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FE & HE Digest

Latest news from the Further and Higher education sectors

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Welcome to the spring 2022 edition of FE & HE Digest

Welcome to 2022, we hope you all had a relaxing break over the festive period. As we begin the New Year the challenges of 2021 seem to be staying with us and there are still high levels of uncertainty on the horizon, not least in terms of the pandemic but also in terms of rising costs and crucial funding levels.

In this edition, we look at forthcoming changes to the subcontracting standard to help you ensure that you are prepared for the new regime coming into force in September 2022. We provide an update on the levels of traineeship funding being rolled out as well as how the flexi-apprenticeship consultation is progressing.

We also review the details of the new Covid-19 workforce fund to assist institutions in funding staff sickness. Finally, with sustainability now being a core challenge, we examine how institutions are responding to the demand from students and other stakeholders to increase their reporting on Environmental and Social Governance (ESG) matters and provide a summary of the outcomes of COP26.

As we consider the future topics, we will seek to address during 2022, we recognise that across all aspects of education there is continued uncertainty in this post-August report period and prior to the publication of education white papers, to which is added fears of rampant inflation and increasing unrest amongst teaching staff. It is clear this year is not going to be a quiet one.

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

Subcontracting Standard Update

We are now 9 months away from the implementation of the new subcontracting standard for ESFA funded post-16 funding.

It was announced back in March 2021 that from the 2022 to 2023 funding year onwards subcontracting in any given funding stream may only be permitted so long as the level of subcontracting does not exceed 25% of that funding stream, unless the express permission of ESFA has been sought and granted via an exemption case.

Accordingly, Colleges, where appropriate, should now be well advanced into their planning for reducing their subcontracting provision and be on the way to implementing the required changes required to continue any subcontracting arrangements. The ESFA has produced guidance on the steps that institutions need to take in order to comply with the new standard which includes 11 considerations – we have highlighted some of the more pertinent points:

- **Policies for subcontracting and fees and charges -** In accordance with the provisions of each contract/agreement you have with ESFA, your published policy for subcontracting must include a number of requirements – including, amongst 7 other criteria, a detailed rationale for subcontracting the provision.
- **Selection and procurement of your subcontractors -** There is now a requirement to notify the ESFA of any circumstances which might lead to an actual or perceived conflict of interest when sub-contracting. For example, where your organisation and your proposed subcontractor have directors or beneficial owners in common.

Subcontracting funding rules for ESFA funded post-16 funding can be found here

- **Due diligence requirements:** There is a requirement to perform due diligence checks when appointing delivery subcontractors and to ensure that you continue to undertake and review these checks on an annual/ongoing basis with each of your delivery subcontractors. The guidance then lists out what those checks must entail and gives examples of circumstances when a subcontract should not be awarded, for example – where a sub-contractor has an above average risk warning from a credit agency, has passed a resolution to wind up or liquidate or when its statutory accounts are overdue.

  Note that the institution must share the results of its checks with ESFA via a signed return for sub-contracts where the total subcontracting provision of the institution is over £100k. The ESFA will be conducting sample checks against their own higher risk policy – and on top of this, where the subcontracting provision exceeds £500k, the ESFA will carry out additional checks on each institution.
- **Entering into a subcontract:** The ESFA are clear that institutions should not try and distort relationships in order to avoid these rules and also prescribe that when new subcontracting arrangements are entered into (for a provision that had not previously been subcontracted) then their written permission is required.
- **Subcontracting threshold and exemption cases:** The ESFA is clear they want the levels of subcontracting to fall significantly. So, for institutions who feel they are unable to meet the 25% rule for learner numbers on 16-19 or AEB they can apply for an exemption; our current feeling is that this may be a tough hurdle to overcome.
- **Terms that must be included in contracts with subcontractors:** A written agreement must be in place with the subcontractor and the ESFA guidance reminds you of 14 provisions that must be included within the contract for it to be compliant with the new standard. This will be a key compliance point for any internal or external audit requirements.

