accordance with the data collections framework ( Part 2 paragraph 3.7)
  - needs to be aware of the quality and reliability of its MIS and ILR data( Part 2 paragraph 3.10.1)
  - needs to be able to return timely and accurate data( Part 2 paragraph 3.10.3)
  - must be able to provide information that demonstrates its ability to meet the needs of learners (Part 1 paragraph 19).
44. The Chief Executive of Skills Funding needs to be assured that the data supplied by the College is:
  - in line with agreed audit arrangements
  - in adherence with the Data Protection Act
  - supports payments received from the Skills Funding Agency on profile
  - enables monetary and data reconciliation to take place
  - supports the contract management and allocation process.

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<sup>19</sup> Colleges should recognise that the external auditors are not obliged to audit the student numbers funding claims when providing their opinion on the College's financial statements.

**The scope of the Student Data module will normally encompass:**

**Quality and Reliability of the College's MIS data and ILR data**

- 1 We should establish how the College obtains assurance on the quality and reliability of its MIS data and ILR data.
2. The internal auditors should be reviewing this system, or aspects of it, on an annual basis. If this is not the case then we need to establish the reasons why this is not the case and, potentially include this as a weakness in our feedback notes and report.
- 3 Some colleges contract in a "funding audit" from accountancy firms with specialist knowledge in this area. If this is the case then ensure the outcomes of such audits have been considered by the Audit Committee and referred to in the Audit Committee's Annual Report.
4. We need to ascertain if the College makes use of DSAT and how DSAT reports are utilised.

**Audit Outcomes**

1. We should consider the internal audit outcomes and/or the funding audit outcomes on the College's learner numbers system and management's response to these. Qualified opinions here would, as Provider Finance views this as probably the College's key system, be viewed as a fundamental weakness.
2. We need to ensure these internal audit outcomes and/or the funding audit outcomes and management's response to these have been considered by the Audit Committee, as required by Part 2 paragraph 3.10.1, and included in the Audit Committee's Annual Report.

**The College's MIS Department**

1. We should ascertain if there are, or have been, any staffing issues in the College's MIS department.
2. If so, we need to ascertain how these staffing issues have been dealt with.

**Audit Committee**

**Responsibilities**

45. The Corporation has to appoint an Audit Committee (Part 1 paragraph 20).
46. The role of the Audit Committee is to advise the Corporation on the comprehensiveness and effectiveness of the College's assurance framework. In particular the Audit Committee advises and supports the Corporation in fulfilling its' roles and responsibilities, including in providing the assurances required to be given in the Members Report in the annual financial statements.

**The scope of the Audit Committee module will normally encompass:**

**The Audit Committee's Responsibilities**

1. We need to ensure it has advised the Corporation on the adequacy and effectiveness of the College's audit arrangements, framework of governance, risk management<sup>20</sup> and control, and processes for securing economy, efficiency and effectiveness.
2. We need to ensure it has advised the Corporation on the appointment, reappointment, dismissal and remuneration of the financial statements/regularity auditors and other assurance providers, including the internal auditors.
3. We need to ensure it has advised the Corporation on the provision of any additional services by the financial statements/regularity auditors and other assurance providers, including the internal auditors, and to explain how independence and objectivity have been safeguarded.
4. We need to ensure it has advised the Corporation on control and other issues included in the management letters and reports of the financial statements and regularity auditor, and of any reports submitted by other providers of assurance (including internal audit) to the Corporation; and management's responses to these.
5. We need to ensure it has advised it has monitored, within agreed timescales, the implementation of all audit recommendations.
6. We need to ensure it has produced an annual report for the Corporation. The annual report should summarise the Audit Committee's activities relating to the College's financial year, including any significant issues up to the date of preparation of the report. It should include the Audit Committee's view of its own effectiveness, how it has fulfilled its own terms of reference, including its' opinion on the adequacy and effectiveness of the College's audit arrangements; framework of governance, risk management and control; and processes for securing economy, efficiency and effectiveness, and ways in which the Committee considers it needs to be strengthened or developed. The annual report must be submitted to, and be approved by, the Corporation before the 'Members Report' in the annual accounts is signed. A copy of the Audit Committee's annual report must be submitted to the relevant funding body with the annual accounts.
7. We need to ensure it has overseen the College's policy on fraud and irregularity and ensure that all allegations and instances of fraud and irregularity are proportionately, independently, and properly investigated; that investigation outcomes are reported to the Audit Committee; that the external auditors (and internal auditors where appointed) have been informed and that appropriate follow up action has been planned/ actioned, and that all significant cases of fraud or suspected fraud or irregularity are reported to the Chief Executive of the appropriate funding body.

