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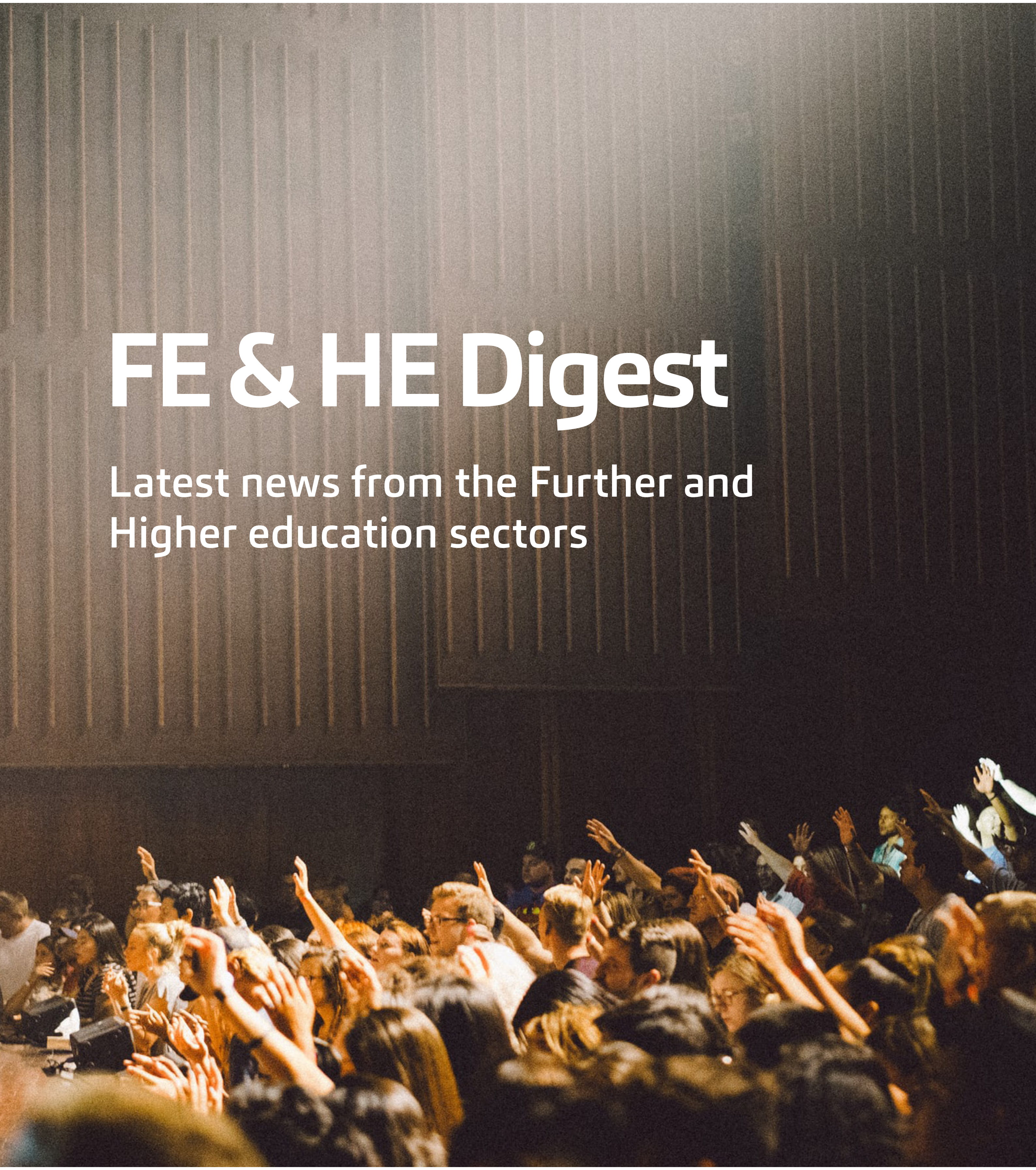
FE & HE Digest

