

# Subcontracting in further education and skills

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This study investigates subcontracting in further education and skills and relevant aspects of Ofsted inspection practice.

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## Executive summary

The further education and skills (FES) sector is made up of around 1,900 providers. These providers receive funding directly from government to deliver education and training to around 2.9 million learners aged 16 and over in England.<sup>1</sup> Each year, a portion of education and training is not delivered directly by these providers but instead subcontracted by them to third parties. Around 14% of the spending on apprenticeships and adult education was intended to be spent on third parties in 2018/19.

Ofsted is responsible for inspecting the quality of education within further education and skills. However, we do not directly inspect subcontracted provision. This research allowed us to learn more about subcontractors and the provision they deliver while, at the same time, explore how our current approach to inspection is working.

We carried out research visits to 14 subcontractors, focus groups with 38 inspectors, desk-based analysis of reports and inspection evidence bases, and analysis of publicly available data on subcontracting. This report explores what makes for high-quality education delivered through subcontracting, and how inspection and regulation might need to adapt.

## Key findings about the sector

The business models of providers offering to deliver subcontracted provision has changed over the past five years. Over half of subcontractors now also hold a direct contract to deliver provision with government. We found that in some of these subcontractors, the directly funded and subcontracted provision is the same. Learners were in the same classes, experiencing the same provision. In other subcontractors, directly funded and subcontracted provision are distinctly different; for example, they could be in different industries with learners studying under different modes, such as one doing face-to-face training and the other predominately online learning.

The subcontracting market is dynamic, with only 50% of contracts in 2018/19 carrying over from the previous academic year. Moreover, we found evidence that contracts and contract values can change within academic years, deviating substantially from the data published annually by the Education and Skills Funding Agency (ESFA) on intended contract values. Inspectors reported that this has implications for our inspection planning, coverage of subcontractors and ability to optimise inspection resource.

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<sup>1</sup> 'Further education and skills data: FE and skills learner participation by provider, local authority, funding stream, learner and learning characteristics: 2018 to 2019', Department for Education and Education and Skills Funding Agency, November 2019; [www.gov.uk/government/statistical-data-sets/fe-data-library-further-education-and-skills](http://www.gov.uk/government/statistical-data-sets/fe-data-library-further-education-and-skills).

The subcontractors we met reported that some providers were heavily involved in their provision, such as sharing premises, planning and staff with the subcontractors. Others said that providers reviewed provision annually or were not involved in their curriculum planning or review.

Subcontractors felt the most effective arrangements were ones that were characterised as equal partnerships. Here, the subcontractor and provider staff had similar levels of knowledge and expertise about the course and industry it was within. When provider staff were not knowledgeable about the area they were reviewing, oversight was considered by subcontractors to be less effective.

Quality of provision cannot be fully disentangled from the contract it is within. Data from our visits suggests that in most instances the subcontractor has overall control over the day-to-day quality of subcontracted provision, through their control over curriculum and staff quality. We also found that providers have some strategic control over quality. This is through their choice of subcontractor for a course (known as 'contract rationale') as well as how they support and manage that contract over time. This also suggests that there should be some commonality between contracts at the same provider, although in reality their quality can vary.

The relative importance a subcontractor places on being a trainer, as opposed to a business or employer, is associated with quality of provision. Of the subcontractors we visited, those that appeared to primarily see themselves as a trainer tended to have more knowledgeable, qualified and supported staff. Having more knowledgeable and supported staff was associated with increased quality.

## **Key findings about our practice**

Our inspections give a rounded judgement of the directly funded provider. Inspectors carry out interviews with staff in providers to investigate the support and management of the subcontracting arrangements. They triangulate what they are told by speaking to a proportion of subcontractors. The choice of subcontractors to visit and the depth of evaluation are professional judgements within practical constraints, such as geographical location. This means that some subcontractors may never be visited, and others visited multiple times as part of different inspections.

We normally record only limited information about subcontractors within our evidence bases. As a result, we do not know the depth and breadth of our coverage of subcontractors, nor link together evidence from different inspections which could improve our overall national coverage.

Subcontracting quality can influence two of the judgements of the directly funded provider in the current inspection framework: quality of education and leadership and management. Inspectors most commonly use this information when forming the leadership and management judgement. Poor-quality provision within a subcontract is linked within the framework poor 'contract rationale' and to poor management of the contract. Inspectors reported that they were likely to consider subcontracting quality as part of the quality of education judgement when they had carried out

substantive activities with subcontractors, such as a deep dive, and when contracts made up a substantial proportion of the provision being delivered.

Inspection reports often consider subcontractors as a group, although individual subcontractors are sometimes named in our reports. Some small and medium subcontractors we spoke to said they felt associated with the directly funded provider's judgements, despite having taken no part in the inspection.

## **Implications for our practice**

Our inspection approach is focused on making valid, holistic judgements of directly funded providers. When we inspect, we sample activities across the provider. It is not practical, efficient or necessary to survey all provision and activities in order to come to a sound understanding of a provider's overall quality.

However, there are limitations to this approach. This research suggests that subcontractors can have considerable day-to-day control over quality of provision in practice, and that directly funded providers sometimes cannot or do not exert enough influence in the relationship to manage and control provision within a subcontract well. For example, they might not have the necessary in-house subject/industry expertise to review provision meaningfully. That said, directly funded providers have ultimate control over contractual arrangements and can choose to cease the arrangement if it is of poor quality.

We also found that an unintended consequence of our approach is that some subcontractors are visited more than once, and others are not visited. Our recording practices, however, mean that we know our coverage nationally is incomplete, but we cannot identify the exact gaps.

Inspectors reported that our oversight of subcontracted education could be improved by performing more activities and sampling more contracts within our inspections. In particular, more accurate and up-to-date data from ESFA would enable regional teams to better plan the number of inspectors needed to cover subcontracted provision more extensively, without detracting from the activities performed with the directly funded provider.

## **Next steps**

As a result of our findings, we are seeking to make our approach to oversight more comprehensive and transparent through the following:

- working with ESFA to improve our access to subcontracting data
- improving internal communications on the existing resource available on inspection, to investigate more subcontractors more thoroughly
- changing our systems to record systematically and consistently which subcontractors we visited in any depth on inspection
- naming more subcontractors within our evidence bases

- where appropriate, highlighting and naming more subcontractors within our reports.

## Introduction

The FES sector encompasses formal learning that is not run by schools or higher education institutions. The sector is made up of around 1,900 providers that receive direct public funding. This includes colleges, independent training providers and employer providers that deliver apprenticeships. The total number of publicly funded providers is, however, higher than 1,900, because directly funded providers can subcontract all or part of their provision to third parties – subcontractors.

Directly funded providers intended to spend around £434m<sup>2</sup> on subcontracting arrangements for adults and apprentices in 2018/19. This is around 14% of the total spending in FES for those funding streams that year, of £3 billion.<sup>3</sup> Subcontracted provision therefore makes up a substantial portion of FES provision.

Directly funded providers are legally responsible for the management and quality of all the provision they are funded for, including that which they subcontract. As a result, directly funded providers are the focus of the accountability system in FES. Multiple bodies oversee and regulate directly funded providers, including Ofsted and the ESFA.

We have increased our focus on subcontracting within inspection over the past two years. This is in response to concerns about the use of subcontracting by some directly funded providers and the quality of some subcontractors.

