



Education & Skills
Funding Agency

Education and Skills Funding Agency (ESFA)

**Framework document between the
Department for Education and the
Education and Skills Funding Agency**

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Definitions

"the Accounting Officer"	The Chief Executive Officer
"the Annual Report and Accounts"	The single document audited by the National Audit Office
"the board"	The ESFA members appointed by the Secretary of State. The 'ESFA Management Board'
"the Chair"	The ESFA member appointed to serve as chair by the Secretary of State
"the C&AG"	The Comptroller & Auditor General
"the department"	The Department for Education
"the FReM"	Government Financial Reporting Manual
"the Government"	The UK Government
"Parliament"	The UK Parliament
"the PAO"	The Department's Principal Accounting Officer who is the Department's Permanent Secretary
"the Secretary of State"	The Secretary of State for Education
"ESFA Executive Team"	The ESFA Chief Executive and Directors

1. Introduction to the Framework Document and the Education and Skills Funding Agency

- 1.1 This Framework document has been drawn up to underpin and facilitate the relationship between the Education and Skills Funding Agency ('the ESFA') and other parts of the Department for Education ('the department'). It sets out the broad framework within which the ESFA will operate. It does not convey any legal powers or responsibilities, but all parties will operate within its terms. It has been signed and dated by the Permanent Secretary of the department, the Chief Executive of the ESFA, the Parliamentary Under Secretary of State for Apprenticeships and Skills, and the Parliamentary Under Secretary of State for the Schools System.
- 1.2 The ESFA or the department may propose amendments to this document at any time and it will be reviewed at least every 3 years under arrangements agreed by the Permanent Secretary, the Secretary of State and the Chief Executive. Significant variations to the document must be cleared with HM Treasury and the Cabinet Office, and the department, as appropriate. Any questions regarding the interpretation of the document will be resolved by the Permanent Secretary or their representative after consultation with the ESFA and, as necessary, with the Cabinet Office and/or HM Treasury.
- 1.3 Copies of the document have been placed in the Libraries of both Houses of Parliament and made available to members of the public on gov.uk as will any subsequent amendments.

2 Purpose and aims of the Education and Skills Funding Agency

- 2.1 The ESFA is an executive agency of the Department for Education, established on 1 April 2017 as result of the merger of the Education Funding Agency and the Skills Funding Agency. It has responsibility, on behalf of the Secretary of State for Education, to:
- fund the education and training sector, providing assurance that public funds are properly spent, achieving value for money for the taxpayer and delivering the policies and priorities set by the Secretary of State;
 - oversee academy trusts, further education and sixth-form colleges, and independent training providers, intervening where there is risk of financial failure or where there is evidence of mismanagement of

public funds;

- seek to build the financial capacity and capability of the providers, such as financial forecasting, school resource management, and working closely with the national and regional schools commissioners and the Further Education commissioner;
- develop and deliver major projects major areas of policy and significant programmes and projects. This includes the Apprenticeships and Technical Education Reform, Further Education reform, digital transformation, Funding Allocations Transformation and implementation of the Schools National Funding formula;
- operate key services in the education and skills sector, such as, the National Careers Service, the National Apprenticeship Service and the Learning Records Service;
- manage the relationship with and grants for WorldSkills UK; and
- act as sponsor for the Institute for Apprenticeships and Technical Education ('The Institute') on behalf of the department.

2.2 Strategic aims

- 2.2.1 The ESFA's vision, mission and strategic priorities are set out in a business plan at the beginning of each financial year and published on gov.uk.

3 Governance and accountability

3.1 ESFA legal origins of powers and duties

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

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

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

3.2 Ministerial responsibility

3.2.1 The Secretary of State will usually delegate responsibility for the ESFA portfolio to responsible ministers who will account for business in Parliament as needed.

3.2.2 The ministerial portfolios relevant to the ESFA are usually divided into skills and schools agendas.

3.2.3 The apprenticeships and skills portfolio includes:

- apprenticeships including the apprenticeship levy, traineeships and institutes of technology;
- technical education and skills, including qualifications reform and T-levels;
- careers education, information and guidance;
- post-16 funding (including support for young people and adult learners);
- further education colleges, sixth-form colleges and local patterns of provision (including area reviews and city deals);
- adult education, including the National Retraining Scheme and links to the review of post-18 education and funding; and
- reducing the number of young people who are not in education, employment or training.

3.2.4 The schools portfolio includes responsibilities for:

- pre-16 funding;
- a strong school system (including free schools, academies, multi-academy trusts, university technical colleges and studio schools); and
- school governance and underperformance, including financial health and propriety.

