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FE & HE Digest

Autumn 2021

Latest news from the Further and Higher education sectors

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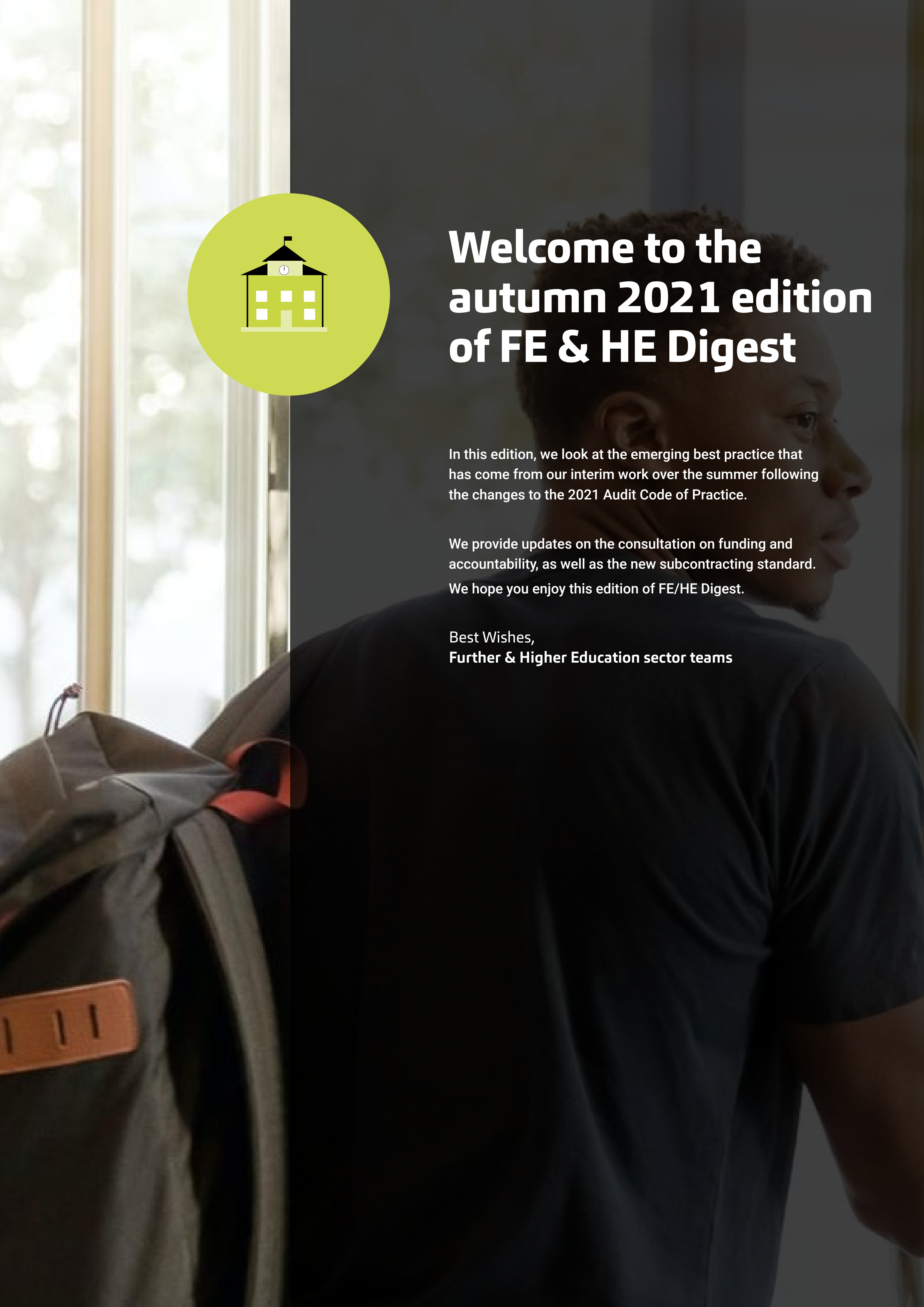

Welcome to the autumn 2021 edition of FE & HE Digest

In this edition, we look at the emerging best practice that has come from our interim work over the summer following the changes to the 2021 Audit Code of Practice.

We provide updates on the consultation on funding and accountability, as well as the new subcontracting standard.

We hope you enjoy this edition of FE/HE Digest.