<sup>20</sup> The requirement to have effective risk management arrangements in place is a requirement of the current *Financial Memorandum*.



## External and Internal Audit Arrangements

### Responsibility

#### External Audit

47. The Corporation has to arrange to provide external audit including regularity audit<sup>21</sup> in accordance with the *JACOP* (Part 1 paragraph 20).

**The scope of the External Audit Arrangements module will normally encompass:**

1. We need to ensure that the College's external auditors have been properly appointed, re-appointed and that their performance is reviewed on an annual basis by the Audit Committee.
2. We need to consider any additional work provided by the external auditors in order to ensure that this additional work does not impact on the objectivity and impartiality of the external auditors.

#### Internal Audit

### Responsibility

48. The Corporation has to provide internal audit in accordance with the *JACOP* (Part 1 paragraph 20).

**The scope of the Internal Audit Arrangements module will normally encompass:**

**The College's Internal Auditors**

1. We need to ensure that the College's internal auditors have been properly appointed, re-appointed and that their performance is reviewed on an annual basis by the Audit Committee.
2. We need to ascertain if the internal auditors are suitably experienced. We should recognise that there is a greater risk of things going wrong in a College if inexperienced internal auditors are used.
3. We need to consider any additional work provided by the internal auditors in order to ensure that this additional work does not impact on the objectivity and impartiality of the internal auditors.

**Internal Audit Activity throughout the year**

1. If we visit the College a significant way through the financial year and no internal audit work has so far been undertaken then we should ascertain the reasons for this.

<sup>21</sup> The establishment of an audit committee, the appointment of external auditors and the appointment of internal auditors is currently an *Audit Code of Practice* requirement and thus included in the *Instrument and Articles of Government*. Furthermore, the same firm cannot currently provide both the College's external audit service and its internal audit service.

2. We need to ensure that the Audit Committee is fully aware of, and has approved, this situation.

### **The Strategic and the Annual Internal Audit Plans**

1. We need to ensure that all the College's systems of control, financial and non-financial, are being considered for internal audit review (note that there is no longer a requirement for certain systems to be reviewed on an annual basis).
2. We need to ensure that the College's internal audit plans are fully considered by the Audit Committee and then approved by the Corporation.
3. We should ensure that fundamental changes to the previously agreed Annual Internal Audit Plan are formally considered by the Audit Committee and then approved by the Corporation.

## **Audit Results**

### **Responsibility**

49. We need to review the College's audit results in order to provide the Agency with some assurance that the Corporation is meeting its responsibility for establishing and maintaining an adequate system of internal control.

### **The scope of the Audit Results module will normally encompass:**

#### **Results of the College's Internal Auditors**

1. We should consider the levels of assurance (substantial/adequate/limited etc) provided on the individual systems reviewed by the internal auditors and compare these with the levels of assurance provided in previous years.
2. We should establish if the overall number of internal audit recommendations raised on an annual basis is going up or down.
3. We need to consider the priority attached to the internal audit recommendations. High priority internal audit recommendations would suggest that the College's internal control system could be improved in certain areas.
4. It is highly unusual for the internal auditors to provide an overall qualified opinion in their annual internal audit report and thus the provision of an unqualified opinion should be viewed as the norm.
5. If the internal auditors provide an overall positive opinion based on the work they have done themselves, it does not necessarily mean the College's internal control system is without weaknesses.