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

3.3 Contact and engagement

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

3.3.2 The core department and the ESFA will have an open and honest, trust-based partnership supported by the principles set out in [Partnerships](#)

[between Departments and Arms Length Bodies \(ALBs\): Code of Good Practice](#). As such, both parties will ensure that they clearly understand each other's strategic aims and objectives. They will also commit to keeping each other informed of any significant issues and concerns.

3.3.3 The Permanent Secretary is the senior departmental sponsor for the ESFA and they are the primary contact for the ESFA on a day-to-day basis. The Permanent Secretary Private Office and governance structures support them discharge their responsibilities toward the ESFA as the senior sponsor.

3.3.4 The Chief Executive is a peer of the department's Director Generals. Like them, the Chief Executive is a member of the department's Leadership Team and has a direct relationship with the Permanent Secretary for their performance and the performance of their group. As an executive agency, the ESFA has a separate non-executive board to the department. The chair of the ESFA board is also a member of the department's board ('Departmental Board'), and the chair of the ESFA's Audit and Risk Committee is a member of the department equivalent.

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

- the Chief Executive and responsible ministers quarterly; and
- the PAO and ESFA Management Board once a year.

3.3.6 Any disputes between the core department and the ESFA will be resolved by an internal process overseen by the Permanent Secretary of the department, in consultation with the Secretary of State. In any case where there is a dispute arising between the agency and the department about a particular course of action or between the Chief Executive and the Chair of the ESFA Management Board, the dispute will be referred to the Permanent Secretary as Principle Accounting Officer (PAO) for a decision. The PAO will review the information provided and make a decision informing the Chief Executive and the ESFA Management Board of the outcome.

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

3.4.1 The PAO of the department has designated the Chief Executive as the ESFA's accounting Officer (AO). The respective responsibilities of the

PAO and AO for executive agencies is set out in Box 3.1 in chapter 3 of '[Managing Public Money](#)' (published by HM Treasury), which is sent to the AO on appointment.

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

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

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

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

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

3.4.5 If a Machinery of Government change results in the ESFA being sponsored by a new department before the framework document is due for review, the Department will notify the ESFA of the relevant relationship changes. The provisions of the framework document will continue to have effect until the framework document is replaced, unless otherwise stated by the new sponsor department.

3.4.6 Where a request for information is received by either party under the Freedom of Information Act 2000, or the Data Protection Act 1998 or 2018, the party receiving the request will consult with the other party prior to any disclosure of information that may affect the other party's responsibilities.

3.5 Responsibilities of the Chief Executive as Accounting Officer

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

3.5.2 The AO's accountabilities to Parliament include:

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

3.5.3 The AO or nominated representative will advise ministers on Parliamentary Questions (PQs) and Parliamentary correspondence addressed to ministers as required on all operational matters related to the responsibilities of the ESFA. Where appropriate, the ESFA and departmental policy teams will work closely on responses to PQs and

other Parliamentary correspondence. The Secretary of State can direct the Chief Executive to write to Members of Parliament or Lords in respect of their PQs or Parliamentary correspondence.

3.5.4 The AO will have responsibility for making sure that the ESFA can safeguard and account for its assets.

3.5.5 The AO's responsibilities to the department include:

- establishing the ESFA's corporate and business plans in line with the department's wider strategic aims and agreed priorities;
- acting as the senior sponsor of the Institute;
- informing the department of progress in helping to achieve the department's policy objectives and in demonstrating how resources are being used to achieve those objectives; and
- ensuring that timely forecasts and monitoring information on performance and finance are provided to the department, that the department is notified promptly if over or under spends are likely and that corrective action is taken, and that any significant problems – financial or otherwise and whether detected by internal audit or by other means – are notified to the department in a timely fashion.

3.5.6 The Chief Executive has responsibility to the ESFA Management Board ('the board') for:

- advising the board on the discharge of the ESFA's responsibilities as set out in this document, in the founding legislation and in any other relevant instructions and guidance that may be issued from time to time;
- advising the board on the ESFA's performance compared with its aims and objectives;
- ensuring that financial considerations are taken fully into account by the board at all stages in reaching and executing its decisions, and that financial appraisal techniques are followed; and
- referring matters up to the PAO for a decision or to seek ministerial decision if the board is recommending a course of action which the Chief Executive considers would infringe their responsibilities as AO.

3.6 ESFA Management Board

3.6.1 The board will advise the Chief Executive to ensure that effective arrangements are in place that provide assurance on risk management,

governance and internal control.