Only £13.7 million out of the total £30 million traineeship expansion cash allocated

Education and Skills Funding Agency (ESFA) opened bids for the 16 to 18 traineeship contracts in September last year. The market entry request form and relevant criteria were uploaded to the government's website

and can be found here

ESFA stated that contracts were worth of up to £300,000 per provider and were on standard terms. A deadline of 22 October 2021 was given to all applicants who wished to apply and who met the eligibility criteria. There was a total of £30 million expansion cash allocated for this market entry exercise. Eligible training providers were required to meet the following criteria:

- have a current Ofsted grade 1 (outstanding) or grade 2 (good) with an ESFA contract, funding agreement or grant for the 2021 to 2022 academic year. Although, the ESFA will consider existing traineeship providers that have a 19 to 24 traineeship 2021 to 2022 contract without an Ofsted grade 1 or 2
- not be in formal intervention for minimum standards or inspection
- not been issued with a notice to improve, additional conditions of funding or additional contractual obligations prohibiting you from growth
- not be subject to an investigation for breach of contract and/or failed audit in the past 3 years
- not have a financial health grade of inadequate

This exercise was in response to the poor engagement with the scheme by training providers. In fact, it was noted in the progress report for the Chancellors Plan for Jobs that there were 17,000 traineeship starts, which was only 46 per cent of the government's target of 36,700.

It is understood that only £13.7 million out of the £30 million traineeship expansion cash was allocated. The money was given to 60 training providers. We have no official information, as to what will be done to the underspend; however, it may be worth keeping an eye out in case ESFA decides to relax some of the eligibility criteria noted above.

The importance of having the ‘right’ mix of hard and soft skills

In our last FE/HE Digest, we noted that the Department for Education are seeking views on their proposals to reform the further and higher education (F&HE) funding and accountability systems.

These proposals hope to reform the:

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

We also noted that there was a thrust 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.

Meeting labour market needs could mean several things. When looked from the employers’ point of view, it is important that candidates possess hard and soft skills. We know that hard skills are teachable and measurable abilities, which students learn as part of their Further Education. However, soft skills are often acquired with time and are harder to measure. Employers often favour candidates who possess a wide range of hard and soft skills.

A plethora of recruitment websites have articles published on the differences between hard skills and soft skills, and on the importance of candidates demonstrating a combination of both type of skills, so that they have a better chance of being recruited.

Soft skills such as social interaction, empathy, leadership, confidence, self-awareness, and many more like these are not always directly taught by FE training providers. It is reasonable to assume that, during the pandemic, it would have been important for employers to have had teams of stakeholders with well-developed abilities to show sympathy and empathy, as the situation and environment necessitated the effective application of these soft skills.

How well stakeholders interact and treat others is crucial for career success. Furthermore, soft skills promote productivity, efficiency, and effective communication in the workplace. Some of the best leaders out there possess a great deal of soft skills.

We understand that through a collaboration between Active IQ and Skillsfirst, a unique Wellbeing Package was created to meet the growing demand from employers for staff to have both physical and social wellness skills. FE Week reports that the new Wellbeing Package comprises eight qualifications and offers a broad range of topics at Level 1 and Level 2, making them accessible to the majority of learners.

More information about the Active IQ & Skillsfirst Wellbeing Package can be found here

Flexi-job apprenticeships – the future?

A consultation on the topic of Flexi-Job Apprenticeships: Reshaping the role of Apprenticeship Training Agencies was opened by the government on 20 April 2021 and closed on 1 June 2021.

The consultation sought views on the vision and operating framework for flexi-job apprenticeship schemes to increase the use of apprenticeships in certain sectors and professions. The consultation reflected the ambition set out by the Prime Minister in September 2020 to make apprenticeships more portable, reflecting the varied and flexible models of employment that we see in dynamic sectors such as the creative industries. It was announced by the Chancellor on 3 March 2021 that there would be a £7 million fund in July 2021 to create new flexi-job apprenticeship schemes and expand the best existing models. This additional funding comes on top of the £2.5 billion of funding already available for apprenticeships.

The funding is meant to boost the creation of new schemes and/or the expansion of existing schemes in sectors with non-traditional employment patterns, such as creative industries, construction and digital.

The consultation paper also states that schemes must also have commercial and operating independence from the training and assessment providers they use. Furthermore, the consultation paper initially proposed that the funding of £7 million be spent on:

- set up or expansion costs
- costs for activities that will increase the number of apprenticeships starts
- costs for activities that will improve and assure quality
- investment costs that will lead to financial sustainability in the medium to long-term.