Latest news from the Further and Higher education sectors



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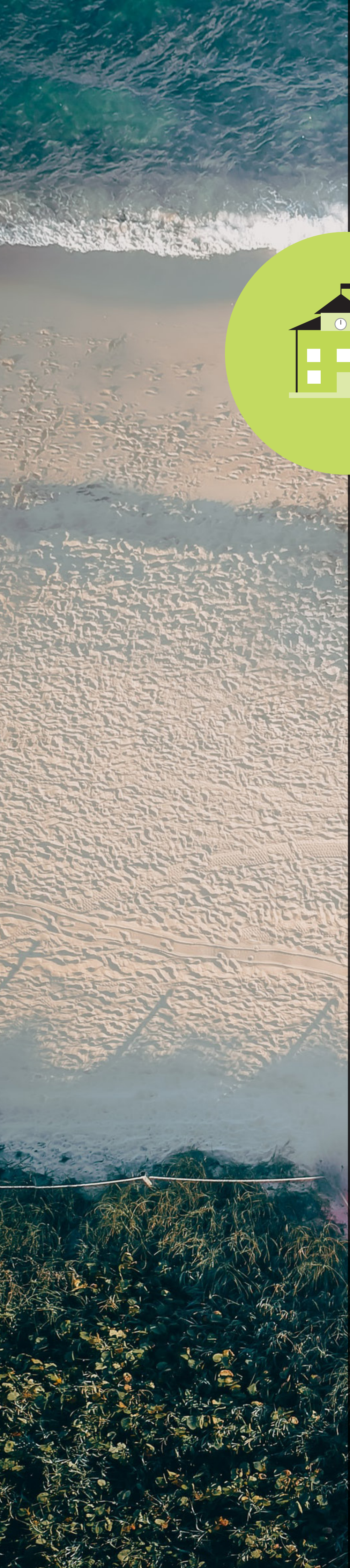

Welcome to the summer 2021 edition of FE & HE Digest

As we enter the summer term, Institution’s will be thinking about the end of year accounts and the forthcoming statutory audit.

This issue of FE/HE Digest looks at the recent publication of the FE Accounts Direction and Post 16 Audit Code of Practice as well as the Departments white paper ‘Skills for Jobs: Lifelong Learning for Opportunity and Growth. Interestingly it is the latter of these publications that is causing a bit of a stir this year with possible changes on the auditing of income. We also take a look at the Committee of University Chairs Higher Education Code of Governance.

We are aware that the Post 16 Audit Code of Practice has caused concern in the FE sector regarding the clarification provided by the ESFA over the assurance they provide on income, accordingly we have set out our initial thoughts and response to the issue.

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

Skills for Jobs:
The FE White Paper

The FE white paper Skills for Jobs sets out the proposed government reform for the education service so that it prioritises getting people the skills needed to carry out jobs wherever they live and work in the country.

In this article we highlight the key reforms set out in the paper and what this might mean for organisations within the sector. These are very much focussed around two core themes of closer integration between education and (local) employers so that providers are delivering the provision that employers need, and the greater availability of learning support via the lifetime skills guarantee that can be taken at any point during an individual's career.

Putting employers at the heart of post-16 skills.

The reforms will give employers a key role, together with other stakeholders, to work with FE Colleges to develop Local Skills Improvement Plans so that the technical skills which are needed for the local area are those that are being delivered by the FE sector. In some local areas pilot trailblazer schemes will be led by accredited Chambers of Commerce and other business organisations, with a strong focus on ensuring effective employer representation and engagement throughout the process. These pilots will be supported by Strategic Development Funding to support Colleges in re-shaping their provision.

In addition to continued support for the growth of apprenticeships and participation in English, maths and digital training, there will be a requirement for the majority of post-16 technical and higher technical education training to be aligned to employer led standards so that the skills provision meets skills need.

Finally, new powers will be introduced which will enable the SoS for Education to able to intervene quickly and decisively where there are problems with either colleges or local providers that mean they are not able to deliver the skills required for the local area.

Providing advanced technical and higher technical skills

In addition to the continuation of a number of key programmes such as the Institutes of Technology programme, roll out of T Level and continued higher technical education reform, the new £2.5 billion National Skills Fund will be utilised to enhance funding to support adults for upskilling and reskilling, including an offer for all adults to achieve their first full advanced (level 3) qualification as part of the Lifetime Skills Guarantee.

A flexible Lifetime Skills Guarantee:

The other key reform will be the introduction of a flexible Lifelong Loan Entitlement, equivalent of four years of post-18 education from 2025 which can be taken at any point in an individual's life.

Consultation on the introduction of this will begin in 2021 and will be supported by stimulus of high-quality higher technical education, including the use of pilot schemes and encouragement of the use of more flexible and modular provision, together with the increased use of digital and blended learning for teaching to increase accessibility. Furthermore to support students in being able to make clear decisions about careers, greater information on careers outcomes including wage data and occupational maps will be provided and made available.