- 3.6.2 The board will have an Audit and Risk Committee chaired by an independent non-executive chair, who will also be a member of the ESFA Management Board, to provide independent advice and assurance on risk management, governance and internal controls. The board is expected to assure itself of the effectiveness of the internal control and risk management systems.
- 3.6.3 The full roles and responsibilities of the board and the chair will be set out in a terms of reference agreed by both the department and the ESFA. The board is specifically responsible for:
- establishing and taking forward the strategic aims and objectives of the ESFA consistent with its overall strategic direction and within the policy and resources framework determined by the Secretary of State;
 - ensuring that it receives and reviews regular financial information concerning the management of the ESFA, is informed in a timely manner about any concerns about the activities of the ESFA, and provides positive assurance to the department that appropriate action has been taken on such concerns; and
 - demonstrating high standards of corporate governance at all times, including by using the ESFA Audit and Risk Committee to help the ESFA Management Board to address key financial and other risks.
- 3.6.4 As the senior departmental sponsor, the PAO will attend the board at least once a year as part of their proactive engagement with the governance of the ESFA.

The role of the Chair of the ESFA Management Board

- 3.6.5 The chair of the ESFA Management Board will report to the PAO and ministers and is a member of the Departmental Board. They are responsible for advising the Chief Executive to ensure that policies and actions undertaken by the ESFA support the responsible ministers' wider strategic policies and that its affairs are conducted with probity. Where appropriate, these policies and actions should be clearly communicated and disseminated throughout the ESFA.
- 3.6.6 In addition, the chair of the board is responsible for:
- facilitating agreement of the board's strategy and ensuring that Board meetings are well focused and effective;

- ensuring that the board, in reaching decisions, takes proper account of guidance provided by the responsible minister or the department;
- delivering high standards of regularity and propriety; and
- providing additional scrutiny of the agency's performance and risks and escalating any issues to the PAO or ministers as deemed appropriate.

3.6.7 The chair of the board also has an obligation to ensure that:

- the work of the board and its members are reviewed and are working effectively, ensuring that a review of effectiveness is undertaken annually with independent input at least every three years, and that results are acted upon;
- the board has a balance of skills appropriate to directing the ESFA's business, as set out in the Cabinet Office [Code of Good Practice for Corporate Governance](#);
- board members are fully briefed on terms of appointment, duties, rights and responsibilities;
- they, together with the other board members, receives appropriate training on financial management and reporting requirements and on any differences that may exist between private and public sector practice;
- the responsible ministers are advised of the ESFA's needs when board vacancies arise
- they assess the performance of individual board members when being considered for re-appointment;
- there is an ESFA Management Board terms of reference in place setting out the role and responsibilities of the board consistent with the Code of Good Practice for Corporate Governance; and
- ESFA Management Board members comply with the '[Code of Conduct for Board Members of Public Bodies](#)' produced by the Cabinet Office.

3.6.8 The chair is responsible for giving any feedback on the performance of the Chief Executive to the PAO, which will be considered during the Chief Executive's performance reviews, and will support the PAO in discharging their role in respect of the agency and in advising ministers on its performance.

The role of ESFA Management Board members

3.6.9 Individual ESFA Management Board members should:

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

3.7 Annual report and accounts

3.7.1 The ESFA Management Board will discuss and provide final sign off on the ESFA Annual Report and Accounts and annual governance statement as advised by the ESFA Audit and Risk Committee after the end of each financial year. The ESFA shall share accounts with the department following an agreed timetable each year to be consolidated within the department’s annual report and accounts.

3.7.2 The ESFA annual report must:

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

3.7.3 The annual accounts of academies and academy trusts will be consolidated in a separate Sector Annual Report and Accounts (SARA), which the department is responsible for producing.

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

3.8 Internal audit

3.8.1 The ESFA will receive internal audit and assurance services from Government Internal Audit Agency (GIAA). GIAA will also provide

independent and objective assurance to the ESFA AO and the board on the adequacy and effectiveness of the ESFA governance, risk management and control. This will support the AO's annual governance statement.

3.8.2 The ESFA shall:

- ensure that the department's internal audit team have complete access to all relevant records;
- ensure that the GIAA are represented on the Audit and Risk Committee;
- forward the audit strategy, periodic audit plans and annual audit report, including the GIAA's opinion on risk management, control and governance as soon as possible to the department; and
- keep records of fraud and theft suffered by the ESFA, including a quarterly return to the department on fraud, error and overpayment, and notify the department of any unusual or major incidents as soon as possible.

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

ESFA Audit and Risk Committee

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

3.8.5 The chair of the Audit and Risk Committee will be a member of the ESFA Management Board, and of the department's Audit and Risk Committee to which they will also provide assurance at each meeting, at least twice a year. The Audit and Risk Committee will approach the department's Audit and Risk Committee at any point during the year should emerging issues or heightened risks warrant it.

3.8.6 Others that will attend the ESFA Audit and Risk Committee meetings include the Chief Executive, the director responsible for provider market oversight, funding and finance, the department's Operations Group, and observers from the National Audit Office (NAO) and GIAA. Other ESFA directors will be requested to attend ARC meetings when necessary.