### **Results of the external audit of the College's Financial Statements and the outcomes of the Regularity Audit<sup>22</sup>**

1. We need to establish if the overall number of recommendations being raised, and the significance of these, is going up/down.
2. We should consider the priority attached to the recommendations raised by the external auditors.
3. We should ensure that the Audit Committee considers the external audit results in its own Annual Report.
4. It is highly unusual for the external auditors to provide a qualified opinion on the financial statements or a qualified regularity audit opinion and thus the provision of unqualified opinions should be viewed as the norm.

### **Outcomes of any PFA audits and/or other relevant third party reviews/investigations**

1. We may need to take cognisance of the outcomes of any planned PFA audit and/or other relevant third party reviews/investigations which take place after our visit. We thus may need to defer providing our own overall opinion as and until these planned audits have been finalised and an opinion/conclusion provided.
2. We need to have regard to the significance of the income stream being audited by PFA when considering the weighting we give to the outcomes of the PFA audit.
3. We should ensure that the Audit Committee has been informed of the outcomes of all PFA audits and/or other relevant third party reviews/investigations.
4. We should ensure that recognition of these PFA audits and/or other relevant third party reviews/investigations features in the Annual Report of the Audit Committee.

## **Frauds and Irregularities**

### **Responsibility**

50. We would stress that the Corporation is responsible for ensuring compliance with statutory and other regulations, and for the prevention and detection of irregularities, including fraud and corruption. Specifically it has to investigate and report on all significant cases of fraud or suspected fraud or irregularity (Part 1 paragraph 21).

### **Ongoing Investigations**

51. If there are any ongoing investigations into frauds and irregularities of a significant nature then we may need to defer providing our own opinion on the College's Accountability Arrangements as and until such are finalised.

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<sup>22</sup> Regularity audit is regarded by the funding bodies as the key source of assurance over colleges' use of funds, and for this reason a regularity audit opinion is required for all colleges each year.

**The scope of the Frauds and Irregularities module will normally encompass:**

**Recent and/or Ongoing Fraud Investigations**

1. We need to ascertain the extent and depth of any recent and/or ongoing fraud investigations.

**Fraud Procedures**

1. The fraud procedures and a fraud policy should outline the process that should be followed when evidence of potential irregularity, including fraud, corruption or any impropriety, is discovered.
2. The authority of the Audit Committee to commission a special investigation should be included in the fraud policy.
3. The fraud policy should have been approved by the Corporation on the advice of the Audit Committee

**Suspected Frauds and Irregularities**

1. We need to ensure that the Audit Committee has been informed of all suspected frauds and irregularities.
2. We need to ensure that the Agency has been made fully aware of all suspected frauds and irregularities of a significant nature.
3. We need to ensure that both the College's internal auditors<sup>23</sup> and external auditors<sup>24</sup> are informed of all frauds and irregularities of a significant nature.

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<sup>23</sup> The internal auditors need to be informed so that they can consider the adequacy of the relevant controls, evaluate the implication of the fraud on the College's risk management, control and governance processes and consider making recommendations as appropriate

<sup>24</sup> The financial statements auditor of each college has a duty to plan and conduct the audit so that there is a reasonable expectation of detecting material mis-statements in the accounts arising from irregularities, including fraud, or breaches of regulations. The financial statements auditor does not have a duty to search specifically for irregularities and fraud and their audit should not be relied upon to disclose them.

## ANNEX II- NON-COLLEGE PROVIDERS DETAILED WORK PROGRAMME

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### INTRODUCTION

#### Status of this Guidance

1. This Detailed Work Programme has been prepared solely for Provider Finance purposes and indicates what assurance work Provider Finance will carry out when undertaking an Accountability Review.