Responsive providers supported by effective accountability, governance, and intervention

A consultation exercise will be carried out on a proposal for the simplification and streamlining of funding for FE so that funding is better aligned to high-value provision relevant to the student market, providing more certainty to providers over their funding, including a potential move to a multi-year funding regime, and reforming the accountability approach with a greater focus on outcomes. In addition, the reforms will introduce new accountability structures to underpin the delivery of Local Skills Improvement Plans, together with strengthening the governance of individual colleges and providing greater direction on what good governance and leadership should look like. This will include ensuring that subcontracting practices improve educational outcomes.

Finally, new powers will be introduced which will enable the SoS for Education to able to intervene quickly and decisively where there are problems with either colleges or local providers that mean they are not able to deliver the skills required for the local area.

Supporting outstanding teaching

To further support new teacher recruitment campaigns the initial education of teachers will be based on employer led standards, strengthening the linkage between education provision and employer needs and to help facilitate a stronger relationship between educational providers and industry. This will include improvements in the provision of high-quality professional development and support for teachers including support for apprenticeship teachers and lecturers with a professional development offer at the end of the process. Finally, a comprehensive workforce data collection programme will be launched to understand the skills needed within the workforce and to help to ensure that there is continued alignment between these skills and provision.

Higher Education

Have you joined the culture club?

The publication of the Committee of University Chairs Higher Education Code of Governance in September 2020 was generally welcomed positively by the sector.

So the release in December 2020 by CUC of their Self-Assessment Checklist for the Code is helpful as it provides a simple format for assessing compliance. Do remember that adoption of the Code is voluntary and the methods for applying it are not prescribed, in part due to the diversity of legal structures adopted by HEIs.

Whilst using the checklist may be a good way to have a structured process to assess compliance, often this should be a more nuanced review, and there are certainly dangers of this becoming a mechanical "tick-box" approach.

The desire to establish good governance is not the sole preserve of higher education. It is often helpful to consider the experience of both the corporate and other not for profit sectors.

In this context the example of NCVO, one of the leading representative bodies in the charity sector, provides a salutary lesson. NCVO has in recent years been rightly praised for helping to develop and then promote an ethical code for charities.

See the Self-Assessment Checklist here

It was therefore very surprising when recently the organisation announced that an internal review had identified NCVO as being a structurally racist organisation with the same being consider true for sexism, homophobia, transphobia, classism and disablism. Its Chairman stated the view had "revealed deep-rooted cultural traits, behaviours and practices that are limiting the ability of NCVO to be inclusive, socially just and relevant."

Without commenting on any of the specifics of this case, it is interesting that reference was made to cultural factors. This is noted in the CUC Code which states, "Effective governance requires an organisational culture which gives freedom to act; establishes authorities and accountabilities; and at its core fosters relationships based on mutual respect, trust and honesty."

The checklist itself, refers to the board acting in an ethical manner and the culture of its own behaviours, as well as its responsibility to be assured that behaviours in their institution are consistent with its articulated values. However, boards should be wary that that codifying desired cultural values unambiguously is not straightforward, and it is likely to be time-consuming to be effective.

There are many examples over the years which demonstrate that if the unique culture of an organisation is not clearly formulated this can be disastrous to the achievement of organisational goals and has a negative impact on many stakeholders; equally where desired organisational culture is well understood this can have a positive and pervasive impact on the whole organisation. That is a club worth joining.

“Effective governance requires an organisational culture which gives freedom to act; establishes authorities and accountabilities; and at its core fosters relationships based on mutual respect, trust and honesty.”

Accounts direction 2021

On 31 March 2021 the Accounts Direction 2021 (AD21) was published.

In this article we will provide a synopsis of the key changes and what Colleges need to do to ensure they are prepared.