3.9 External audit

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

3.9.2 The C&AG:

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

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

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

3.10 Complaints and investigations

3.10.1 The ESFA will publish its complaints procedures on gov.uk for

investigating any allegations of fraud or impropriety made against the ESFA or organisations that the ESFA funds.

- 3.10.2 The ESFA is subject to the jurisdiction of the Parliamentary and Health Service Ombudsman (PHSO). Cases may be referred to the PHSO by a Member of Parliament once the ESFA complaints procedure has been exhausted.
- 3.10.3 The department's PAO is the department's Principal Officer for the purposes of PHSO referrals but will delegate responsibility for handling any matters concerning the ESFA to the Chief Executive as appropriate.

3.11 Institute for Apprenticeships and Technical Education ('The Institute') sponsorship

- 3.11.1 The Institute for Apprenticeships and Technical Education is a non-departmental public body (NDPB) established to support the strategic aims of the department and the integrity of apprenticeships and the technical education systems. Its remit is to assure the quality of apprenticeships and provide advice to Government on future funding provision for apprenticeship training, and to approve the qualifications that form part of T Levels, including making arrangements to secure the availability of qualifications for approval. Its Framework document is consistent with the Apprenticeships, Skills, Children and Learning Act 2009, as amended, and Schedule 1 to the Technical and Further Education Act 2017 and contains the legal provisions relating to the creation of the Institute and its functions as agreed with the Department for Education.
- 3.11.2 As policy and delivery responsibility for apprenticeships and technical education sits within the ESFA, the Framework document is supported by a Memorandum of Understanding (MoU) between the Accounting Officer of the Department (Permanent Secretary, Principal Accounting Officer), ESFA (Chief Executive Officer) and the Institute (Chief Accounting Officer). This is to allow the Chief Executive Officers (CEOs) of ESFA and the Institute to have a direct relationship with regards to matters of financial planning, budgeting, monitoring and reporting, on behalf of the Principal Accounting Officer (DfE Permanent Secretary).
- 3.11.3 The sponsorship team in the ESFA is the primary departmental contact for the Institute. This team will support the Chief Executive of the ESFA in their responsibilities towards the Institute as Senior Sponsor, and will provide briefing to enable effective support, challenge and monitoring at quarterly performance and ministerial meetings.

- 3.11.4 The sponsorship team will provide oversight of the Institute and are the main source of advice to ministers overseeing apprenticeships and skills on the discharge of their responsibilities in respect of the Institute. They also support the PAO on their responsibilities towards the Institute.
- 3.11.5 The Institute will regularly report progress on its performance against the relevant programme objectives, as set out in its strategic guidance from the Department, to the apprenticeships and technical education SROs within the ESFA. This will be done on a continuing basis through a proportionate and timely flow of information from the Institute. Issues will be escalated to the senior sponsor and the responsible minister as necessary.
- 3.11.6 The Chief Executive of the ESFA is also the accountable budget holder for apprenticeships and technical education programmes and so will represent the PAO in the process of business planning and budget allocation for the Institute. The annual accounts of the Institute are fully consolidated into the Department for Education's accounts.

3.12 Information assurance and security

- 3.12.1 The ESFA will have in place an information security policy and processes that provide assurance on the appropriate management and treatment of information across the ESFA, in line with the department. It will comply with departmental policies on information assurance and security.
- 3.12.2 The ESFA will have in place a Senior Information Risk Owner (SIRO) who is an executive and will lead on the management of information risk at ESFA Executive Team level. The work of the ESFA SIRO will link to that of the department SIRO.
- 3.12.3 The ESFA will have in place a Security and Business Continuity Board, the purpose of which is to provide leadership and assurance related to ESFA business continuity and protective security (including physical, system, cyber and information security).
- 3.12.4 The ESFA will have in place a records management and data retention policies and processes that provide assurance on the appropriate management and treatment of data and records across the ESFA. It will comply with legal requirements and departmental policies on records management and data retention in line with the following:
- [Public Records Act 1958](#) and [Public Records Act 1967](#)
 - [Data Protection Act 2018](#)

- [Code of practice on records management](#) under sections 45 and 46 of FOI Act.

4 Management and financial responsibilities

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

4.1.1 Unless agreed by the department and, as necessary, HM Treasury, the ESFA shall follow the principles, rules, guidance and advice in ‘Managing Public Money’, referring any difficulties or potential bids for exceptions to the Operations Group in the department in the first instance. A list of guidance and instructions with which the ESFA should comply is in Appendix 1.