The ESFA has also modified its approach to regulating subcontracting over the past few years. It will be tightening regulation and restricting subcontracting within the sector from September 2020 after consulting on a series of proposed reforms in spring 2020.

From March 2020, the FES sector, as with the rest of society, needed to respond to COVID-19 (coronavirus). There have been concerns that many providers and employers may fold due to the economic pressures of the pandemic, while training needs of citizens may increase due to the changing job market. In response to this, the ESFA has launched two rounds of funding support to help directly funded

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<sup>2</sup> 'Further education and skills data: list of declared subcontractors (as at 22 October 2019)', Department for Education and Education and Skills Funding Agency, February 2020; [www.gov.uk/government/publications/sfa-subcontractors-list](http://www.gov.uk/government/publications/sfa-subcontractors-list).

<sup>3</sup> 'Funding allocations to training providers 2018 to 2019: 2018 to 2019 final funding year values', Department for Education and Education and Skills Funding Agency, July 2020; [www.gov.uk/government/publications/funding-allocations-to-training-providers-2018-to-2019](http://www.gov.uk/government/publications/funding-allocations-to-training-providers-2018-to-2019).

providers during this time.<sup>4</sup> The treasury has also provided a range of financial support for businesses, such as subcontractors.<sup>5</sup>

The financial stressors of the impact of COVID-19 and the ESFA tightening the regulations around subcontracting from the 2020/21 academic year mean that the sector, particularly subcontractors, will be under significant pressure over the coming months. Understanding the role of subcontracting within the sector is therefore even more important.

This report sets out more detail on policy and regulation in FES linked to subcontracted provision, before exploring subcontracting and Ofsted's practice. It ends by considering how we could develop our approach to inspecting provision that is part of a subcontract in order to make our oversight more thorough and comprehensive.

## Provider definitions

FES providers are defined throughout this report in the following ways.

- **Directly funded provider:** A provider that has:
  - a direct contract/grant with the Secretary of State or the ESFA
  - apprenticeship training funded through the apprenticeship levy
  - a loans facility.
  - It may or may not use subcontractors to deliver all or part of its provision.
- **Combined provider:** A provider that operates as both a directly funded provider and as a subcontractor. It gets both direct funding (as above) and indirect public funding through being commissioned by one or more directly funded providers to deliver provision on their behalf. It may or may not use subcontractors.
- **Stand-alone subcontractor:** A provider that is not directly funded. It gets public funding through being commissioned by one or more directly funded providers to deliver provision on their behalf.

We will refer to providers that we visited or spoke to throughout this report as 'subcontractors'. Unless otherwise stated, this includes both combined providers and stand-alone subcontractors that took part in this research.

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<sup>4</sup> 'ESFA post-16 provider relief scheme (July to October 2020)', Education and Skills Funding Agency, April 2020; [www.gov.uk/government/publications/esfa-post-16-provider-relief-scheme](https://www.gov.uk/government/publications/esfa-post-16-provider-relief-scheme).

<sup>5</sup> 'Financial support for businesses during coronavirus (COVID-19)', Department for Business, Energy and Industrial Strategy, Ministry of Housing, Communities and Local Government, and HM Revenue and Customs, April 2020; [www.gov.uk/government/collections/financial-support-for-businesses-during-coronavirus-covid-19](https://www.gov.uk/government/collections/financial-support-for-businesses-during-coronavirus-covid-19).

## Methodology

We started this research in autumn 2019 and began fieldwork between November and December 2019. We analysed the data in spring 2020.

The goals of this project were to:

- better understand the quality of subcontracted provision
- reflect on our approach to oversight.

We chose a mixed-methods approach to collect data. This was to better understand subcontracting at a macro and micro level. Our approach included:

- research visits to a diverse group of 14 subcontractors, both combined and stand-alone, which deliver provision as part of a subcontract
- four focus groups with 38 FES inspectors
- desk reviews of 40 full inspection reports and their underlying evidence, along with further case-study activities
- analysis of publicly available data.

Although this approach enabled us to get a broad view of subcontracting, there are some limitations to how generally applicable our findings are (the 'generalisability').

Findings from qualitative activities, such as visits and the focus groups, are largely based on self-reported data. For practical reasons, we applied a convenience and purposive sampling approach to these activities. This means that the findings reflect the views and opinions of the participants we spoke to and provision we observed.

Our desk reviews of full inspection reports were based on a sample broadly representative of the providers we inspected between February 2018 and September 2019.

Our quantitative analysis is based on publicly available data from the ESFA. The ESFA publishes this list around once a year. It covers subcontracting for apprenticeships and 19+ learner funding streams, in which the subcontractors have intended cumulative contract values over £100,000 only.

You can find further information about our methodology, samples, sampling approaches and the generalisability of our findings in [Appendix 1](#).

## Policy and oversight in FES

### Wider policy context

The FES sector is rapidly evolving, with some large policy changes recently. The responsibility of FES funding has moved between government departments more than once over the past decade, and there have been frequent changes to funding rules by the ESFA and its predecessors. The biggest policy change in the past five

years has arguably been the introduction of the apprenticeship levy, a charge set at 0.5% of any UK employer's payroll over £3 million.

It is important to bear this context in mind when considering our findings. Changes to funding policy and regulation influence who can be a directly funded provider, what can be subcontracted out and the nature of the market more generally. We have included a list of relevant policies and departmental changes spanning the last 10 years in [Appendix 2](#).

In addition to these policy changes, the sector has needed to respond to COVID-19 over recent months. This will have had, as with other areas of the economy, a significant impact on FES providers and their subcontractors. It has affected the provision they can deliver, learner recruitment and, ultimately, their cash flow. Concerns have been raised that many providers could fold as a result of these economic pressures. To help mitigate this, the ESFA has launched two funding rounds to support directly funded providers during this time.<sup>6</sup> This is in addition to the wider range of financial support for businesses provided by the government.<sup>7</sup>

The unprecedented financial situation many providers, including subcontractors, find themselves in means that the sector is under significant pressure and may evolve quickly over the coming months. It is therefore all the more important to better understand subcontractors and the role they play within FES.

## Oversight in FES

Directly funded providers are ultimately responsible for the management and quality of all the provision they are funded for, regardless of whether they deliver it themselves or through one or more third parties. Directly funded providers are therefore the focus of the current oversight system. Ofsted and the ESFA are two of the public bodies responsible for oversight.

We inspect the quality of directly funded provision in the round. This means that inspectors may inspect any provision carried out on behalf of the directly funded provider through a subcontracting arrangement. When planning for an inspection, we use the subcontracting data collated by the ESFA. We consider the quality of subcontracted provision as part of the directly funded provider's quality of education judgement. Our inspectors also give a leadership and management judgement, through which they consider how well the directly funded provider manages any subcontracted provision.

Our reports do not always directly refer to subcontracting. However, a list of up to five key subcontractors is given in the 'provider details' section. When the directly

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<sup>6</sup> 'ESFA post-16 provider relief scheme (July to October 2020)', Education and Skills Funding Agency, April 2020; [www.gov.uk/government/publications/esfa-post-16-provider-relief-scheme](http://www.gov.uk/government/publications/esfa-post-16-provider-relief-scheme).