#### Providers Eligible for an Accountability Review

2. In normal circumstances it is unlikely that an Accountability Review will be undertaken at any Non-College Providers with a contract under £10m. However, the Chief Executive of Skills Funding reserves the right to undertake a review at any Non-College Provider irrespective of the contract size.

#### Scope of our Assurance Work

3. Our assurance work is not designed to identify all weaknesses and deficiencies in each module but is designed primarily for the purpose of expressing our opinion on the Provider's overall Accountability Arrangements. In consequence, our assurance work does not encompass a detailed review of all aspects of every module and should not be relied upon necessarily to disclose all internal control weaknesses or to include all possible improvements in internal control that a more extensive special examination of each module may develop.

#### Contract for Services – Education and Training (May 2012)

4. The references shown against the modules discussed below are to the paragraphs in the *Contract for Services – Education and Training (May 2012)* which sets out the qualitative and quantitative measures required of Providers. The detailed work programme will need to be revised when this *Contract for Services – Education and Training* is next revised.

#### Rights of Access

5. The *Contract for Services – Education and Training (May 2012)* allows Agency staff access to all the Provider's records (includes the records of its sub-contractors too) namely documentation, accounts, books and records relating to the contract (12.2).

## **MANAGEMENT**

### **Modules**

6. The modules we could examine under the “Management” element would normally include:
  - ownership
  - delivery of the provision
  - sub-contracted provision
  - performance against funding allocations.
7. We would point out that the Management element does encompass, if applicable, a Provider’s Strategic Oversight Arrangements. However, we have not identified a separate Strategic Oversight Arrangements module because we are of the view that all the key strategic oversight matters will be satisfactorily covered in the other modules we will normally examine. Thus if there are any fundamental weaknesses within a Provider’s Strategic Oversight Arrangements then these should be identified during our assurance work on these other modules.
8. We do also recognise that the extent and depth of any Strategic Oversight Arrangements that are relevant to us will depend upon whether or not the Chief Executive of Skills Funding’s funds (include EFA funds too) are a Provider’s major income source. If so, then we would expect funding matters and education performance to feature regularly at Senior Management Team and/or the Board meetings. This would not necessarily be the case where the Chief Executive of Skills Funding’s funds (include EFA funds too) constitutes only an insignificant part of a Provider’s overall income. However, the Chief Executive of Skills Funding would still expect that funding matters and education performance are subject to discussions at some level.
9. Irrespective of the extent and depth of any Strategic Oversight Arrangements in place, the Chief Executive of Skills Funding would expect there to be someone in the Provider who has overall responsibility for the use of her funds. This person would normally be the one who liaises with the Chief Executive of Skills Funding on funding matters and education matters.

### **Ownership**

### **Responsibility**

10. The Provider has to notify the Chief Executive of Skills Funding of any change in name or ownership (5.9).
11. One of the Agency’s key risk factors which could trigger an Accountability Review is “concerns over complex corporate structures ...with respect to the group that the provider is part of”. This issue has been identified as a

key risk because from the Agency's perspective the further removed the ownership is from the body actually delivering the Agency funded provision then the possibility of this arrangement having an adverse impact on the actual delivery increases.

**The scope of the Ownership module will normally encompass:**

1. We need to establish who the ultimate controlling party is.
2. We need to be able to understand the group structure and ownership.
3. We need to be able to determine who actually takes the strategic decisions which impact on the delivery of the Agency's funded provision.
4. We need to consider if the Provider has any merger plans in the pipeline.

## **Delivery of the Provision**

### **Responsibilities**

12. The responsibilities relating to the delivery of provision, that is, quality assurance and raising standards are contained in paragraph 18.5 namely the Provider has to use all reasonable endeavours:
  - to minimise drop out rates and deliver high completion and achievement rates, and appropriate progression
  - at least meet the minimum quality standards that apply to the appropriate Services purchased.
13. Furthermore, the Provider has to ensure that no part of the services delivered under the contract are assessed as being "Inadequate" by Ofsted.

