

Comparison of BIS-SFA 16/17 Conditions of Funding (CoF) to Education-ESFA 17/18 CoF

Summary

The Education and Skills Funding Agency 2017/18 Conditions of Funding (CoF) is significantly different from 2016/17, but does not have any conditions that prevent the Council accepting the ESFA funding contract for 2017/18. The revised and new funding conditions and ESF rules and will be cascaded into the 2017/18 sub-contracted providers' contracts terms and conditions as set out in the attached action plan.

Details of Changes

General changes throughout the document

- SFA & BIS Name changes to ESFA and Education or the Department
- BIS department changes to Education department
- New definitions section terms applied throughout
- Additions for Apprenticeships
- Clause references renumbered to match changed section numbering

Section 1 Introduction

- SFA & BIS Name changes to ESFA and Education or the Department
- **Action 1** Minor Breach & Serious Breach definitions duplicated but different in **Section 23**
- **Action 2** reference and wording errors in sections 12.11 and 17.1

Section 2 Definitions **NEW**

- 3 pages of definitions added redefining and changing meaning of previous 1617 terms

Section 3 (Was 2 in 2016/17)

- Added non-levy apprenticeships
- **NO Action**

Section 4 (Was 3 in 2016/17)

- Deleted SFA 2016/17 criteria and removed dates
- Deleted ref to Appendix 2
- Date changed to 2018
- Added ref to Appendix 1
- New 4.6 Added Apprenticeship funding notice period 8 weeks
- Deleted Apprenticeship funding post 30 April 2017
- **NO Action**

Section 5 (Was 4 in 2016/17)

- New Added reference to "otherwise specified in Funding Rules"

- Delivery changed to performing Provision (as per new definition)
- New Added comply with Conditions of Funding and Funding Rules
- Deleted requirement for providers signed finances audit report for providers > £100k
- **Action 3** Organisation name changes: 2016/17 variation 2 was 1 month notice, now 12 weeks' notice.
- **Action 4** New added Funding High Risk Organisations Guidance Document

Section 6 (Was 5 in 2016/17)

- Deleted recruitment procedures and DBS
- **Action 5** New addition Safeguarding children and FE practice guidance and Vulnerable Groups Act
- Deleted DBS overseas applicants
- **Action 6** New High Needs Learners, safer recruitment process, safeguarding guidance and vulnerable groups act 2006 and DBS and Serious Breach
- **Action 7** New Compliance with Counter Terrorism Act and Education Act and High Needs Under 25's regulation 3 and triggers when to inform ESFA
- Services changed to Provision (defined term);
- **Action 8** Learner death requirement to inform ESFA
- Deleted prevent learners being drawn into terror activities

Section 7 (Was 6 in 2016/17)

- No changes

Section 8 (Was 7 in 2016/17)

- No changes

Section 9 (Was 8 in 2016/17)

- Performance Management Rules changed to Funding Ruled (defined term)
- **Action 9** Reference to minimum quality standards by the Department (Education)
- Changed to Continuous (CPD)
- New addition the Body (Council) is responsible for Quality
- **Action 10** New Addition Quality Assurance Arrangements and supply Council quality report to ESFA on request
- New addition Minimum standards and actions
- Deleted Notice of Concern procedures and Notice of Withdrawal procedures
- New addition Ofsted Inspection

Section 10 (Was 8.14 in 2016/17)

- No changes

Section 11 (Was 9 in 2016/17)

- No changes

Section 12 (Was 10 in 2016/17)

- **Action 11** New Added Body (Council) must register with UKRLP

Section 13 (Was 11 in 2016/17)

- No changes

Section 14 (Was 12 in 2016/17)

- No changes

Section 15 (Was 13 in 2016/17)

- No changes

Section 16 (Was 14 in 2016/17)

- No changes in CoF
- [Action 18 preparation for GDPR in May 2018](#) review and revise Adult Learning retention plan

Section 17 (Was 15 in 2016/17)

- No changes

Section 18 (Was 16 in 2016/17)

- No changes

Section 19 (Was 17 in 2016/17)

- No changes

Section 20 (Was 18 in 2016/17)

- Various agencies replaced by Crown Body (defined Term)
- [Action 12](#) New addition parties agree any press release or other communication to be published by or in the media concerning the subject matter of this agreement shall require approval of each of the Parties

Section 21 (Was 19 in 2016/17)

- No changes in CoF
- [Action 19](#) check if any EU state aid rule changes affect Adult Learning during Brexit prep.

Section 22 (Was 20 in 2016/17)

- No changes
- [Action 20](#) Obtain latest Centre for Effective Dispute Resolution (CEDR) procedure.