Best Wishes,
Further & Higher Education sector teams

Meet our Further & Higher Education sector experts

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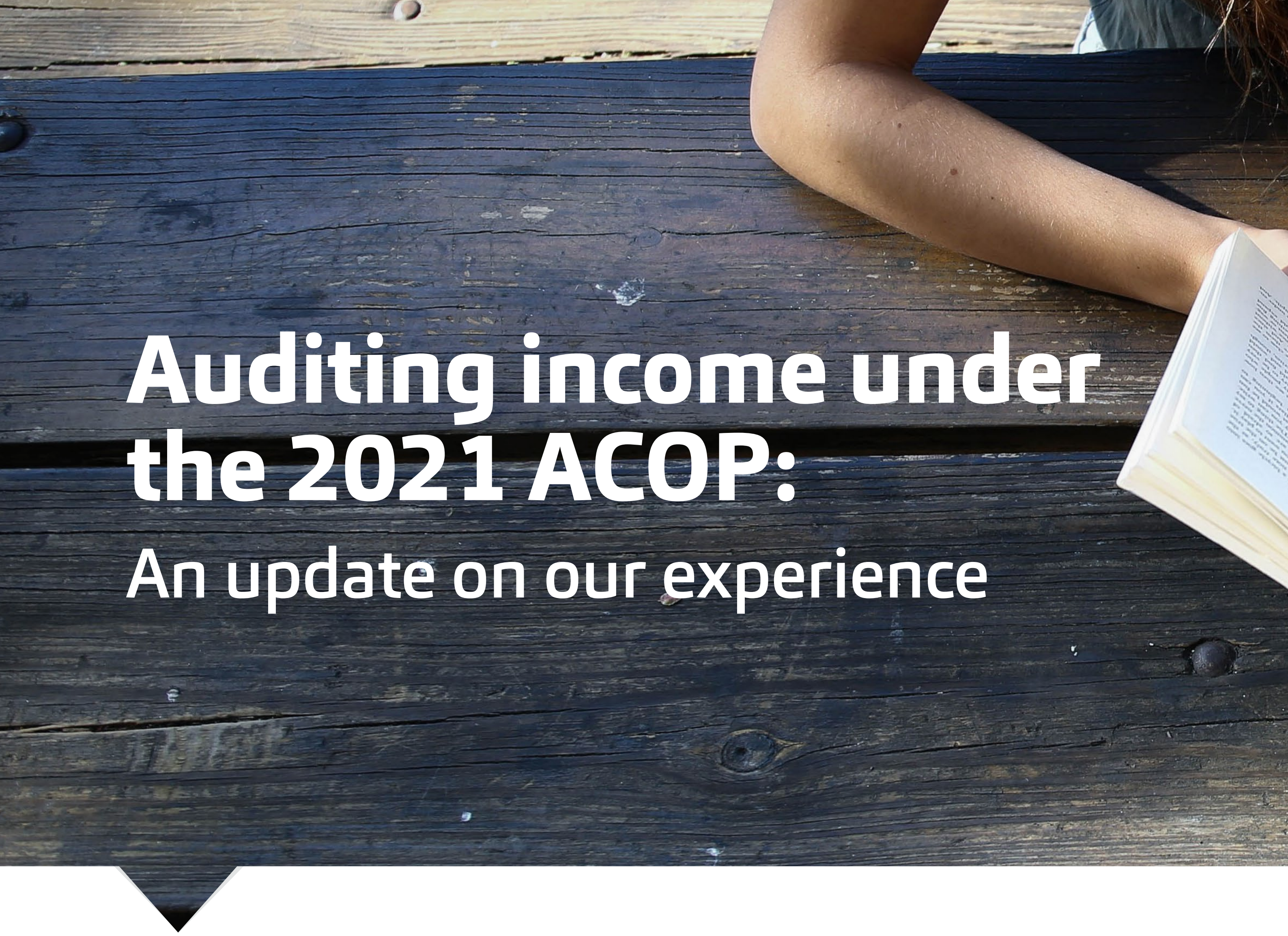
What’s inside



Auditing income under the 2021 ACOP:

An update on our experience

Following the changes to the 2021 Audit Code of Practice we have been undertaking a significant amount of work to document and observe the student management systems of the Colleges that we act for.

The aim of our work is to understand how the College ensures that it accurately captures all the required student data within the Individualised Learner Record in order to gain entitlement over the funds it receives from the statutory funding bodies.

Our work to date has largely been focussed on documenting the procedures that the student support teams and MIS teams perform to ensure all data caputure is accurate and is checked.