Before we look at the 2021 Accounts Direction (AD) it is worthwhile noting that, in 2020, the ESFA published a supplementary bulletin to the 2020 Accounts Direction – that bulletin is still in force. As a reminder its main considerations were:

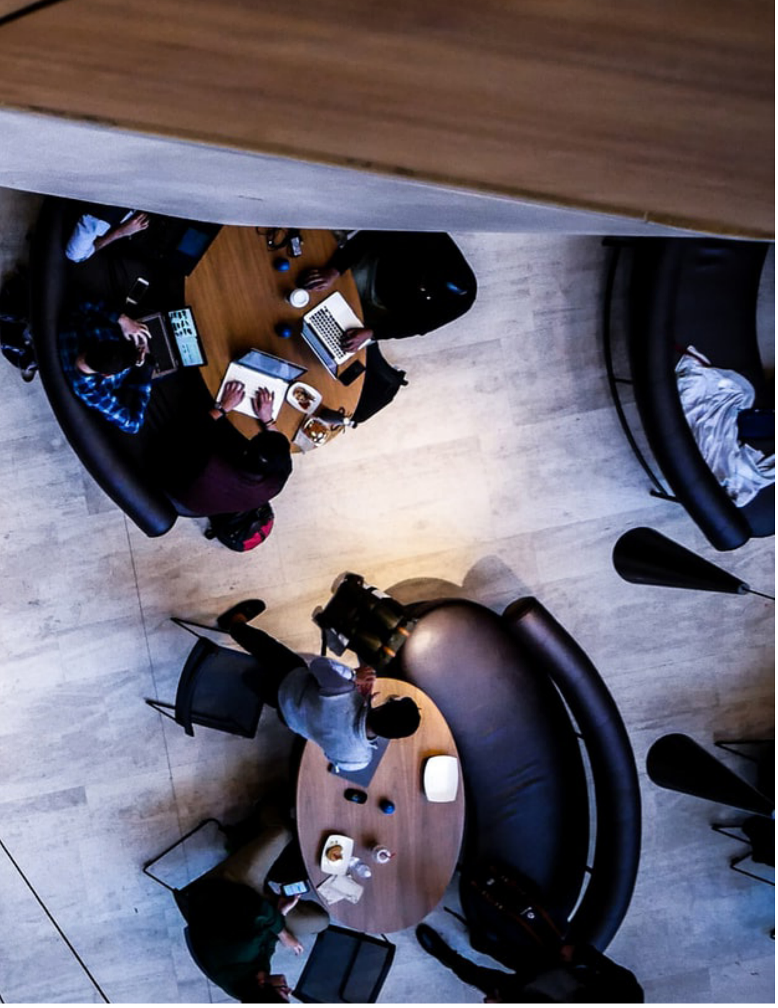
Additional Covid related questions within the regularity self-assessment questionnaire. In particular how the College has applied for the CJRS and demonstrated that it complied with the conditions of funding. Secondly how the College has implemented PPN 02/20 (incl. 04/20) ensuring that it has secured value for money and also addressed the double funding risk of suppliers. Finally, there are questions on internal audit and internal processes that may have been affected by remote working. These questions are set to remain in the questionnaire.

- Considerations for auditors to take note of during periods of lock down such as changes to governance arrangements, operational effectiveness of internal controls and maintenance of audit trails and key documentation.
- **Financial sustainability –** asking colleges to consider future uncertainty in relation to going concern and suggesting corporations stress test assumptions and sensitivities in arriving at their conclusions as well as monitoring processes for banking covenants.
- **Trustees' Report –** asking the Corporation to consider implementing the reporting guidance issued by the charity commission in explaining the impact of Covid on the College.
- **Accounts disclosures –** providing additional disclosure for those colleges in receipt of provider relief and CJRS funding as well as business interruption loan support.

These points will still need to be addressed in the 2021 accounts so please keep these in mind. The ESFA has also announced that it will be issuing a 2021 bulletin as detail below.

Returning to the AD21 itself here is a quick synopsis of the changes in this version:

- Colleges facing financial difficulties or bank covenant breaches which may affect the going concern assumption should contact the ESFA at the earliest opportunity.