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

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

4.2 Corporate governance

Appointments

- 4.2.1 The ESFA Management Board Chair and non-executive board members, including those on the Audit and Risk Committee, are appointed in agreement with the responsible ministers and following the Cabinet Office 'Governance Code for Public Appointments'. Such appointments will comply with the Commissioner for Public Appointments' ['Guidance for Ministerial Appointments to Public Bodies'](#). Management Board appointments will have 3 year terms and can be extended with agreement with responsible ministers.
- 4.2.2 The ARC Chair and other independent non-executives will be appointed with agreement from the Permanent Secretary and following the Cabinet Office 'Governance Code for Public Appointments'. Such appointments will comply with the Commissioner for Public Appointments' 'Guidance for Ministerial Appointments to Public Bodies'.
- 4.2.3 The Chief Executive is appointed by the Civil Service Commission and the PAO in consultation with the board, Secretary of State and responsible ministers.

Composition of the ESFA Management Board

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

4.3 Risk management

- 4.3.1 The ESFA shall ensure that the risks that it faces are dealt with in an appropriate manner, in accordance with relevant aspects of best practice in corporate governance, and ensure adherence to its risk management strategy, in accordance with the HM Treasury guidance ['Management of Risk Principles and Concepts'](#). It should adopt and implement policies and practices to safeguard itself against fraud and theft, in line with HM Treasury guidance. It should also take all reasonable steps to appraise the

financial standing of any firm or other body with which it intends to enter into a contract or to give grant or grant-in-aid.

- 4.3.2 The ESFA will share information on high risks with the PAO and notify the department via the department's Performance and Risk Committee of risks that need or may need action. The ESFA's Audit and Risk Committee will advise the board and AO on the strategic processes for risk, control and governance, including controls for securing economy, efficiency and effectiveness within providers funded by the ESFA and the application of money paid to these providers in accordance with the purposes for which it was allocated.
- 4.3.3 The ESFA will provide the department's Performance and Risk Committee with information on key risks. The ESFA will also share their own Performance and Risk reports on request, to aid department-wide oversight.
- 4.3.4 The ESFA will maintain robust contingency and business continuity plans. and will review and test these frequently.

4.4 Corporate and business plans

- 4.4.1 Before the beginning of each financial year, the ESFA will agree with the department, and where appropriate ministers, the issues to be addressed in the plan and the timetable for its preparation. The business plan shall reflect the ESFA's statutory and other duties and, within those duties, the priorities set by the responsible ministers (including decisions taken on policy and resources in the light of wider public expenditure decisions). The plan shall demonstrate how the ESFA contributes to the achievement of the department's priorities.
- 4.4.2 The business plan shall be updated to include key targets and milestones for the year immediately ahead. Subject to any commercial considerations, the business plan should be published by the ESFA on gov.uk and separately be made available to staff.
- 4.4.3 The following key matters that should be included in the plan will be:
- key objectives and associated key performance targets for the year ahead, and the strategy for achieving those objectives;
 - a review of performance in the preceding financial year and an estimate of performance in the current year;
 - an assessment of the risk factors that may significantly affect the execution of the plan but that cannot be accurately forecast; and

- other matters as agreed between the department and the ESFA

4.4.4 The Business Plan will be signed off by the ESFA Management Board and published in line with the department equivalent.

4.5 Budgeting procedures

4.5.1 Once business planning and prioritisation decisions have been taken by the department and ministers, the department will send the ESFA the following items before the start of the financial year:

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

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

4.5.3 There will be a quarterly, detailed financial review of the forecast and budgets across the department, which will be used to inform the department's Leadership Team discussions on managing the department's finances and for reporting to HM Treasury. The mid-year review (end September) will typically form the basis of the Supplementary Estimate, the only opportunity to change departmental spending limits before the end of the year. When the Supplementary Estimate is approved, the ESFA will be informed of revised budgetary limits.

4.6 Financing and cash management

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

4.6.2 The cash funding will normally be paid in monthly instalments based on written applications showing evidence of need. The ESFA will comply with

the general principle, that there is no payment in advance of need. This will be supported by a monthly cash forecast which the department will use to prepare the departmental cash management return. Changes to forecasts will be provided to agreed deadlines to ensure the department does not exceed the daily payment and monthly cash flow targets set by HM Treasury. Cash balances accumulated during the year from funding or other Exchequer funds shall be kept to a minimum level consistent with the efficient operation of the ESFA. Funding not drawn down by the end of the financial year shall lapse. Cash funding should follow the principles set out by HM Treasury in Annex 5.6 of 'Managing Public Money'.

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

4.7 Delegated authorities

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

- making any significant change in the scale of operation or funding of any initiative or particular scheme previously approved by the department;
- making any change of policy or practice which has wider financial implications that might prove repercussive or which might significantly affect the future level of resources required; and
- carrying out policies that go against the principles, rules, guidance and advice in 'Managing Public Money'.

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

4.7.5 ESFA does not have delegated authority to establish any subsidiary companies without prior written agreement from the department.