Our work has not just focussed on the on-boarding process at the enrolment stage but has also looked at the on-going compliance checks that the Colleges have been performing throughout the year.

Our initial observations have identified a number of consistent findings which we will continue to develop upon, however we felt it would be useful to provide an early insight.

Areas of best practice

A number of colleges make good use of their student management systems (SMS) and the tools freely available from the ESFA. The frequency of data interrogation checks within most colleges is high, those with the greater levels of resources will typically perform the following:

- SMS data integrity exception reporting performed monthly
- All exceptions highlighted by the monthly reports are investigated and resolved by the following months' Return Submission
- Starters and leavers monthly data (per the electronic registers) are reconciled against SMS data
- PDSAT tool is performed each month ahead of the Return Submission.

Whilst these checks ensure that the data within the SMS is not erroneous and in line with certain funding rule parameters, they do not ensure that the information within the SMS has the appropriate supporting information (Core data), for example; a funding agreement signed by a student.

> Our initial observations have identified a number of consistent findings which we will continue to develop upon, however we felt it would be useful to provide an early insight"

As such Colleges have been performing spot checks on the underlying core data to ensure that the information within the SMS supports the entitlement to funding. In our experience, the frequency and size of these spot checks has varied considerably from College to College. We have again outlined areas of good practice:

- Internal audit has been instructed to perform a mock funding audit and a sample of student records have been selected and tested. Where errors have been found the MIS team have identified if the error is likely to be unique (due to specific circumstances) or systemic. If the latter, the College has performed further work to quantify the financial impact of the error or corrected a subsequent funding return
- Following enrolment the college performs a spot check for each student on the ILR – the spot check traces back 100% of the ILR data captured to core data
- Additionally, twice a year a spot check is performed of 50% of the ILR records on the system – the spot check traces back 100% of the ILR data captured to core data
- A record is maintained of each student record that was checked and whether or not the check passed or failed. Where failures were noted follow up and correction was performed and recorded on the testing schedule.

We have noted that the last point above is perhaps the area of greatest weakness. In holding discussions with MIS teams they are able to state the checks that should have been undertaken in the year, however providing the evidence that the checks have taken place is sometimes harder to do.

A key consideration for the months ahead is therefore ensuring that when spot checks are being performed that the team is able to idenfity which files were selected and the results of the tests conducted.

We appreciate that the level of spot check testing and data interrogation reporting will largely be determined by the resources available to the College and whilst we have identified areas of best practice we must concede that these may not be practical for some institutions.

ESFA business case on AEB

Earlier this year the ESFA announced the AEB funding threshold would be set at 90%, in comparison to the 67% it set the year before.

Whilst the rate was set below the usual 97% threshold many Colleges were unhappy as a significant part of the 2020/21 academic year was hampered by lockdown restrictions and recruitment levels were much lower than normal. Further to this many Colleges had continued to incur expenditure on courses that were below capacity or had been sub-contracted.

As a result a number of Colleges have been making provisions for under delivery within their management accounts. However, a number of Mayoral Combined Authorities had recognised that Colleges were going to incur significant losses and as a result offered to hear business cases that demonstrated a justification for the some of the funding shortfall to be paid. Until recently the ESFA stated that it was not considering making such allowances. However, in July the ESFA announced a u- turn such that Colleges will be allowed to submit business cases to avoid adult education funding being clawed back.

The agency is developing a process for grant-funded providers to plead as to why they should be given leniency for missing their allocation by more than 10 per cent in 2020/21.

We are pleased to hear that grant-funded providers are now allowed to apply for a business case where "local circumstances made it impossible for the provider to deliver at or close to the 90 per cent level and recovery of funds based on the 90 per cent threshold would lead to the provider's costs of AEB delivery not being covered,"