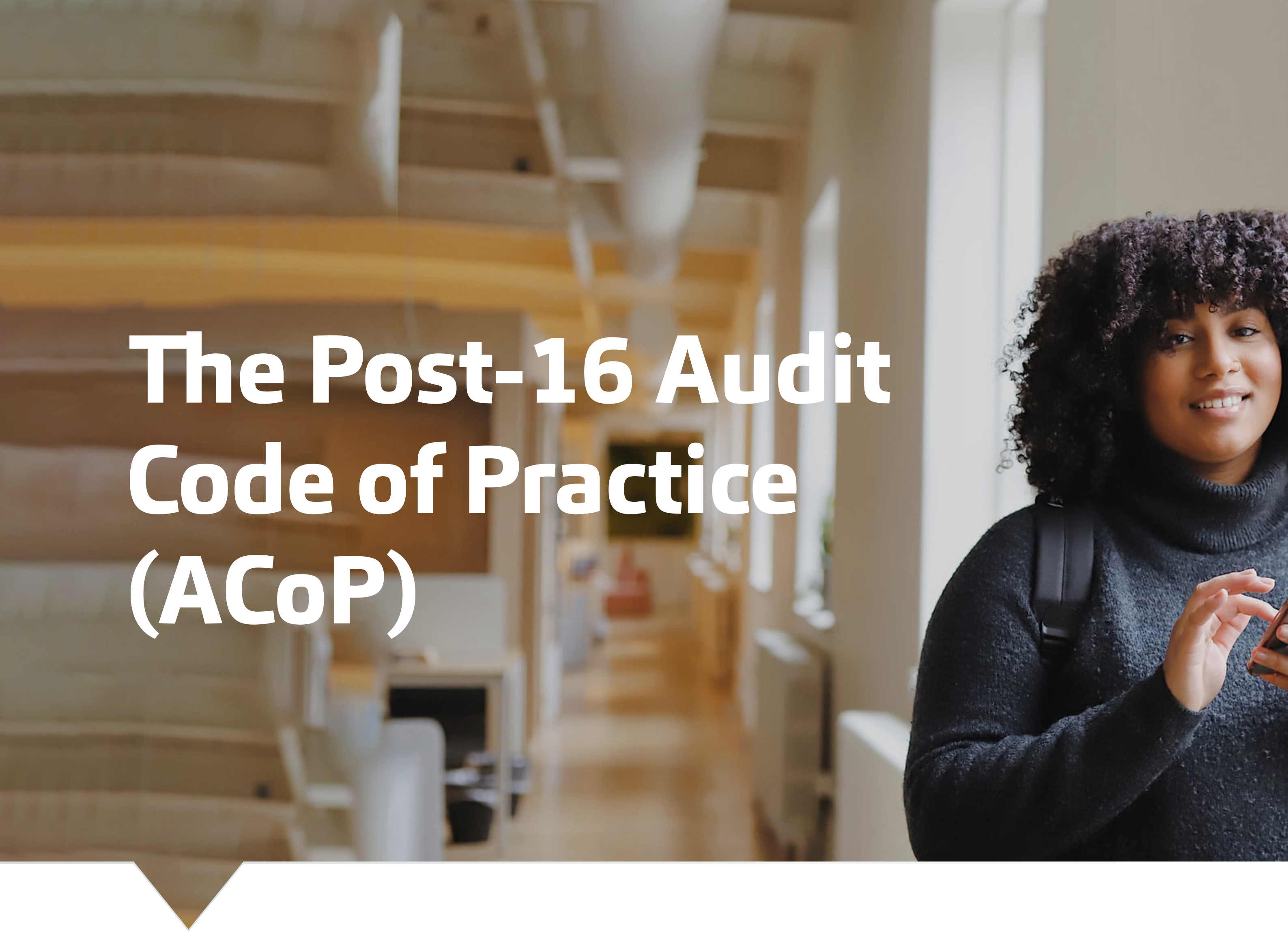


- Finance record – submission dates for the financial outturn statement for 2020-21 have yet to be published – these will be contained in the Financial Handbook which should be due in May alongside the integrated financial model.
- The statement of corporate governance and internal control must include the number of audit committee meetings which took place in the year, and attendance records for each committee member.
- A reminder that all corporations must comply with at least one of the approved codes of Governance (and there is a link to the DfE's governance guide). Do note that the Charity Governance Code was refreshed in November 2020 and is greatly enhanced in relation to ethical values as well as enhancing the Equality, Diversity and Inclusion section. Corporations may wish to look at this code in more detail as it seems to be addressing some of the issues outlined in the 2021 Audit Code of Practice (see below).
- Whilst Colleges are only required to disclose average staff headcount within their accounts the ESFA will still request the staff numbers on a full-time equivalent basis within the financial record – so the College may wish to disclose both within the financial statements for ease.
- Just as a reminder, the enhanced disclosures for highly paid staff and Key Management Personnel (KMP) which were made in 2020 remain. Corporations must either adopt one of the remuneration codes (AoC's or Committee of University Chairs) or explain why they have not done so.