<sup>7</sup> 'Financial support for businesses during coronavirus (COVID-19)', Department for Business, Energy and Industrial Strategy, Ministry of Housing, Communities and Local Government, and HM Revenue and Customs, April 2020; [www.gov.uk/government/collections/financial-support-for-businesses-during-coronavirus-covid-19](http://www.gov.uk/government/collections/financial-support-for-businesses-during-coronavirus-covid-19).

funded provider is graded 'inadequate' overall, we refer it to the ESFA as the funding body for further action.

The ESFA monitors the financial health of directly funded providers and audits any arrangements they may have with subcontractors. The ESFA is responsible for the sector's financial accountability and for collecting data on the sector. It also has the power to investigate when it has concerns about a subcontracting arrangement. It can take actions that include but are not limited to:

- requiring the provider to make an action plan that sets out how it will improve the subcontracted provision within a specified timescale
- removing the associated funding from lagged funding allocations for the directly funded provider
- requiring the provider to discontinue the subcontracting arrangement
- for colleges, escalating that college to formal intervention with the FE commissioner.

We have increased our focus on subcontracting within inspection over the past two years. This is in response to concerns within the sector about the quality and use of subcontracting by some directly funded providers. In February 2018, we increased the focus on the management and quality of subcontracted provision during inspection by:

- increasing inspection resource, especially when a provider contracted with multiple subcontractors
- carrying out a sample of risk-based monitoring visits
- including more information about subcontracting in our inspection reports.

Our education inspection framework (EIF), which came into effect in 2019, also increases the focus on subcontractors. Compared with the previous framework, the EIF puts less emphasis on performance data and more on the substance of the education or training: the curriculum, which is the design and the content of learning programmes, including provision delivered as part of a subcontract. Inspections under the EIF evaluate areas of the curriculum through 'deep dives'. This can include a curriculum area delivered by a subcontractor or the whole of the provision it delivers for that provider.

The ESFA has also been changing its practice in response to the sector's concerns. These are aimed at exercising greater oversight of the volume and value of provision that is delivered as part of a subcontract. Table 1 shows steps they have taken within the last 18 months.

**Table 1: ESFA changes specifically linked to subcontracting 2019–2020**

Year	Change	Details
<b>2019</b>	Funding changes for new apprenticeship starts	Added requirement for statement of expectations when working with subcontractors. Rules were updated to show the types of subcontractors that can be used and to reflect Register of Apprenticeship Training Providers conditions.
<b>2019</b>	ESFA's letter to subcontractors	The ESFA wrote a sector-wide letter to subcontractors to state that it was continuing to investigate cases in which subcontracted provision was not appropriately controlled, overseen or managed by the lead provider.
<b>2020</b>	ESFA's consultation	The ESFA consulted on proposals to eliminate poor subcontracting arrangements and better monitor subcontracts.
<b>2020</b>	Funding changes for 2020/21	New requirements added describing eligible and ineligible costs, including the use of brokers. The funding changes clarified the requirements around the content of apprenticeships and put stricter requirements on reporting.

Most recently, the ESFA launched a consultation in February 2020 addressing regulation of subcontracting.<sup>8</sup> It contained 10 proposals to the sector, including introducing:

- a new ‘rationale for subcontracting’ requirement
- stronger criteria for subcontracted provision delivered at a distance
- controls on the volume/value of provision that can be subcontracted by a provider
- stricter controls on the circumstances in which the whole of a learner’s programme can be subcontracted
- increased oversight of large subcontractors with cumulative contract values over £3 million
- stricter controls within sports subcontracting
- plans for better alignment between funding streams
- more transparent reporting on management fees and setting caps on the percentage retained by the directly funded provider
- introducing a common external standard for managing subcontracting.

<sup>8</sup> ‘Consultation response: reforms to subcontracting education for learners over 16’, Education and Skills Funding Agency, February 2020; [www.gov.uk/government/consultations/reforms-to-subcontracting-education-for-learners-over-16](http://www.gov.uk/government/consultations/reforms-to-subcontracting-education-for-learners-over-16).

The ESFA published its response in June 2020, after receiving 404 online responses.<sup>9</sup> It plans to phase in all its proposals, with some modifications, starting from the 2020/21 academic year. The proposals are likely to increase the ESFA's financial oversight of the sector while also restricting the subcontracting sector. For example, the controls on the proportion of provision a provider can subcontract out that ESFA plans to introduce are likely to mean that 'subcontractors will be put out of business as a result'.<sup>10</sup>

## The subcontracting context

The figures and analysis presented in this section reflect the published available data on subcontracting in FES. This data is published by the ESFA and covers apprenticeships and 19+ learner funding streams, for subcontractors whose contracts have cumulative values over £100k. It also covers intended/expected contract values and not the final amounts of money exchanged between the directly funded providers and their subcontractor(s); there is no publicly available data on what was actually spent. This means, at best, only a partial picture of subcontracting within the sector is publicly available.

## Changing provider types

Our analysis suggests that subcontracting has undergone a period of change over the past five years. Table 2 shows how the number of subcontractors increased between 2014/15 and 2016/17, followed by a marked decrease the year after the apprenticeship levy was introduced. The ESFA's proposed changes and the evolving situation around COVID-19 are likely to put further pressure on the sector.

**Table 2: The number of directly funded providers and subcontractors, over time**

	2014/15	2015/16	2016/17	2017/18	2018/19	Percentage change from 2014/15 to 2018/19
Directly funded providers as at 31 August <sup>1</sup>	-	1,160	1,160	1,674	1,895	63%
Providers that use subcontractors	480	486	470	496	481	0%
Number of subcontractors used <sup>2</sup>	1,106	1,181	1,308	1,030	856	-23%
<i>Combined provider</i>	235	282	364	559	494	110%

<sup>9</sup> 'Consultation response: reforms to subcontracting education for learners over 16', Education and Skills Funding Agency, February 2020; [www.gov.uk/government/consultations/reforms-to-subcontracting-education-for-learners-over-16](http://www.gov.uk/government/consultations/reforms-to-subcontracting-education-for-learners-over-16).

<sup>10</sup> 'Consultation response: reforms to subcontracting education for learners over 16', Education and Skills Funding Agency, February 2020; [www.gov.uk/government/consultations/reforms-to-subcontracting-education-for-learners-over-16](http://www.gov.uk/government/consultations/reforms-to-subcontracting-education-for-learners-over-16).