**The scope of the Delivery of Provision module will normally encompass:**

#### **Actual Performance - Success Rates**

1. We need to consider any Relationship Team concerns relating to the quality of the Provider's education performance and review any related correspondence. If any concerns have been raised then ascertain what action has been taken by the Provider to address them.
2. We need to establish if the last Ofsted outcomes were worse or better than the previous inspection outcomes and also whether these were worse/better than those expected by the Provider.
3. We need to establish if the Provider can demonstrate improvement in its education performance since the last inspection.
4. We need to ensure (if applicable) that the Senior Management Team and/or the Board are aware why the Ofsted outcomes have not improved and/or deteriorated since the last inspection. If this is the

situation, then we need to establish what action the Provider is taking to address this situation.

### **Reports on Success Rates**

1. We need to establish that reports on success rates are provided for the Senior Management Team and/or the Board. The Senior Management Team and/or the Board need reliable, suitable and timely information so that they can monitor and challenge the Provider's education performance.
2. We need to ensure that the Senior Management Team and/or the Board are aware of the Provider's education performance compared with national standards, with previous periods and with its own targets (if set).

14. The responsibilities in paragraph 18 of the *Contract for Services – Education and Training* cover not only the quality assurance and raising standards but also some related issues namely:
  - the Provider needs to have the resources and skills necessary to carry out its obligations pursuant to the contract (18.1)
  - the Provider has to deliver value-for-money (paragraph 18.5.7)
  - the Provider has to provide good management and leadership of the learning process (18.6.6).

### **Resources and Skills**

15. In respect of resources and skills, Provider Finance will take cognisance of the Inspection outcomes. Thus poor Ofsted outcomes would suggest that the Provider currently does not have the required skills and resources to carry out the obligations under the contract.

### **Value-for-Money**

16. In respect of value-for-money, Provider Finance has traditionally considered it purely from the Chief Executive of Skills Funding's perspective in terms of outcomes for learners. Thus in past years "Inadequate" or "Satisfactory" Ofsted outcomes would have indicated that the Chief Executive of Skills Funding had not received value-for-money or could have received better value-for-money in respect of the funds paid to the Provider. This same conclusion will continue with Ofsted's "Needs Improvement" outcome.

### **Good Management and Leadership of the Learning Process**

17. In respect of good management and leadership of the learning process, Provider Finance will take cognisance of the Inspection outcomes.

### **Sub-Contracted Provision**



## **Responsibility**

18. The Provider must comply with the requirements on sub-contracting delivery of the provision set out in the Chief Executive's Funding Rules (paragraph 5.2).
19. We will only review this module if the Provider's existing level of sub-contracting warrants such.

### **The scope of the Sub-Contracted Provision module will normally encompass:**

#### **Management Control**

1. We need to ascertain the internal reporting arrangements in the Provider. We need to ensure that there is review, and consideration of the performance of sub-contractors by the Senior Management Team and/or the Board.
2. We should consider whether the management fee charged by the Provider appears reasonable and justifiable.

#### **Compliance Issues**

1. We need to ensure that what is delivered is consistent with the details on the Agency declaration form (one form has to be submitted in August and a further one in April).
2. We need to ensure there is only second level sub-contracting when the Chief Executive has consented to such (paragraph 5.3).
3. We need to ensure that the Provider has in place a legally binding contract with all its sub-contractors (paragraph 5.4).
4. We need to ensure that the Provider has obtained Agency approval to use sub-contractors it has not previously used (paragraph 5.7).

#### **Extent of Sub-Contracting**

1. We need to ascertain the current level of sub-contracting and compare it to the level in previous years.
2. If sub-contracted provision is a large part of the Agency total contract value consideration should be given to the financial health of the Providers' sub-contractors and whether the Provider could withstand one of its sub-contractors falling into financial difficulties.
3. We need to consider recent growth and/or plans for growth and the reasons for this.
4. We need to ascertain if the Provider is struggling to meet its allocation with its own direct delivery and thus either resorts to sub-contracting or increases its current level of sub-contracting to ensure it meets the allocation.