We understand that a total of 202 written responses were received by the government in response to the consultation above. In the response to the consultation paper, we read that the £7 million funding may not be used solely for funding the whole flexi-job apprenticeship. Instead, it was proposed that financial stability is achieved through other means as well. The response paper states that applications from providers who can demonstrated that they will be supported from partners across their sectors will be weighted more favourably. In terms of the operating framework of the apprenticeships, the response paper outlines that any organisation seeking to be recognised as a flexi-job apprenticeship agencies must apply to and be accepted on a new register of flexi-job apprenticeship agencies. The initial deadline for submitting applications for organisations to join the register was Wednesday 6th October 2021. Providers that are currently on the Register of Apprenticeship Training Providers have until January 28 to apply. The flexi-job apprenticeship fund is a total of £7m.

Organisations can apply for between £100,000 and £1m. More information can be found here

COVID-19 workforce fund has been reintroduced

The reintroduction of the COVID-19 workforce fund follows the announcement of expected staff absence, because of rising Covid cases. Eligible colleges and special post-16 institutions can backdate claims to 22 November 2021.

The funding is generally available to:

- general FE colleges (including specialist designated institutions)
- sixth form colleges
- special post-16 institutions

As outlined on the government's website, the following costs are covered by the fund:

- employing, through agencies or directly contracting, supply teachers, or supply support staff where that role is to cover teacher absences
- increasing hours of part-time teaching staff where the additional hours are being used to cover teacher absences or increasing hours of part-time education support staff where that role is to cover teacher absences, colleges should ensure staff are happy to temporarily increase their hours and consider their staff workload and wellbeing
- making necessary amendments to support staff terms and conditions to enable them to take on additional responsibilities - the principal or chief executive should determine this in discussions with the employee
- employing supply education and non-education support staff either through agencies or directly contracting
- increasing the hours of part-time education and non-education support staff, colleges should make sure staff are happy to temporarily increase their hours and consider their workload and wellbeing

Colleges will not be able to claim for temporary staff.

To be eligible, Colleges must meet the following criteria:

- a financial threshold. Sixth form and general FE colleges will be eligible if the data submitted for the November financial return demonstrates an end of month cash position of 45 days or less for the corporation at any point over the period November 2021 to March 2022. Special post-16 institutions will be eligible for this additional funding if their reserves at the end of March 2021 are no more than 4% of their annual income. Through the assurance process, funding can be clawed back where this criterion is not met at the year-end.
- a workforce absence threshold. This could be a teacher absent rate at or above 20% on any given day, or a teacher absence rate of 10% or above where that has been experienced for 15 or more consecutive days (not including weekends).

The government website details more of the requirements, please see here

£83 million investment ready for schools and colleges, so that they can continue to offer places to all young people

A press release on the government's website, issued on 9 November 2021, reports that £83 million investment was prepared to extend and transform teaching facilities across England for 16–19-year-olds in post-16 providers.

So far, we understand that 39 post-16 institutions have been awarded a share of the £83 million investment. The investment, as reported by in the press release, will also support the government's drive to reach net zero carbon emissions by 2050, with all successful providers required to show how their projects will contribute to the target. The provides which are meant to benefit from the investment are:

- Sixth Form Colleges
- FE Colleges
- 16-19 academies
- Free schools
- University Technical College (UTC)

Increased focus on ESG reporting

We are observing increased interest in narrative reporting across all areas in education. In response to the increasing focus on how Environmental, Social and Governance (ESG) matters can affect companies' financial position and performance, and the associated risks that they face, the Financial Reporting Council (FRC) published a new FRC staff factsheet. The factsheet reports that it was prepared to inform preparers of annual reports under FRS 102 of climate-related matters they may need to consider when preparing financial statements and associated narrative reporting.

In recent years, a plethora of stakeholders and financial statement readers have shifted their attention to the climate-related matters reported in an organisation's financial statements. Some of these stakeholders are regulators, investors, NGOs, customers, and suppliers.

For the last couple of years, the Streamlined Energy and Carbon Reporting (SECR) requirements have been required for large corporate entities such that energy consumption of the organisation is disclosed within the Directors/Trustees Annual Report. However, as most FE & HE institutions are not constituted as companies, the sector has been exempt from such disclosures, though we are seeing an increasing number of institutions make voluntary disclosures on their websites. Sector interest is demonstrated by the Committee of University Chairs recent publication on climate action

Find out more here

Climate-related issues are very current and are likely going to attract even more attention in the future. Some government commitments in the area of climate-related issues may have direct impacts for some organisations, and so, it is important to consider what impact these commitments will have on an entity's financial reporting. Furthermore, and in particular for training providers, higher education institutions and Colleges, stakeholders in education, such as students and potential students are more than ever taking into account climate-related matters before enrolling into their institution of choice.