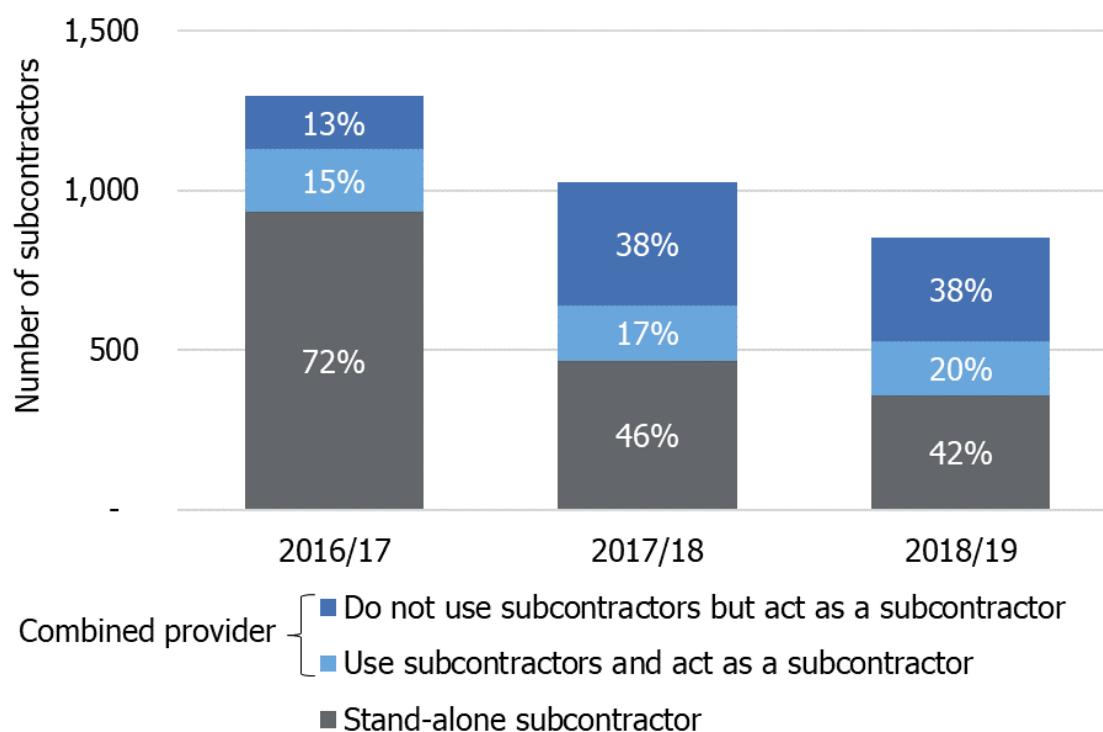
<i>Stand-alone subcontractor</i>	871	897	931	467	357	-59%
Number of subcontracting arrangements	2,467	2,848	3,423	2,958	2,221	-10%
Total value of subcontracting arrangements	£586m	£648m	£809m	£650m	£434m	-26%

1. The number of directly funded providers for 2014/15 is not comparable with later years.  
The percentage change figure for this row relates to 2015/16.

2. The number of subcontractors used may not add up to the sum of the combined and stand-alone subcontractors, due to a delay between the official statistics and list of declared subcontractors being published.

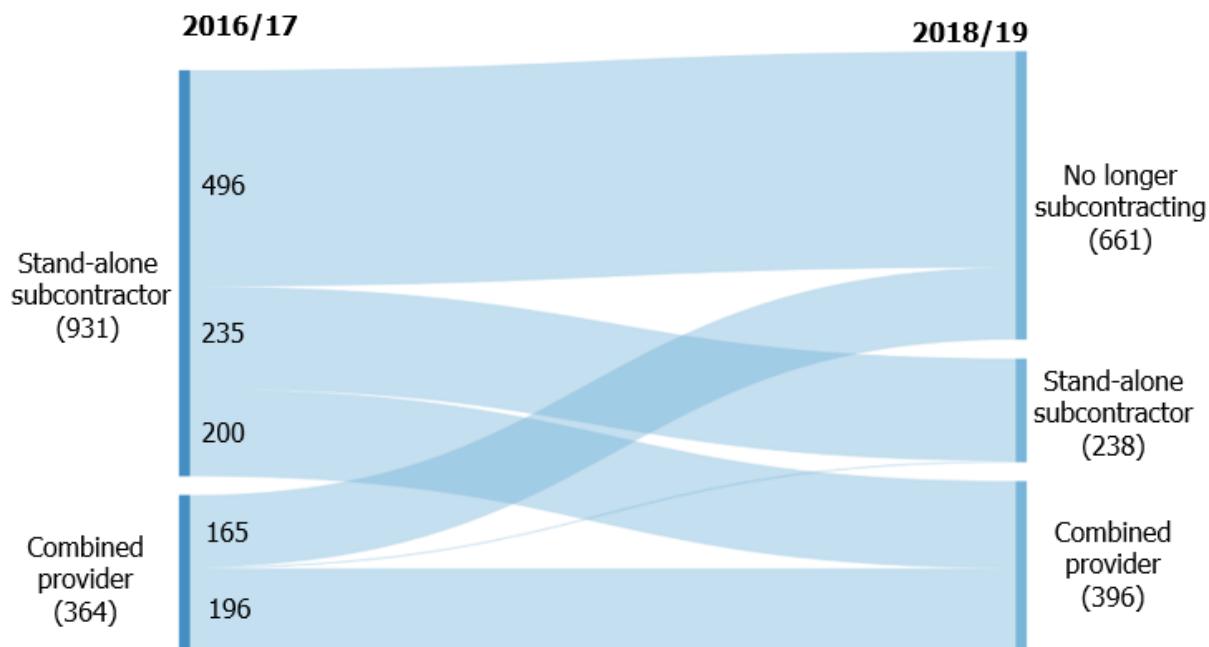
The proportion of stand-alone subcontractors has decreased considerably over the past five years (-59%). Combined providers now make up nearly 60% of the providers offering subcontracted provision in 2018/19, as shown in Figure 1.

**Figure 1: Number and proportion of providers that offer subcontracting by type over time**



Around half of these combined providers were previously stand-alone subcontractors in 2016/17, as shown in Figure 2. Others have stopped subcontracting, which means they could have become directly funded providers or stopped operating.

**Figure 2: The movement of subcontractors by type, from 2016/17 to 2018/19**



This trend was mirrored in our visits. Two of the six combined providers we spoke to reported that they had recently (within the past five years) started to deliver directly funded provision through successfully applying to be on the Register of Apprenticeship Training Providers (RoATP). Staff remarked that starting out as a stand-alone subcontractor had been instrumental in their business growing sustainably, enabling them to grow incrementally to provide high-quality provision to learners without overstretching themselves and risking quality:

'We wouldn't be here if that [subcontracting] wasn't there... for me, an ideal subcontract arrangement is where they [directly funded provider] take your hand, show you what you're doing, lead you through until the point that you know what? You're ready to go.' (Senior manager, visit 6)

Other subcontractors also reported that starting small had helped their provision's quality:

'It's really beneficial to us to start small... it's given us a real insight into what we're doing, and we'll grow on that knowledge, we'll build on that experience then moving forward.' (Senior manager, visit 3)

Many of the 60 learners we spoke to valued the small size of the subcontractor and saw it as a benefit to their learning. They felt more at ease in the smaller environment and felt that they received more individual attention, both pastoral and academic. A significant minority reported that they had come to their current course at the subcontractor after first trying more formal learning, for example at a college or university. They found these settings too large, overwhelming and impersonal, and as a result they had dropped out of their previous courses. These learners

reported being seen and supported by subcontractor staff, with whom they were able to build stronger relationships.

## Who is using subcontractors

Our analysis shows that 499 directly funded providers used subcontractors in 2018/19. The amount and value of subcontracting used varied. Figure 3 shows that most providers declared they would allocate less than £500,000 to subcontractors, whereas 20 providers intended to spend over £4 million. The total intended spend of these 20 directly funded providers was greater than the total intended spend of over 442 directly funded providers that intended to spend less than £2 million. These 20 providers showed no obvious distinct characteristics based on publicly available data from the remainder of the providers.