#### **Sub-Contractors**

1. We need to ascertain how the Provider ensures its sub-contractors deliver provision to an acceptable standard and comply with the Agency's funding requirements.
2. Ascertain if the Provider has in place a planned programme of visits to its sub-contractors. If so, we need to ascertain the controls in place to ensure that this programme of visits is followed.
3. We need to ascertain if the outcomes of these visits to sub-contractors are formally reported to anyone in a senior position at the Provider.
4. We need to ascertain if the Provider is dealing with any sub-contractors which are causing the Agency concern nationally. If so, establish if there has been any communication between the Provider and the Agency on any of these sub-contractors and if the Provider has been required to take any action.
5. We should establish if the Provider has carried out or commissioned any investigations into any of its sub-contractors.

## **Performance against Funding Allocations**

### **Responsibilities**

20. The Provider has to:
  - ensure that the required performance levels are met ( 3.2)
  - deliver the value of learning in the Contract ( 13.3)
  - be able to reconcile payments received from the Agency with cash earned (14.1).
21. We also need to recognise though that if the Provider's performance against its funding allocations is poor then this:
  - may have financial implications which could impact on its ability to perform the contract (12.4.1)
  - may suggest that the Provider has not managed one of its key risks which could result in it being assessed by the Agency "as being at serious risk of failure to deliver the services under the contract" (13.1)).

**The scope of the Performance against Funding Allocations module will normally encompass:**

#### **Actual Performance**

1. If there are Agency or EFA concerns over performance, ensure that these concerns are reported to the Senior Management Team and/or the Board.
2. We need to ascertain when the Provider realises its performance is not going to be as good as that envisaged/planned and thus action to address this scenario is needed.

3. We need to ascertain if the Provider have a history of under-performance against its allocations. Consistent poor performance has to be viewed as an area for improvement.
4. We need to ascertain if the Provider is considering delivering, or actively delivering “new provision” in order to compensate either for under-delivery in say its traditional areas of provision or to simply generate additional income.

#### **Allocations**

1. We need to ascertain if the Provider’s allocations from all funding bodies are going up or down and the reasons for this. If allocations are going down then ensure that the Senior Management Team and/or the Board are fully aware of the possible risks and ramifications of this situation.
2. We need to ascertain if there are any significant contracts (by value £) which have either been lost or are in danger of being lost. If so, ensure that the Senior Management Team and/or the Board are fully aware of the possible risks and ramifications of this situation.

#### **Dependency on Agency Funds**

- 1 We need to ascertain if the achievement of the Provider’s overall planned turnover is particularly dependent on the delivery of the Agency contract
2. If so, ensure that the Senior Management Team and/or the Board are fully aware of the possible risks and ramifications of not achieving fully the Agency contract.
3. If so, we need to ascertain if significant parts of the business will discontinue as a result of loss of not meeting the Agency’s contract.
4. We need to ascertain if the Provider has any plans to reduce its reliance on Agency funds or whether it is the Provider’s long-term aim is to concentrate its activities on Agency funded provision

## FINANCIAL MANAGEMENT

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### Modules

22. The modules we could examine under the “Financial Management” element include:
- Financial Health
  - Financial Planning
  - Financial Monitoring
  - Financial Statements.

### Financial Health

#### Responsibilities

23. The Provider has to be able to provide evidence of financial resources and the level of turnover sufficient to enable it to continue to perform the Contract (12.4.1).
24. One of the Agency’s key risk factors which could trigger an Accountability Review is “Inadequate Financial Health and/or other financial health concerns (significantly worse than expected outturn performance, nil cash generation, supernormal profits, advances of funds)” so there is a clear need for Provider Finance to consider this module.
25. We also need to be aware of the risks involved if there is a significant deterioration in the Provider’s financial position namely:
- learners will suffer if their learning provision is disrupted or terminated; and
  - the Chief Executive of Skills Funding is unable to recover any funds owed to it by the Provider.