Section 23 NEW

- [Action 13](#) Cascade all new Section 23 Breach conditions into Call-Off contracts

Section 24 NEW

- ESFA can now terminate contracts with 6 months' notice, no reason required.
- [Action 14](#) Cascade all new Section 24 Termination conditions into Call-Off contracts

Section 25 (Was 21 in 2016/17)

- No changes

Section 26 (Was 22 in 2016/17)

- Deleted variation clause

Section 27 New

- Defines effective dates 1/8/17 to 31/7/18

Section Appendix 1

- No changes in total AEB funding amounts and monthly payment profile
- New contract number is ESFA-10017

Section ESF funding Letter NEW

- **Action 15** Cascade all ESF conditions into Call-Off contracts and Provider Handbook
- **Action 16** Ensure enrolment forms and Maytas screens capture all ESF data fields
- **Action 17** Ensure Council and Providers comply with ESF logo display and inform Learners

Action Plan

Action	Section # and Item	Action	Who
1	2 & 23, Minor Breach & Serious Breach definitions duplicated but different in sections 2 and 23	Request ESFA clarify which definitions of Minor Breach & Serious Breach are correct	CT ask ESFA-BC
2	12.11 Contract wording error refers to clause 10.11 should be 12.11 17.1 refers to SFA 20.11 refers to Clause 19 should be Clause 20	Request ESFA note and correct contract wording errors in next variation	CT ask ESFA-BC
3	5.8 Organisation name changes: 2016/17 variation 2 was 1 month notice, now 12 weeks' notice required.	Call-Off contracts T&C's Update, providers to inform Council 12 weeks before any organisation name changes or takeovers Provider Handbook Update	AE, DB DW
4	5.10 New added Funding High Risk Organisations Guidance Document	Download and understand guidance implications and compliance	AE, JOD
5	6.3 New addition Safeguarding children and FE practice guidance and Vulnerable Groups Act	Download and understand guidance implications and Vulnerable Groups Act and compliance Call-Off contracts T&C's Update Provider Handbook Update	AE, JOD, DB DW
6	6.4 New High Needs Learners, safer recruitment process, safeguarding guidance and vulnerable groups act 2006 and DBS and Serious Breach	Download and understand guidance implications and Vulnerable Groups Act and compliance Call-Off contracts T&C's Update Provider Handbook Update	AE, JOD, DB DW
7	6.6 to 6.13 New sections for Compliance with Counter Terrorism Act and Education Act and High Needs Under 25's regulation 3 and triggers when to inform ESFA	Download and understand guidance implications and Vulnerable Groups Act and compliance Call-Off contracts T&C's Update	AE, JOD, DB
8	5.7 Learner death requirement to inform ESFA	Call-Off contracts T&C's Update providers to inform Council Provider Handbook Update	AE, DB DW
9	9.1.2 Reference to minimum quality standards by the Department (Education)	Download and understand guidance and compliance Call-Off contracts T&C's Update	AE, JOD, DB
10	9.2, 9.5 and 9.6 New Addition Quality Assurance Arrangements and supply Council quality report to ESFA on request	Ensure Council complies with new CoF Quality sections in section 9 Call-Off contracts T&C's Update Provider Handbook Update	AE, DW, DB DW
11	12.13 New Added Body (Council) must register with UKRLP	Ensure Council complies with UKRLP registration	CT

Action	Section # and Item	Action	Who
12	20.10 New addition parties agree any press release or other communication to be published by or in the media concerning the subject matter of this agreement shall require approval of each of the Parties	Request ESFA clarify scope of this statement, does it apply to sub contract announcement and courses promotion, App, twitter Ensure Council communications team informed Ensure all communications in scope are approved by ESFA prior to publication Call-Off contracts T&C's Update Call-Off contracts T&C's Update	CT ask ESFA-BC AE, KE AE ESFA-BC AE, DB
13	23 Cascade all new Section 23 Breach conditions into Call-Off contracts	Call-Off contracts T&C's Update Provider Handbook Update	AE, DB DW
14	24 Cascade all new Section 24 Termination conditions into Call-Off contracts	Call-Off contracts T&C's Update Provider Handbook Update	AE, DB DW
15	ESF Letter Cascade all ESF conditions into Call-Off contracts and Provider Handbook	Call-Off contracts T&C's Update Provider Handbook Update	AE, DB DW
16	ESF Letter Ensure enrolment forms and Maytas screens capture all ESF data fields	Call-Off contracts T&C's Update Provider Handbook Update	AE, DB DW
17	ESF Letter Ensure Council and Providers comply with ESF logo display and inform Learners	Arrange suitable ESF Logo Posters and Learner information pack Call-Off contracts T&C's Update Provider Handbook Update	AE, DB DW
Actions due to other external bodies (not ESFA changes from previous CoF)			
18	16 in preparation for GDPR in May 2018 review and revise Adult Learning data retention plan	review and revise Adult Learning retention plan and implement any data retention changes before May 2018	AE, CT
19	21 check if any EU state aid rule changes affect Adult Learning during Brexit prep	Confirm with ESFA account manager	CT, BC-ESFA
20	22 Obtain latest Centre for Effective Dispute Resolution (CEDR) procedure.	Obtain latest Centre for Effective Dispute Resolution (CEDR) procedure	CT

Key: DB Dean Backhouse; CT Chris Towning; AE Ann Eveleigh; JOD John O'Donnell; DW David Watson; ESFA BC Becky Cooper ESFA; KE Keri Evans