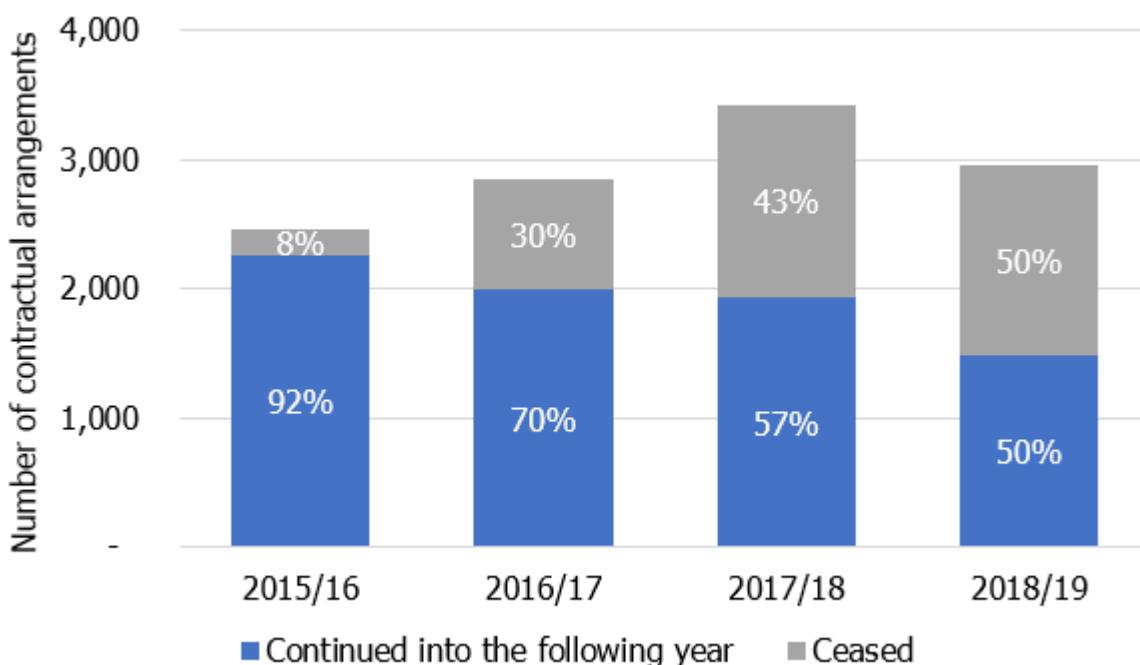
**Figure 3: Number of directly funded providers, the value and cumulative value of their declared subcontracting allocations 2018/19**



## Reduced contractual stability

Contractual stability across the subcontracting market is declining. Figure 4 shows that between academic years the proportion of contracts that continue has progressively reduced over the last four years, from 92% in 2015/16 to 50% in 2018/19, a reduction of 41 percentage points.

**Figure 4: The number and proportion of contract arrangements that have continued into the following year is declining**



Subcontractor staff and inspectors we spoke to also reported that contracts often change between and within academic years.

Inspectors told us that they often find the subcontracting arrangements of directly funded providers to be different to what they planned for based on the data supplied by ESFA. Some linked how often this occurred to the time of year of the inspection:

‘It depends on the time of year how reliable the data is. We’re somewhat going in semi-blind because there is a data lag. This is bad at the beginning of the academic year as the data is for the previous academic year, given the lag between the contract year data from ESFA.’ (Inspector, group 2)

Subcontractors reported how intended contract values could change substantially over the course of an academic year, due to changing numbers of learners or new courses starting:

‘They [directly funded provider] initially allocated us £100,000, but then sort of every few months I just say, ‘If there’s any more funding, we’ve got a lot more applicants.’ And every time I wrote and said, ‘Is there any capability for us to increase?’ The answer is always yes, and so we ended up with £200,000.’ (Staff member, visit 7)

Two subcontractors we spoke to intended to start working with a new directly funded provider mid-way through the academic year.

## What subcontractors are delivering

All the subcontractors we spoke to were contracted by directly funded providers to deliver end-to-end courses. This was across all course types and funding streams. Subcontractors reported that they were being contracted for a variety of reasons, including to help the directly funded provider reach a wider group of people or because the directly funded provider did not have the expertise, facilities or infrastructure to deliver the course in question. One subcontractor reported that it was being contracted by a local council to help it spend its apprenticeship levy fund.

The majority of subcontractors delivering provision to 16- to 19-year-olds also teach mathematics and English to those learners as part of their contract. The two small stand-alone subcontractors that we spoke to reported that mathematics and English were a challenge for them to teach as part of their contracts. This was due to the additional financial costs of the provision on a small business. One remarked:

‘If I’m going to be totally honest with you, with the red tape and everything that we have to adhere to, with functional skills and having to pay teachers for maths and English... If you’re doing it [training apprentices] financially it’s just not worth it.’ (Senior manager, visit 5)

Our findings suggest that industry- and subject-specific teaching was, in general, stronger than the mathematics and English provision we saw across our sample. The feedback given to learners at some subcontractors focused solely on the content of the learners’ work, not on improving their numeracy or literacy.

Most of the subcontractors we spoke to (12 of 14) reported playing an active role in the recruitment of their learners, alongside delivering end-to-end courses. Recruitment was often part of the contractual agreement with their directly funded provider(s).

‘Our contract with the college is from learner find to learner certification.’ (Senior manager, visit 8)

Most of the subcontractors we spoke to reported that they liked the influence they had over assigning learners to courses because they felt it enabled them to find the right learners for the right course and/or employers.

Just over half of the subcontractors we spoke to (eight), including combined and stand-alone, had contracts with more than one directly funded provider. The majority of these were delivering slightly different courses, or combinations of courses, for each directly funded provider.

The courses that combined providers were hired to deliver, as part of a subcontract, varied. Half were being hired to provide the same (or very similar) courses to those that they delivered as part of their direct contract, while the other half were being hired to deliver provision that was markedly different from their direct funding. For example, their subcontracted provision could be focused on a different industry or delivered using a different method (such as online).

## Curriculum design and delivery

All subcontractors reported that they were responsible for, and had ultimate control over, the curriculum they designed and delivered to learners as part of a subcontract.

A minority (four) of the subcontractors we spoke to reported developing curriculums with their directly funded provider. However, some subcontractors explicitly stated that they did not get any input from their directly funded provider:

‘We’ve never discussed unit delivery with our prime providers before we’ve delivered... Our primes have never suggested to us that we should deliver different units or deliver them in a different way.’ (Staff member, visit 7)

Although the subcontractors we spoke to reported that directly funded providers did not have much or any influence over their curriculums, four said that directly funded providers had an influence over their provision. These subcontractors reported that this was because, ultimately, the provision they deliver is what is being tendered for by directly funded providers. This meant that directly funded providers influenced which courses they ran.

Most subcontractors we spoke to said that the curriculums were designed in-house by senior and/or teaching staff. However, two of the three larger subcontractors reported using contracted subject or teaching experts, individuals or companies to write courses and qualifications. Five of the subcontractors reported having a senior member of staff with oversight of curriculum quality.

## Relationships with directly funded providers

### Oversight

Many of the subcontractors said that their directly funded providers oversaw quality using one or more of the following methods:

- holding regular meetings to discuss the contract and learners’ progress
- observing teaching and learning
- reviewing the subcontracted party’s policies and curriculum
- reviewing learners’ work
- gathering feedback from learners (through telephone conversations or online surveys).