#### **The scope of the Financial Health Module will normally encompass:**

##### **Financial Health**

1. We need to ascertain what the current health assessment and the recommended maximum funding limit of the Provider is and the date this assessment was carried out
2. We need to ascertain what has been the trend in the Provider’s financial health in recent years. A sudden and unplanned deterioration in a Provider’s financial health may indicate that the Provider’s financial management arrangements in place are not effective.

3. We need to ascertain if the Provider has been making super normal profits and/or paying significant sums in dividends in the past three years. If so, establish whether or not: this represents a change to past practices and patterns. Also, consider the Provider's education performance during this same period.

#### **Cash-Flow**

1. Need to identify trends in cash-flows over the past three years.
2. We need to ascertain if there any indications of any longer term cash-flow problems which could have an adverse impact on the Provider's liquidity position in the future.

### **Financial Planning**

26. We do need to consider the Provider's future financial position in order to be assured that the Provider will continue to have financial resources and the level of turnover sufficient to enable it to continue to perform the contract.

#### **The scope of the Financial Planning module will normally encompass :**

##### **Annual Budget<sup>25</sup>**

1. We need to obtain a copy of the Provider's annual budget<sup>26</sup> which includes the Chief Executive of Skills Funding's funds (include EFA funds too) and ascertain what financial year it covers.
2. We need to ensure that there is review, consideration and approval of the annual budget by the Senior Management Team and/or the Board.
3. We need to ascertain if there have been any revisions to the budget during the year due to unforeseen/unplanned circumstances.

##### **Long-Term Business Plan**

1. We need to ascertain if the Provider has a long-term business plan in place which outlines its plans for the future and which thus provides the Agency with some assurance that it will have sufficient resources in place to meet its commitments in the future.
2. We need to ensure that this long-term business plan is in alignment with the Provider's overall strategic objectives and has been subject to discussion and approval by the Senior Management Team and/or the Board.

### **Financial Monitoring**

27. We would expect the Senior Management Team and/or the Board to monitor the Provider's actual financial performance against previously

<sup>25</sup> If there is no budget for the Chief Executive of Skills Funding's (and the EPA's) funds then we need to establish how this income and the related expenditure is controlled.

<sup>26</sup> If there is no budget for the Chief Executive of Skills Funding's (and the EPA's) funds then we need to establish how this income and the related expenditure is controlled.

approved key financial performance targets and/or budgets and take action if there has been any areas of under performance.

**The scope of the Financial Monitoring module will normally encompass:**

1. We need to ensure that there are adequate and effective financial monitoring arrangements in place to enable the Senior Management Team and/or the Board to consider and review the Provider's financial position.
2. We need to ensure that the financial information produced for the Senior Management Team and/or the Board is reliable, suitable, accurate and up-to-date.

**Financial Statements**

28. The Provider is contractually bound to submit its latest Financial Statements to the Agency (12.4.3).

**The scope of the Final Accounts module will normally encompass:**

**Financial Statements**

1. We need to obtain copies of the Provider's Financial Statements and, if relevant, the Group Financial Statements for the last three financial years.
2. We need to ascertain when the Financial Statements were signed and submitted to Companies House. The late submission of the Financial Statements to Companies House may be viewed as a key weakness.

**External Audit**

1. We need to ascertain if any significant adjustments to the draft Financial Statements have been identified by the external auditors.
2. We need to ascertain if the Provider's external auditors have made any general comments on the Provider's state of preparation for the external audit.
3. We need to ascertain if any debateable and/or inappropriate accounting practices have been identified by the external auditors.
4. We need to ascertain if any going concerns issues have been raised in the audited Financial Statements.