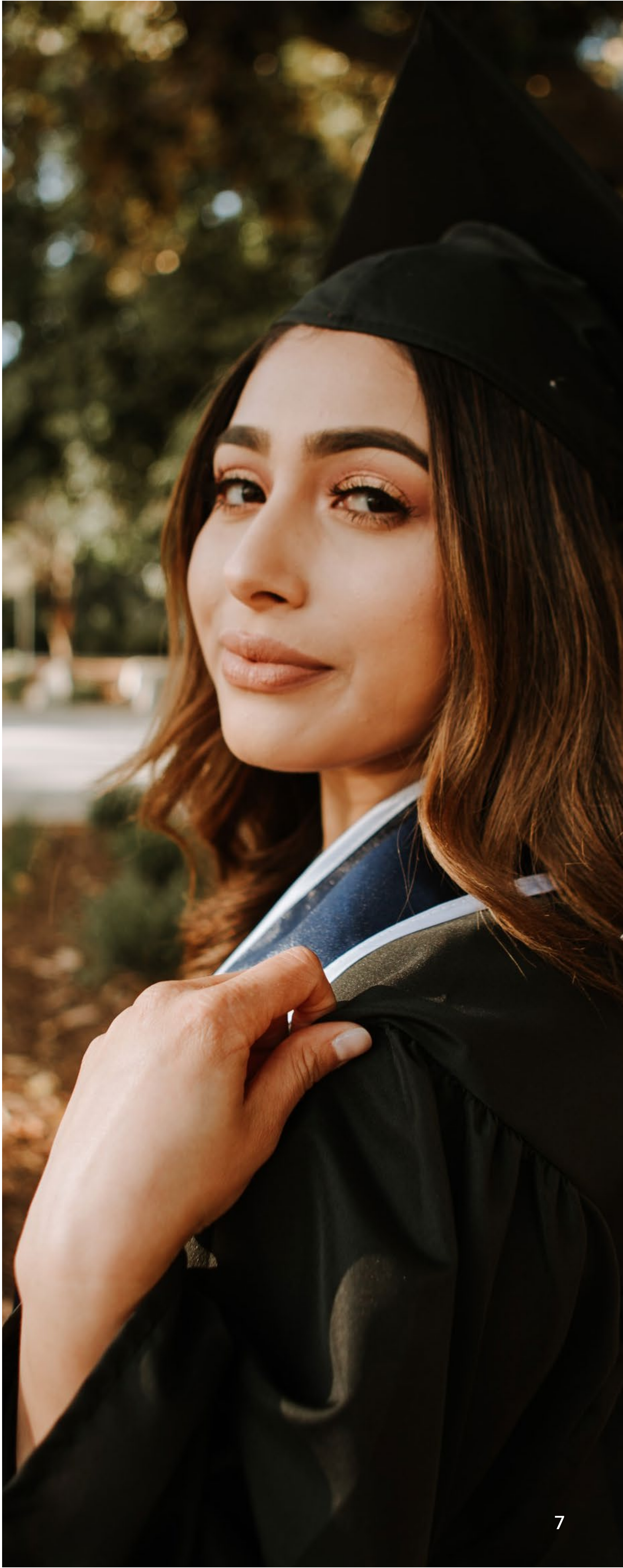
Or, if "applying the full amount of AEB clawback would cause significant financial difficulties for the provider".

A policy document was published on the 8th September detailing the process that needs to be followed, which can be found here:

DfE External Document Template

Do note however the deadline for the submission of business cases is 23:59 on 7 October 2021 and the ESFA decisions will be confirmed to eligible organisations who submit a business case by 15 November 2021. The outcome of a decision may need to be reflected in the year end statutory accounts so do make sure you inform your auditor of the submission.

“In July the ESFA announced a u turn such that Colleges will be allowed to submit business cases, to avoid adult education funding being clawed back”



Subcontractor standard

The proposals for reforming the future arrangements for subcontracting of ESFA funded post-16 education are now moving to the next stage.

Following consultation in February 2020 the ESFA confirmed they would develop an externally assured subcontracting standard to replace the audit certification process which is currently required up to 30/09/2021. This new standard is aimed at improving oversight and management of public funds and ensuring that these are used to best effect, to maximise the value of those funds to benefit the learner.

In July 2021 the ESFA announced that the standard will be introduced from funding year 2022 to 2023 and will effectively act as a licence to subcontract.

The new standard comes into play in the current financial year 2021/22 with the key change being that the new standard is applicable to all providers who subcontract £100,000 or more of their delivery (so a key change is that the threshold is assessed against all funding, including 16-19 funding through to apprenticeships in totality).

The main concession is that in 2021-22 the standard will not be subject to any external validation in this transitional year, instead this requirement will come into force for the 2022/23 year.

The guidance issued in July gave further details and includes a template report for auditors. The new guidance labours heavily on the need to justify a subcontracting arrangement before it is commenced which follows the push by the ESFA to reduce subcontracting provisions. The guidance also brings into play an implied 20% management fee cap which needs to be published on the website.