One subcontractor reported that its directly funded provider did not review quality and instead used external quality assurers (an awarding body).

The subcontractors we spoke to reported that oversight varied between contracts in both implementation and effectiveness. For example, one subcontractor reported that its directly funded provider visits once per academic year and spends the day at the premises, observing teaching and learning and reviewing learners’ progress and

paperwork. Another reported that some directly funded providers regularly monitor what they are doing through remote access to their online systems.

Subcontractors reported that oversight was more effective if the directly funded provider had knowledgeable staff who understood their sector:

'He's really good as an observer particularly because he's a specialist in both [subject area one] and [subject area two] so he can give some really good advice to some of our newer students and staff.' (Staff member, visit 7)

Most subcontractors (nine of 14) reported that high-quality, in-person lesson observations by directly funded providers were the most useful tool to improve their practice and quality assure their provision. The staff we spoke to reported joint observations with knowledgeable provider staff to be most effective.

### **The power of partnership**

Subcontractors thought that the most effective arrangements were those formed as equal partnerships. Here, the power dynamic (in terms of knowledge) between parties in the contract was equal: both had expertise that they could bring to the table and they understood each other's areas enough to enable them to mutually grow and benefit from the arrangement.

'With [directly funded provider 1], with [directly funded provider 2], and with [local authority 1] we share so much good practice and it feels like they get a lot from us, you know, it feels like a really good balanced relationship.' (Senior manager, visit 7)

Subcontractors that characterised their relationship as partnerships reported that:

- these relationships had grown over a number of years and were facilitated by stable key members of staff within the directly funded provider:

'It feels more like a joint partnership still now because of the history of the relationship... you're not sort of starting from scratch every three or four years, which is actually quite disruptive and a lot of work.' (Staff member, visit 11)
- working relationships were respectful and flexible, with the directly funded provider staff treating the subcontractor as an individual company
- the directly funded provider supported them by offering continuous professional development (CPD) for their staff
- the directly funded provider offers them regular practical help and advice on areas such as compliance, information systems and qualifications; they saw the provider as always being 'at the end of the phone'.

We also found that in some circumstances both parties were sharing resources, staff members and premises.

Two subcontractors reported that, for adult and community provision, they felt long-term partnership-style subcontracting arrangements with local authorities were more beneficial to learners than local partnership work. This is because, in their experience, subcontracts had led to longer-term and more effective planning by the local authority:

'Having that close working relationship is definitely beneficial to the residents to that local authority because you can do far more effective planning and maximise kind of the level of resources that are coming into the area.' (Staff member, visit 11)

### **Less effective arrangements**

Subcontractors thought arrangements were less effective when:

- they had significantly more knowledge in a sector/area than the staff at the directly funded provider. This meant that management oversight was considered too generic to be useful:

'They don't know what we teach.' (Staff member, visit 6)

- communications from the directly funded provider were poor. This could be due to staffing challenges, significant change at the directly funded provider and/or internal politics:

'With a lot of these mergers of college groups, you end up with lots of head honchos with slightly different opinions. We suffer by the effects of that, I'm afraid. There was a huge flow through of staff, and we didn't know who to contact. We didn't get our first payment until February.'  
(Senior manager, visit 4)

- they felt pressured by their directly funded provider(s) to deliver provision they were unhappy with. Subcontractors reported this could either be due to the directly funded provider wanting them to focus on certain types of learner, take on new learners midway through their course or move into delivering in an area outside their expertise:

'We were subcontractors to [directly funded provider], that was a struggle, they dictated. It was not a partnership, and it was hard going. They tried to force you down the number of learners to get on every month, that sort of thing... and then they'd come in and start barking at you. But you can't make these learners if they don't exist.' (Senior manager, visit 2)

When arrangements were considered less effective, subcontractors were either steering courses towards their areas of expertise or were planning to switch to a different directly funded provider in the near future.

### **Challenges of working with directly funded providers**

Half of all the subcontractors we spoke to said that insecure contracts and payment delays were some of the main challenges they faced as a subcontractor, when working with directly funded providers.

Subcontractors reported that they were adapting to the challenge of insecure funding in one or more of the following ways:

- growing commercial provision
- diversifying the courses offered by branching out into new sectors and/or geographical areas
- growing their directly funded provision (if they were a combined provider) or getting their first direct contract (if they were a stand-alone subcontractor).

Getting a direct contract was not possible for some subcontractors:

'You can't get a direct claim with such a small centre, which is why we have to go through with other training providers.' (Senior manager, visit 14)

Some smaller stand-alone subcontractors reported that they would be interested in a direct contract if it were available.

Accommodating different ways of working at each of the directly funded providers was another challenge, reported by seven of the 10 medium and large subcontractors we visited:

'The challenge for us is that every prime provider has their own paperwork and they have sometimes their own interpretation of some of the rules around who's eligible for full funding, who's not and the evidence that they want to see around that. So, I suppose the difficulties for us are related to the complexity of working with so many different partners.' (Senior manager, visit 8)

Four of the six combined providers reported that they already had rigorous systems in place for internal quality assurance (IQA) and reporting. They used these for their directly funded provision. This meant that they sometimes found directly funded providers' oversight and requirements to be duplication of effort:

'I think because we do such a rigorous initial assessment a lot of that evidence we are collecting in there and we are just duplicating it whereas when we are uploading the evidence ourselves onto the ILR

[Individualised Learner Record] it will be different.' (Senior manager, visit 3)

'The point that we are at now, those monitor visits provide a real challenge because it means there is kind of an added layer where they've got to see the learner, the employer, the tutor when we're doing our own reviews. And then they're coming in and doing those as well, and then I do question really what added value are they bringing?' (Senior manager, visit 6)

## **Who influences the quality of contracted education?**

For this research, inspectors combined interviews with staff, observations of provision, reviews of work and discussions with learners to understand quality of provision fully. The research team found that both the subcontractor and the directly funded provider appeared to influence quality but in different ways.

In the subcontractors we visited, the subcontractor appeared to have the main direct influence over day-to-day quality. Participants in our visits all reported that they had ultimate control over quality of provision and learners' experiences, as well as operational control over how their curriculum was designed and delivered. Learners supported this view. They reported that their experiences of the courses were closely related to their relationships with staff at the delivery partner, the expertise and skills of the staff and how well organised the delivery partner was. No learners discussed the directly funded provider during our conversations and some appeared unaware they were studying within a subcontractor.

Directly funded providers also appeared to influence provision quality. The main mechanisms for this were choice of subcontractor ('contract rationale') and the extent and quality of support and oversight.

The relative influence of each party on the contract appeared to be contract-specific. The relative weight of each party appeared to be based on their own working relationships, the 'contract rationale' of the directly funded provider and subcontractors' priorities. Subcontractors' priorities can be defined as whether they saw themselves as primarily a trainer, a business or an employer, and the relative emphasis placed on each.

In the subcontractors we visited, those that saw themselves as primarily a trainer were associated with higher-quality provision. In the 12 subcontractors that our data suggests primarily saw themselves as a trainer, the staff were well qualified and knowledgeable. Most of these subcontractors reported that they hired staff with industry and/or teaching experience and invested in CPD for their staff, sometimes with the directly funded provider.