## INTERNAL CONTROL ARRANGEMENTS

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### Modules

29. The modules we could examine under the Internal Control Arrangements element will normally encompass:

- data
- financial probity
- fraud and irregularities
- risk management

### Data

#### Responsibility

30. A Provider has to provide the Agency with data which:

- is in line with agreed audit arrangements
- is in adherence with the Data Protection Act
- supports payments received on profile
- enables reconciliation to take place
- supports the contract management and allocation processes.

#### Provider Finance Audits

31. A Provider's data was regularly audited by Provider Finance and these audits provided the Chief Executive of Skills Funding with the assurance that a Provider:

- had maintained sufficient evidence to demonstrate that it had earned the funds paid to them
- applied the Agency payments in accordance with its funding agreements.

32. The frequency of Provider Finance audits has been significantly reduced in recent years and thus Provider Finance may not be able to provide this required assurance directly through its own audits. Accordingly, the Provider may be asked to provide evidence that demonstrates to Provide Finance that its data is reliable and provides the above assurance.

#### **The scope of the Data module will normally encompass:**

1. We need to establish the practices and procedures the Provider has in place to ensure the accuracy and reliability of its data so that it can demonstrate that it has earned the funds that it has received and it has applied the Agency payments in accordance with its funding agreements.

2. A review of DSATs should be undertaken by Provider Finance to give us an overview of the quality and accuracy of the Provider's data. The normal suite of reports should be run and any issues that emerge which will provide us with useful evidence on the robustness of the provider's internal control system. These issues should be shared with the Provider during the visit and, if required, the Relationship Manager. It is not envisaged that at this time we will follow the issues up ourselves during the course of the Accountability Review but we may wish to refer to these issues in our report.

## **Financial Probity**

### **Responsibility**

- 33 The Provider has to deliver financial probity (18.6.7).

#### **The scope of the Financial Probity module will normally encompass:**

1. We need to ascertain if the Provider can demonstrate a commitment to maintaining a sound system of financial probity.
2. We need to ascertain if the Provider can demonstrate a commitment to addressing financial probity issues raised in Provider Finance reports and any other relevant reports.
3. We need to ascertain if Provider Finance reports and other relevant reports dealing with financial probity are dealt with at an appropriate level within the Provider.
4. We need to ascertain if any financial probity issues have been identified by the Provider's External Auditors.

## **Risk Management**

### **Responsibility**

34. Whilst there is no direct contract responsibility relating to risk management, the Provider has to manage all its key risks in order that it is not assessed by the Agency as being in serious breach of the Contract. These key risks include:
  - the need to minimise drop out rates; deliver high completion and achievement rates and progression (18.5.1)
  - the need to ensure minimum quality standards are met (18.5.2)
  - the need to ensure competent and qualified staff deliver and assess learning (18.5.3)
  - the need to provide a safe, healthy, supportive environment for learners (18.5.5)



- the need to provide good management and leadership of the learning process (18.5.6)
- the need to deliver value-for-money and financial probity (18.5.7)
- the need to ensure services delivered by sub-contractors meets all the requirements stated above (18.5.8)
- the need to ensure adequate inspection outcomes (18.11).

35 Furthermore, there are also other risks which need to be managed namely:

- the need to have sufficient level of financial resources and turnover to continue to perform the contract (12.4.1)
- the ability to supply accurate data to the Agency (17)
- the need to ensure funding claims are accurate (12.4.2)
- the need to deliver the value of learning or else the contract will be reduced (13.3).

**The scope of the Risk Management module will normally encompass:**

1. We need to ensure that the Provider is aware of all the key risks it is facing.
2. We need to establish through discussions with the Provider's staff how these risks are managed. Please note that it is not within our remit to prescribe to Providers how they should manage these risks.

**Fraud and Irregularity**

**Responsibility**

36 The Provider has to notify the Agency of any suspected fraud or financial irregularity in the delivery of the Contract (19.1).

**The scope of the Fraud and Irregularity module will normally encompass:**

1. We need to ascertain if there have been any cases of either suspected fraud or financial irregularity in respect of the delivery of the contract.



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