  This is alongside the emoluments of KMP in £5k bandings starting from £nil and a justification of the emoluments given linked to the value and performance delivered including details on the process by which value and performance were assessed.
- There is a new requirement this year to disclose separately any severance payments and compensation for loss of office paid to the accounting officer and, if different, the highest paid member of KMP.
- As noted above, in 2020 the ESFA issued a supplementary bulletin, a 2021 Bulletin is being drafted which we expect to be published in May.
- Best practice guidance has been issued in 6 bullet points for the ESFA's suggestion of what the 'financial review' section of the strategic report should contain. The hope is that the section will explain the financial performance and position of the College and any significant events during the year in a manner that a non-accountant would understand.
- Finally, there are new disclosure requirements for LGPS plans whereby the college is being asked to make deficit reduction payments. The timing and amount of these payments needs to be separately identified. We would encourage Colleges to ask the scheme actuaries to include details on deficit reductions within their valuation reports to aid in this disclosure requirement.

  For those colleges registered with the OfS – appendix E of the AD21 contains the additional disclosure requirements. In summary, there are no significant changes to these requirements, however by way of a reminder, the senior pay disclosures as the OfS requires this on a 'basic salary' basis vs the AD21 which is based on 'emoluments' (basic pay, plus bonuses, pension contributions, benefits etc) – differences between the two, if they arise, can be explained in the narrative of the notes to the accounts.

The Post-16 Audit Code of Practice (ACoP)



On 31 March 2021 the 2021 ACoP was published. The changes to the 2021 ACoP are laid out on page 4 of the document in this article we will focus on the following:

1. Updates on the ESFA's subcontracting standard, including introducing the requirement for independent assurance reports on subcontracting arrangements to be considered by audit committees.
2. Advised changes to role, scope, characteristics and education of audit committees.
3. Minor clarifications by the ESFA over the assurance they provide over funding which may lead to changes to the way in which income is audited.

Subcontracting Standard

Following the consultation on subcontracting, the ESFA published the Government's response in June 2020. This set out a clear vision for the need to reduce the levels of subcontracting within Colleges as concerns have been raised over the level of control, management and oversight by the lead funded provider.

The ESFA have reminded Colleges that there are specific assurance activities in this area which require providers to comply with the funding agreement annual subcontracting assurance clause.

This clause requires certain lead providers to obtain an independent report that provides assurance on the arrangements in place to manage and control their subcontractors.

The 2021 ACoP stipulates that, this report must be provided to the audit committee to be included in their annual report.

> The ESFA are keen to ensure that these Committees understand their roles and responsibilities and are adequately resourced by having a diverse skills and experience mix.

Audit Committee

Audit Committee's are now an integral part of the Colleges Governance process as their existence is a condition of funding. The ESFA are keen to ensure that these Committees understand their roles and responsibilities and are adequately resourced by having a diverse skills and experience mix.

In doing so the ACoP has referred Colleges to the guidance document which looks at the scope of audit committee within Colleges. It also links to the disclosure requirements prescribed by the Accounts Direction in relation to the corporation's statement of corporate governance and internal control. Just by way of a reminder the 2020 Accounts Direction made enhancements to this statement which have remained – including a statement on the significant internal control weaknesses identified during the year.

The ACoP also gives further details on the characteristics of an effective audit committee and the abilities of its members including a requirement for audit committees to consider the development and training available to its members. To aid in this process we have developed a template Audit and Risk Committee performance review questionnaire that you can use to assess these attributes.

See the Board performance review here

Auditing Income

A minor clarification within section 73 of the ACoP has caused a bit of a stir in the auditing community. The clarification removes a statement that said that the 'auditor will rely on assurance provided by the ESFA… when considering whether if income….is fairly stated'. The assumption that the ESFA are providing assurance over the entitlement to the income has been removed. By removing this wording, the ESFA are clarifying that no such assurance is given in this regard and the responsibility for ensuring the College has entitlement to income firmly sits with the College.

Entitlement stems from student numbers which are tracked by the ILR and MIS's – as such the integrity of the ILR data is fundamental to a College. The majority of Audit Committee's acknowledge this key risk and will focus their attention in this area. Accordingly, it would be expected that a College itself does a number of checks and balances throughout the year to verify the accuracy and validity of the student data. Secondly, Audit Committee's often direct their internal auditors to perform compliance testing in this area.

As for our response, it is our intention to review the internal processes that the College performs and what other levels of assurance is provided in this area (such as internal audit). In reviewing these findings, we will make a risk assessment and enter into discussions with the College what additional assurances are required.

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