In two subcontractors, the way in which management spoke during the interviews and their aspirations suggested that they primarily saw themselves as a business, not a trainer. In these two subcontractors, observation data suggests that staff did not have the required knowledge or skills to successfully support learners, with some

giving learners incorrect information. In these instances, the subcontractors reported hiring people without extensive industry and professional experience, for example hiring staff who had just finished training themselves, and there was no mention of CPD in the interviews. One reported 'light-touch' oversight by its directly funded provider; the other reported that directly funded providers that wished to contract with it were required to follow its mechanisms of IQA.

## Ofsted's practice

Our current approach to oversight enables inspectors to get an idea of subcontracted education quality by inspecting the directly funded provider. This is because our focus on inspection is on collecting evidence to judge the directly funded provider fully and thoroughly.<sup>11</sup> As one inspector said, the lead inspector should make sure that the inspection team:

'... interrogate the arrangements of the subcontracting and then make sure the inspection team can do a reasonable job in terms of getting a flavour of subcontracting.' (Inspector, group 4)

Evidence on subcontracted education is most commonly collected through meetings with relevant staff at the directly funded provider to see how it manages subcontracts and checks quality. This is usually completed towards the beginning on the inspection. Following this, inspectors often sample a proportion of the contracts to investigate further.

These investigations can gather evidence through visits to the subcontractor, having conversations with staff in person or over the phone, viewing portfolios or e-portfolios of learners' work and speaking to learners in person or over the phone. The inspectors we spoke to also reported that they may do a full 'deep dive' into a specific subcontractor or that subcontracted provision may be part of a 'deep dive' in a curriculum area. The depth and breadth to which inspectors will evaluate subcontracted education are based on professional judgement and the best available data provided both before and during inspections. This evidence is then triangulated against what the directly funded provider reports.

This approach allows inspectors flexibility to evaluate the overall curriculum quality within the directly funded provider. One unintended consequence, however, is that some subcontractors have never directly interacted with Ofsted, whereas others have been visited multiple times. This fact was reflected in our research visits. Although most subcontractors we spoke to reported having interacted with Ofsted (11 out of 14), a minority (three of 14) reported having never directly interacted with Ofsted, either in person or over the phone. Three subcontractors within our sample reported being visited and reviewed multiple times by Ofsted across different inspections. We

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<sup>11</sup> Further education and skills inspection handbook, Ofsted, May 2019; [www.gov.uk/government/publications/further-education-and-skills-inspection-handbook-eif](http://www.gov.uk/government/publications/further-education-and-skills-inspection-handbook-eif).

did not seek to evaluate why these decisions were made because they were likely tied to the focus of each individual inspection.

## Decision-making on inspection

Inspectors reported that they considered the following when deciding which subcontractor to evaluate/sample and the extent to review it on inspection:

- the contract rationale – that is, why the directly funded provider is contracting out the course
- the size of the provision, for example the number of learners enrolled; this was in relation to the directly funded providers' overall provision and compared with other contracts that the directly funded providers may hold
- how 'typical' the contracted provision looks by sector, course type, learner type and learners' outcomes compared with other contracts and any directly funded provision
- whether a concern was raised on inspection or at the planning stage
- whether the subcontracted provision overlaps with a 'deep dive' subject area.

Inspectors reported that the following practical constraints influenced their decision-making on inspection, affecting the breadth and depth of coverage:

- timetabling of subcontracted provision:

'If they've only had activities taking place when you aren't inspecting, then you've actually got to consider whether you're going to still be able do a deep dive in that area.' (Inspector, group 3)

- time constraints on inspection:

'Because it was a short inspection, you're limited on time. I just looked at the due diligence and the safeguarding arrangements for those subcontractors.' (Inspector, group 3)

- geographical location of the subcontracted provision compared with the directly funded provider
- available resource for inspection (number of inspectors and their expertise).

If necessary, we can add extra inspectors to an inspection, allowing for more extensive coverage of subcontracted education. This resource could be used, for example, if inspectors find when they arrive at the directly funded provider that it is contracting with many more third parties or if they find a new subcontractor whose office is geographically far away. Our focus groups suggest that levels of awareness and use of this resource vary between inspectors.

## Judgements of directly funded providers

According to inspectors, the degree to which any subcontract influences the graded judgements of the directly funded provider is proportionate to the contract's impact on the overall provision.

Inspectors reported that when assessing proportional impact, they consider:

- the number of learners within a contract, in comparison with the provider's total provision
- the disparity between the quality of provision at the directly funded provider and that of the subcontract – inspectors mostly talked about the effect that quality can have on the overall judgement in the context of poor-quality subcontracted provision pulling down the overall grade; however, the reverse can also be true:

'I've inspected a college where... the subcontractor was really good, [this] actually probably lifted the college grade rather than the other way around.' (Inspector, group 1)

- the type of provision and its possible impact on the learners:

'If it was high needs stuff, it might not be a huge volume, but if they're actually not doing it very well the impact could be absolutely colossal.'

(Inspector, group 1)

- the judgement area that the evidence related to – for example, safeguarding arrangements have outsized influence on the judgements of the directly funded provider due to the importance of learners' safety; as one inspector explains:

'If one of their subcontractors' safeguarding was completely inadequate, and the leaders and managers of the prime [directly funded provider] hadn't picked up on that and weren't doing anything about it, then safeguarding would have to be inadequate overall. There would be no question about that, even though it's a very small part of their provision, those learners are not safe.' (Inspector, group 1)

Inspectors in all four groups reported that larger subcontracts and those that are nearer the directly funded provider are more likely to be visited, with larger contracts more likely to influence a judgement compared with smaller ones. This was supported by our review of inspection evidence bases. With one exception, we found that inspectors visited the larger subcontractors on inspection.

### The effect on individual judgements

Subcontracted provision and its quality can feed into two judgement areas within the EIF given to the directly funded provider: the leadership and management judgement and the quality of education judgement.

Inspectors reported that findings about a subcontract's quality tend to influence the leadership and management judgement rather than the quality of education judgement. This is because it is the directly funded provider's responsibility to ensure that the quality of education it delivers through subcontractors is good. Any failure to ensure this is due to poor leadership from the directly funded provider.

'I think it's true to say that, whether provision is subcontracted or run directly, then there are key functions which have to happen. In subcontracting, it becomes a question of who does them. Because the [directly funded provider] is responsible for the quality of that provision, ultimately then they need to be able to reassure themselves that learners are getting a good experience.' (Inspector, group 4)

When 'deep dives' had occurred into a subcontractor, inspectors reported that these would be likely to inform the directly funded provider's quality of education judgement, but not always. Inspector focus groups also suggested that inspectors may choose not to consider findings about a subcontractor in the quality of education judgement if they feel they have not collected enough evidence or strong enough evidence to do so. Our conversations with inspectors revealed that they have high standards for evidence to collect before making a judgement in any area.

The inspectors we spoke to reported that some directly funded providers deliver all their provision through subcontracting. In these cases, the quality of subcontracted provision would entirely determine the quality of education judgement the directly funded provider received. This would be assessed through our usual inspection methods.