ESFA will be discussing the standard with audit firms over the next couple of months, further guidance can be found here:

ESFA Subcontracting standard

Cybercrime alert
From HMRC's Head of Cyber Security Operations

Fraud consists of 40% of all crime, with an increasing proportion being committed via online platforms"

This has been accelerated during the pandemic, with tax-related scams doubling in the last year according to Mike Fell, HMRC's Head of Cyber Security Operations.

This is particularly prevalent in charities, with an estimated 1 in 25 charities believed to fall victim over the two-year period between 2019 and 2021. As a result, HMRC encourages the voluntary sector to report HMRC-branded scams directly to HMRC.

There are many platforms available that offer advice on how charities can better protect themselves against fraud and cybercrime, including the Charity Commissions eight guiding principles, and the National Cyber Security Centre's cyber security Board Toolkit which sets out to encourage communication between the board and staff surrounding cyber security.

In addition, the Head of the Fraud Advisory Panel, Mia Campbell, will be hosting a webinar titled 'Managing the risk of fraud and financial crime – an overview of charities' on 18 October as part of the "Charity Fraud Awareness Week".

This will be available to members of the Charity Finance Professionals Community. For more information or to request a supporters pack, please contact Mia Campbell at the Fraud Advisory Panel:

E: mia.campbell@fraudadvisorypanel.org

W: www.preventcharityfraud.org.uk.

Consultation on funding and accountability

The next phase of the Skills for Jobs white paper is underway. The ESFA are seeking views on their proposals to reform the FE funding and Accountability systems.

These proposals hope to reform the:

- adult skills funding system so it is simpler, outcome focused and more effective
- accountability system so it is focused on outcomes, taking a strategic approach to support and intervention

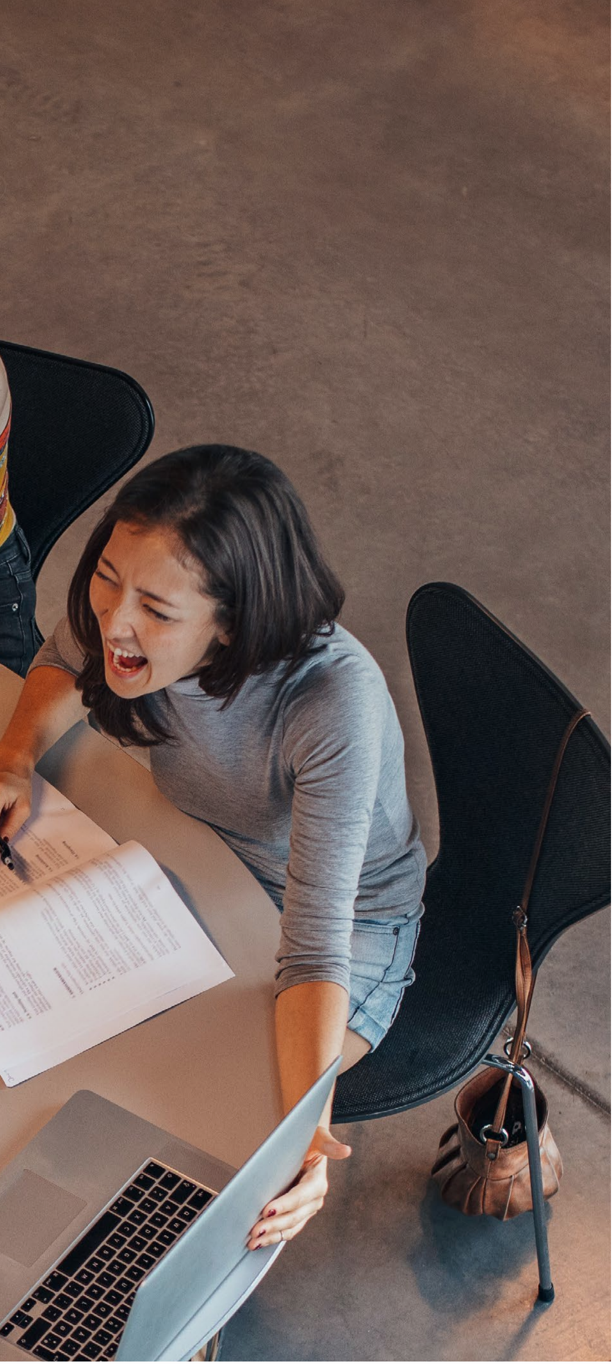
The feeling is that the ESFA wants to move in the direction of holding providers to account whilst simplifying, wherever possible, any forms of complexity.