4.7.6 In the event that the ESFA has set up and controls subsidiary companies, the ESFA will ensure the following:

- the Cabinet Office should be informed so it can be assured as to whether a subsidiary constitutes a new non-departmental public body;
- if the subsidiary is a new public body, then HM Treasury will always consider this to be novel and will require HM Treasury's prior approval, Cabinet Office controls relating to the establishment of new public bodies will also apply; and
- the ESFA shall discuss with the department the procedures for appointing the C&AG as auditor of the subsidiary companies and in line with the Companies Act 2006 the C&AG is appointed auditor of those company subsidiaries that it controls and/or whose activities are consolidated into its own ARA.

4.8 Financial management and reporting

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

4.8.2 The Chief Executive, as AO, is responsible for value for money as set out

in 'Managing Public Money'. This includes ensuring that ESFA spend is systematically evaluated to provide confidence about suitability, effectiveness, prudence, quality and good value.

- 4.8.3 The ESFA has responsibility for: setting detailed budgets to deliver intended policy outcomes; monitoring and forecasting expenditure against budgets; and reporting against budgets to the ESFA Management Board and the department.
- 4.8.4 The ESFA will provide information on its expenditure and its income to the department and to HM Treasury every month. It will also share financial management information with its delivery partners where appropriate.
- 4.8.5 The Executive Team will review detailed financial information each month and the board will review detailed financial information at least once a quarter. The ESFA directors will also meet to review performance monthly at the Performance and Risk Committee, escalating key financial issues and risks to the department, ESFA Management Board and ESFA Assurance and Risk Committee as needed.
- 4.8.6 The Chief Executive is responsible for raising concerns with the PAO should the ESFA's financial management information and accounting systems not allow for detailed and effective control over its use of resources. The ESFA's Finance Director will work with the Chief Executive and directors to ensure the ESFA can comply with its financial responsibilities.

4.9 Reporting performance to the department

- 4.9.1 The ESFA shall operate management, information and accounting systems that enable a review of financial and non-financial performance against the budgets and targets set out in the corporate and business plans. The ESFA will inform the department of any changes that make achievement of objectives more, or less, difficult.
- 4.9.2 The ESFA Finance Director shall attend the department's Performance and Risk Committee where they will discuss performance and escalated risks.
- 4.9.3 The Chief Executive will report on the ESFA's performance at each Leadership Team alongside fellow Director Generals and through regular meetings with responsible ministers, at least quarterly.
- 4.9.4 Officials of the Operations Group in the department will liaise regularly with ESFA officials to review financial performance against plans,

achievement against financial targets and expenditure against its allocations. This may include how the ESFA will manage the financial implications of policy developments that impact the agency.

4.10 Shared services

4.10.1 The department's operating model provides a range of corporate functions as shared services across its groups, including to its executive agencies. The quality of service provision will be reviewed at regular intervals, based on agreed service standards and KPIs.

4.10.2 Any issues, including any charging for these services, will be discussed between the Chief Executive or nominated director and the Director General or director responsible for the relevant shared service.

Communications and press office

4.10.3 The department will provide some communications services including press office, department-level communications strategy and insight, and correspondence and call handling for public enquiries submitted to the department.

4.10.4 The ESFA will be responsible for the management and delivery of operational communications, and the majority of enquiry and correspondence handling which are required to carry out its core business.

4.10.5 The director responsible for customer experience and communications will oversee this area of shared services.

Digital, data and technology (including digital security)

4.10.6 The department's Digital, Data and Technology Directorates (DDaT) will provide some digital and technology services to the ESFA, including system security. Each directorate will work with ESFA to define their key performance indicators and service levels for services provided. Where the ESFA rely on department directorates to provide critical services such as hosting, licences and cyber security to deliver its business priorities, a Memorandum of Understanding will be developed for the relevant financial year. This will be agreed with the department's Chief Technology Officer and the director of Customer Experience, Digital and Data on behalf of the Chief Executive.

4.10.7 The DDaT Operations Board, a corporate board with the department, will enable oversight of the ESFA DDaT portfolio of services, projects,

resource usage and capability. It will also provide updates for SROs and service sponsors enabling them to feedback and challenge delivery performance and cost of services. The board will include relevant ESFA directors in its membership.

- 4.10.8 The ESFA's Data Science service will provide data collection, data management, data governance and data storage services across the ESFA and the department. The service also includes building and publishing dashboards and management information reports, providing customer experience analytics and intelligent automation as well as developing financial forecasting and risk assessment analysis tools. It offers a flexible data science service and provides links to the department's central analysis and data communities.
- 4.10.9 The director responsible digital and data will oversee this shared service provided by the department.