In the 2021 issue of Casterbridge Model Account used by FE Colleges, the Association of Colleges included an example of SECR reporting requirements within the model as voluntary disclosure, which acknowledges that whilst the regulator is not mandating this disclosure requirement many Colleges are choosing to adopt it.

Elsewhere, following COP26 the FRC has also published guidance for institutions to consider ESG when considering other aspects of Financial Reporting, such as the recognition and measurement of financial instruments.

This is because there might be climate-related targets imposed on some financial instruments, thus not achieving, or achieving these targets may have an impact on the interest rates and classification of financial instrument. Climate-related news articles may have a direct impact on the value of equity investments. The disclosure of financial instruments may be impacted by climate-related issues. This is applicable where the organisation has investments in a sector vulnerable to climate-related matters.

Climate-related matters may have an impact on the entity's capitalisation exercises. Regulatory requirements, self-imposed green targets, etc. can create the necessity for organisations to purchase new types of assets to make existing assets greener.

“Particular attention should be given to the recognition of government grants specifically given to entities to encourage them to invest in green projects or undertake green activities.

In light of the announcements made at COP26 (see below) and the factsheet produced by FRC, we understand that there may be questions in relation to the requirements to report under ESG. This is something we can assist with, feel free to get in touch if you have any questions or just for a chat.

COP26 Announcements

Following the successful COP26 conference a series of announcements and commitments were made. In a world of scepticism and political point scoring you might be forgiven for not being aware of all of the commitments that were made. The relevance to education leaders was highlighted by this article published by The Alliance for Sustainability Leaders in Education

Find out more here

So, to end this edition of FE & HE Digest on a positive note we have listed a summary of the significant announcements from the COP26:

- More than 100 of the 195 countries in the world have promised to reverse deforestation by 2030. The pledge includes almost £14bn of public and private funds.
- More than 100 countries signed up to the US-EU global partnership to limit methane emissions by 30%, compared with 2020 levels.
- More than 40 countries have agreed to phase out their use of coal-fired power, with the more significant economies doing so in the 2030s and smaller economies doing so in the 2040s.
- There has been an agreement between 40 nations, including the UK, China, India and the US, to create standards and incentives for new low carbon technologies.
- France, Germany, the UK, the US, and the EU, have outlined a partnership to get South Africa off coal, with initial funding of £6bn.

- Twenty countries, including the US, the UK and Canada, have pledged to end public financing for coal, oil and gas overseas by the end of next year.
- 450 firms controlling 40% of global financial assets – equivalent to £95 trillion have now aligned themselves to limit global warming to 1.5C above pre-industrial levels.
- A draft of a final COP26 deal was announced, with countries being urged to strengthen carbon-cutting targets by the end of 2022. The document also recommends more help for vulnerable nations. However, a revision to the document softens commitments to reduce the use of coal and other fossil fuels. Alok Sharma, the COP26 president, has also said "still more to be done" on the summit's draft text and hinted those discussions might go past the end of COP26's official talks.
- Prime Minister Boris Johnson returned to Glasgow to urge other national leaders to give their negotiators more leverage to reach a final deal to keep global warming to the Paris-aligned 1.5 degrees.
- In a surprise announcement, China (who has been reluctant to come to the table during the climate conference) and the US have agreed to boost climate cooperation over the next decade. The world's two biggest emitters have pledged to act in a joint declaration. It says both sides will "recall their firm commitment to work together" to achieve the 1.5 goals set out in the 2015 Paris Agreement. They called for stepped-up efforts to close the "significant gap" that remains to achieve that target.
- On transport, negotiators failed to gather support for a global declaration to phase out combustion engines in cars and vans by 2040, with the world's three largest car markets, the US, Germany and China, not signing the declaration.
- 18 nations signed a new declaration supporting the development of emissions targets for aviation that are aligned with the Paris Agreement's 1.5C temperature pathway. The targets will be pre-2050 and developed in line with global net-zero by 2050.
- From national governments, a new 'Clydebank Declaration' will unite at least 19 nations in developing zero-emission shipping routes between ports. These so-called 'green shipping corridors will act as a test-bed for emerging technologies.

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