There is a trust to change the current approach which incentivises providers to secure volumes of learners rather than focusing on outcomes, such as how the mix of provision leads to sustainable jobs for individuals and meets labour market needs.

This consultation delivers a key commitment of the White Paper – it addresses the underlying system of complex funding for adult skills and limited focus on outcomes through proposals to reform adult skills funding and the wider accountability system for colleges and other grant funded providers.

In seeking to reform the adult skills funding the ESFA is seeking a summary of views in the following areas:

- Establishing a new Skills Fund to bring together all direct funding for adult skills



- Ensuring the system can support both qualification-based provision and non-qualification provision so adults can retrain and upskill in the most effective way
- How a needs-based approach could be introduced to distribute funding across the country
- How funding can be most effectively distributed between colleges in non-devolved areas, in particular:
    - What a simpler formula might look like if a system based on funding learners is retained
    - Moving to a lagged funding system
    - Delivering a multi-year funding regime
- What entitlements and eligibility rules should apply in a new system
- How funding for Independent Training Providers and other non-grant funded providers would work in a reformed system.

The second part of the consultation looks at the possible reforms to the accountability system so it is focused on outcomes and will take a strategic approach to support and intervention. Views are sought on the following areas:

- Specifying the outcomes we expect colleges to deliver through a new Performance Dashboard.
- Introducing a new skills measure that will capture how well a college is delivering local and national skills needs.
- Introducing a new Accountability Agreement that will reinforce colleges autonomy while providing a clear sense of mission.
- Exploring an enhanced role for Ofsted to inspect how well a college is delivering local and national skills needs.
- Enabling the FE Commissioner to enhance its existing leadership role, with a renewed focus on driving improvement and championing excellence.
- Improving data quality and reducing the requirements we place on providers through student data collection and financial reporting.
- Retaining the necessary regulation and oversight to ensure the effective operation of the market, including providing assurance on the use of public funds.

The Skills and Accountability consultation is ongoing until 7 October. We are aware that the Association of Colleges will be submitting their proposals having gauged feedback from its members but all views are welcome.

UK to overhaul privacy rules

In post-Brexit departure from GDPR

In May 2018 the EU introduced rules surrounding GDPR data protection which will constitute part of UK law even after Brexit.

The current rules place strict restrictions on the use of personal data, with a significant increase in cookie popups and requests online, but with many arguing there is still a lack of safeguards over the protection of the personal data of individuals.

The government hopes to overhaul this by focusing on “innovative and responsible uses of data”, which will improve public services and allow for free and easy transfer of information across international borders through adequacy agreements on future data regulation.

The UK government still emphasises the importance of GDPR as a framework but is hoping to expand practices to represent international data flows, rather than a stringent EU led approach.

Health and social care levy

In September the Chancellor announced an increase of 1.25% to both the main and additional rates of Class1, Class 1A, Class1B and Class 4 National Insurance contributions (NICs) for the 2022/23 tax year.

After that date the rates of NIC will reduce back to their 2021/22 levels, but a new "Health and Social Care Levy" of 1.25% will be introduced instead.

The revenue raised from this measure will go directly to support the NHS and equivalent bodies across the UK.

The table adjacent shows the current NIC rates compared to the revised rates:

	Current rate	Temporary rate
EE NIC on earnings between £9,568 and £50,270	12.00%	13.25%
EE NIC on earnings over £50,270	2.00%	3.25%
ER NIC on earnings over £8,840	13.80%	15.05%

Clearly the introduction of the Health and Social Care Levy will increase payroll costs for charities and the not for profit sector. The table below sets out some example salaries and the impact on both take home pay and cost to the employer:

Example salary	15,000	25,000	35,000	45,000	55,000	65,000
Current take home pay	13,862	20,662	27,462	34,262	35,561	41,361
Revised take home pay	13,794	20,469	27,144	33,819	34,993	40,668
Reduction in take home pay	**68**	**193**	**318**	**443**	**568**	**693**
Current ER cost	15,850	27,230	38,610	49,990	61,370	72,750
Revised ER cost	15,927	27,432	38,937	50,442	61,947	73,452
Increase in cost	**77**	**202**	**327**	**452**	**577**	**702**

Following the announcement there have been no further technical details released by the government. If you would like to discuss this further please don't hesitate to contact us.

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