Estates and facilities management

- 4.10.10 For departmental office sites, the department will deliver some estates and facilities management services to the ESFA and will also manage those elements of the facilities management service which are provided by third parties. Where appropriate, services will include:
- health and safety management
 - cleaning
 - security
 - helpdesk
 - building maintenance
 - reprographics
 - mail delivery and distribution
 - catering services
 - business continuity planning *as detailed in DfE Business Continuity Policy*
- 4.10.11 Responsibility for estates remains with the department who will also be responsible for water management and legionella.

Finance and procurement

- 4.10.12 The department's Operations Group will provide some professional

financial and commercial services.

- 4.10.13 Finance support for the ESFA will include production of the ESFA's annual accounts. Operations will consolidate the ESFA's annual accounts into the department's group accounts and the Whole of Government Accounts return.
- 4.10.14 Operations is also responsible for:
- commissioning and consolidating academy outturn data into the separate Sector Annual Report and Accounts (SARA);
 - commissioning and submitting academy forecast and outturn data for use by HM Treasury for Supplementary Estimates, Office for Budget Responsibility forecasts and Public Expenditure Statistical Analyses tables;
 - feeding academy data into the Whole of Government Accounts return; and
 - related sector communications.
- 4.10.15 Operations will provide procurement policy, support and advice to the ESFA. It will ensure that the ESFA has access to deals for common goods and services either from the department's own deals or by providing access to the Government Procurement Service deals. The department's procurement guidance sets out clearly where the department may undertake procurement on behalf of the ESFA, and where the ESFA should undertake its own procurement with advice from operations.
- 4.10.16 Operations will provide advice on commercial issues through a dedicated Commercial Business Partner.

Procurement

- 4.10.17 The ESFA shall ensure that its procurement policies are aligned with and comply with any relevant UK, EU or other international procurement rules and in particular the Public Contracts Regulations 2015.
- 4.10.18 The ESFA shall establish its procurement policies and document these in a Procurement Policy and Procedures Manual.
- 4.10.19 In procurement cases where the ESFA is likely to exceed its delegated authority limit, procurement strategy approval for the specific planned purchase must be sought from the department commercial directorate.
- 4.10.20 Goods, services and works should be acquired by competition. Proposals

to let single-tender or restricted contracts shall be limited and exceptional, and a quarterly report explaining those exceptions should be sent to the DfE.

- 4.10.21 Procurement by the ESFA of works, equipment, goods and services shall be based on, a full option appraisal and value for money, i.e. the optimum combination and whole life costs and quality (fitness for purpose).
- 4.10.22 The ESFA shall a) engage fully with DfE and Government wide procurement initiatives that seek to achieve VfM from collaborative projects, b) comply with all relevant Procurement Policy Notes issued by Cabinet Office and c) co-operate fully with initiatives to improve the availability of procurement data to facilitate the achievement of VfM, including attendance by procurement officers at the DFE Commercial ALB Forum.
- 4.10.23 The ESFA shall comply with the Commercial 1 and Grants Standards 1 2. These standards applies to the planning, delivery and management of government commercial activity, including management of grants in all departments and arm's length bodies, regardless of commercial approach used and form part of a suite of functional standards that set expectations for management within government.
- 4.10.24 Working with the department, the ESFA will comply with the [commercial spend controls issued by Cabinet Office](#), which applies to approval for commercial activities costing £10 million or more.
- 4.10.25 The ESFA Finance Director will be responsible for the agency's strategic finance and the Finance Business Partnering team. The ESFA Finance Director will be responsible for oversight of the shared service provided by the department.

Cabinet Office Controls

- 4.10.26 Cabinet Office introduced Efficiency Controls in 2010. The Controls apply to the Department, and Arm's Length Bodies funded by Department. Cabinet Office efficiency controls help the department and its ALB reduce unnecessary spend. They aim to:

- save money;
- encourage a smarter, cross-government approach to spend; and
- implement specific government policies

ESFA shall comply with efficiency controls as detailed in its delegated authority letter. Detailed guidance on CO controls is available [here](#).

Human resources

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

Legal services

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

4.11 Staff

Broad responsibilities for staff

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

appointments will follow the recruitment principles of the Civil Service Commission.

4.11.3 Within the arrangements approved by the responsible ministers, the Chief Executive will have responsibility for the recruitment, retention and motivation of its staff. The broad responsibilities toward its staff are to ensure that:

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

Staff costs

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

Pay and conditions of service

- 4.11.5 ESFA staff are subject to levels of remuneration and terms and conditions of service (including pensions) within the general pay structure of the department. The ESFA has no delegated power to amend these terms and conditions.
- 4.11.6 ESFA staff are employees of the department. As such, staff terms and conditions are set out in the department's HR handbook for staff.
- 4.11.7 Payment of staff travel and expenses shall be made in accordance with the '[Civil Service Management Code](#)' except where prior approval has been given by the department to vary such rates.
- 4.11.8 The travel expenses of ESFA Management Board members shall be tied to departmental rates. Reasonable actual costs shall be reimbursed.
- 4.11.9 The ESFA shall comply with relevant UK, EU or other international legislation on contract workers.

Pensions, redundancy and compensation

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

5 Better Regulation, Consultation and Impact Assessments

- 5.1 The ESFA shall follow the Government's commitment to efficient and effective regulation. Where possible and certainly whenever necessary the ESFA shall follow the Consultation Principles and comply with the Government's Better Regulation agenda and the Regulator's Code. Where necessary the [ALB] shall produce Impact Assessments on any proposal that imposes or reduces costs on businesses and community and voluntary bodies. Impact Assessments and any related material should be produced in accordance with statutory guidance produced by the Better Regulation Executive.

6 Review of ESFA's status

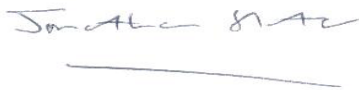
- 6.1 The ESFA will be subject to a 'Tailored Review' in line with Cabinet Office policy for the tailored reviews of public bodies. This will cover both the

existing Tailored Review programme and any future programme that supersedes it. It is anticipated that the ESFA will be subject to a tailored review after March 2020.

7 Arrangements in the event that the ESFA is wound up

- 7.1 The department shall put in place arrangements to ensure the orderly winding up of the ESFA if such a decision is taken. It should ensure that the assets and liabilities of the ESFA are passed to any successor organisation and accounted for properly. To this end, the department shall:
- ensure that procedures are in place in the ESFA to gain independent assurance on key transactions, financial commitments, cash flows and other information needed to handle the wind-up effectively and to maintain the momentum of work inherited by any residuary body;
 - specify the basis for the valuation and accounting treatment of the ESFA's assets and liabilities;
 - ensure that arrangements are in place to prepare closing accounts and pass to the C&AG for external audit, and that, for non-Crown bodies funds are in place to pay for such audits. It shall be for the C&AG to lay the final accounts in Parliament, together with his report on the accounts; and
 - arrange for the most appropriate person to sign the closing accounts
- 7.2 The ESFA shall provide the department with full details of all agreements where the ESFA or its successors have a right to share in the financial gains of developers. It should also pass to the department details of any other forms of claw-back due to the ESFA.

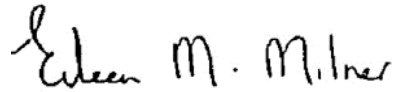
Signed



Date 14th July 2020

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

Signed



Date 14th July 2020

Eileen Milner
Chief Executive, Education and Skills
Funding Agency
*On behalf of the Education and Skills
Funding Agency*

Signed



Date 14th July 2020

Gillian Keegan MP
Parliamentary Under Secretary of State
for Apprenticeships and Skills

Signed



Date 14th July 2020

Baroness Berridge
Parliamentary Under Secretary of State
for the School System and Baroness in
Waiting

Appendix 1: Government-wide corporate governance instructions

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

1. The ESFA Framework Document
2. [Corporate Governance in Central Government Departments: Code of Good Practice available on the Treasury website;](#)
3. [‘Code of Conduct for Board Members of Public Bodies’](#) (Cabinet Office)
4. [‘Code of Practice for Ministerial Appointments to Public Bodies’](#) (Centre for Public Appointments)
5. [Managing Public Money](#)
6. [Financial Reporting Manual](#) (HM Treasury);
7. [Government Internal Audit Standards \[GIAS\]](#) (MH Treasury); & [Public Sector Internal Audit Standards;](#)
8. [Management of Risk: Principles and Concepts;](#) issued by the Treasury (the ‘Orange Book’);
9. [DfE Risk Management Policy and Guidance](#)
10. [Government Financial Reporting Manual \(FReM\),](#) issued by the Treasury;
11. [The Fees and Charges Guide,](#) issued by the Treasury as Chapter 6 of Managing Public Money;
12. [Departmental Banking: A Manual for Government Departments,](#) issued by the Treasury as annex 5.7 of Managing Public Money;
13. [Dear Accounting Officer letters;](#)
14. [Regularity, Propriety and Value for Money](#) (HM Treasury);
15. [The Parliamentary Ombudsman’s Principles of Good Administration](#)
16. [Relevant guidance and instructions issued by the Ministry of Justice on the Freedom of Information Act;](#)
17. [Audit Committee Handbook ;](#)
18. [Other relevant guidance and instructions issued by the Treasury in respect of Whole of Government Accounts;](#)
19. [HMG Security Policy Framework \(SPF\);](#)

20. [Guidance to Funders \(HM Treasury\);](#)
21. [The Government's Code of Practice on Consultation;](#)
22. [Civil Service Code](#)

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