## Reporting and recording practices

In September 2019, we introduced the EIF, which includes new and significantly shorter inspection reports.<sup>12</sup> Inspectors are not required to include anything about subcontracting practice or individual subcontractors in their inspection reports, even if the directly funded provider subcontracts a significant portion of its provision. However, some information about subcontracting is consistently reported in all inspections in the 'Provider details' table. This is at the end of every report and lists the main subcontractors that are working with the provider at the time of inspection.

In the same year, we also moved towards a new method of evidence collection, from paper-based forms to an electronic evidence gathering (EEG) application. Inspectors now type their evidence into tablets during inspection rather than write on paper.

Our internal review of inspection reports suggests that inspectors routinely mention subcontracting within the main body of the inspection report. For example, 30 of the 47 reports in our sample that were linked to large subcontractors had commented on subcontracting. This was more common within our sample in common inspection

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<sup>12</sup> Our findings in this section relate to reports and evidence collected under two frameworks, the CIF and EIF.

framework (CIF) inspections than EIF inspections. Inspectors in our focus groups identified the reduced word limit in EIF reports as a reason for this:

'I think that, as [Inspector 6] has indicated, it's a challenge to include everything you want to within the new short-form reports.' (Inspector, group 4)

We found that these reports did not always specify what inspection activities were carried out with which subcontractors, or name individual subcontractors. Instead, subcontractors were generally referred to as a group. For example, in our sample of reports, only four of 47 reports associated with large subcontractors picked out individual subcontractors by name. This means that readers cannot tell what evidence inspectors are basing their evaluation of subcontracting on. It would be possible for those who are not familiar with the regulation of subcontractors in FES to assume, for example, that Ofsted interacts with all subcontractors to the same depth as part of an inspection of a directly funded provider.

Some of the smaller subcontractors we spoke to reported that they are reputationally associated with the inspection grades that their directly funded partners receive. Several told us they felt this was unfair if they had not been directly involved in the inspection themselves, particularly if the judgement was negative.

For combined providers, it was also possible that the grade they received for their directly funded provision could be associated with all of their provision's quality, particularly as they recruit learners, rather than the directly funded provider. This is problematic because the directly funded provision significantly differed, in terms of course structure, sector and teaching method, in around half the combined providers we spoke to, compared with their subcontracted provision.

## **Evidence bases**

Our review of both EEG and paper evidence bases showed that subcontractors are not routinely named within the data. It is therefore hard to work out what activities were done and with whom on inspection.

Our review of evidence bases also raised a concern that the move to EEG may be leading to less detailed evidence recorded during inspection. Notably, subcontractors tended to be named on paper forms more frequently than in EEG 'evidence cards' used for EIF inspections. We should not rush to generalise this finding because the sample of EEG evidence bases was small and the change in evidence recording could be due to other reasons, such as unfamiliarity with the new system in the first few weeks of use, which coincided with our period of evidence collection.

## **Implications for our practice**

Our inspection approach is focused on making valid and holistic judgements of a directly funded provider. This is because directly funded providers have legal responsibility for quality of education in their funded provision, whether or not they

subcontract that education. It is the directly funded provider that holds the funding agreement with government. If we directly inspected subcontractors, the ESFA would not have the regulatory powers to act in cases of poor quality because it does not have a direct contractual relationship with subcontractors.

When we inspect directly funded providers, we sample a proportion of activities across the provider. We aim for good coverage to arrive at holistic judgements. It is not practical, efficient or necessary to review every activity and all provision to arrive at a sound understanding of overall quality of provision.

The way in which we approach subcontracting as part of our inspection is similar, sampling providers to give us a rounded judgement of the provider's management of the contracts in the context of a wider inspection. For subcontracting, these findings then feed into the leadership and management judgement and, where appropriate, quality of education judgement for the directly funded provider.

Our evidence suggests, however, that there are limits to this approach because both parties have some influence over quality of provision. Our research suggests that subcontractors can greatly influence the day-to-day quality of provision for learners. Directly funded providers sometimes cannot or do not exert enough influence in the relationships to manage and control quality of provision within a subcontract well. For example, directly funded providers may not have the necessary subject or industry expertise to be able to evaluate a subcontractor's curriculum or to review provision meaningfully. This also means that, due to some subcontractors having a substantive influence on quality, different contracts within a directly funded provider can significantly vary in terms of quality. All things considered though, directly funded providers have ultimate control over how long a contract runs and can choose to cease the arrangement if it is of poor quality.

An unintended consequence of our sampling approach on inspection is that some subcontractors are visited more than once and others are not visited. Our recording practices, however, mean that we know our coverage nationally is incomplete, but we cannot identify the exact gaps.

Inspectors reported that our oversight of subcontracted education could be improved by performing more activities and sampling more contracts on inspections.

Inspectors reported that this could be done through:

- greater use of, and more, 'flexible inspection resource' (adding more inspectors or adding inspectors with specific expertise to an inspection)
- joining up data on subcontractors visited as part of inspection, to feed into future inspection planning and risk registers
- obtaining more accurate data from the ESFA on the number and size of subcontracting arrangements.

Inspectors reported that, in particular, more accurate data from the ESFA would enable us to more easily arrange to visit subcontracted provision that was

geographically distant as part of the inspection, because out-of-region resource could be factored into planning. It would also enable regional teams to better plan the number of inspectors needed to cover subcontracted provision more extensively, without detracting from the activities performed with the directly funded provider. Our evidence shows, however, that some other practical constraints are outside of our gift to change, such as provision scheduling.

We already have procedures to help mitigate against the discrepancy between the data supplied and the picture on the ground in the form of our 'flexible inspection resource'. This resource can be requested by the lead inspector on inspection for a variety of reasons. It was, however, clear that we could do more to grow use and knowledge of this resource among our inspection workforce for when they need to review subcontracts.

Our findings on our reporting practices show that subcontractors are often mentioned as a group and it is not always clear which judgements the evidence from them had fed into. It is therefore possible for subcontractors to be associated with a judgement grade, in terms of quality of education, which they took no part in and which may not be an accurate reflection of their provision.

## Next steps

We have already increased our focus on the management of subcontracted provision within directly funded providers over the past two years. In February 2018, we increased our inspection resource around subcontracted provision and carried out a sample of risk-based monitoring visits to providers. Our research has, however, highlighted the importance of reviewing subcontractors within our current model.

Although we are open to exploring directly inspecting subcontractors with the ESFA, for now we will continue to inspect subcontractors as part of inspections of directly funded providers. This is due to the fact that we would need significantly more resource and access to better data in order to inspect subcontractors directly, alongside needing adaptations to the ESFA's powers so that any cases of poor quality would result in action being taken against the subcontractor to stop poor practice continuing.

We will, however, seek to make our current approach to oversight more comprehensive and transparent by:

- working with the ESFA to improve our access to subcontracting data
- better briefing inspectors and further internally communicating the existing resource available on inspection to investigate subcontractors, so that we can visit more subcontractors and examine subcontracted provision more thoroughly
- changing our systems to systematically and consistently record which subcontractors we visited in any depth on inspection
- naming more subcontractors within our evidence bases

- highlighting and naming more subcontractors, where appropriate, in the body of our reports and their tables to improve the transparency of reporting.

## Conclusion

This report demonstrates the value in bringing together the evidence on quality of subcontractors at a national level. As the FES landscape changes during the COVID-19 pandemic, it is important that the evidence on subcontractors' quality influences decision-making across the sector.

Our findings show that the evidence we hold on subcontractors' quality could be improved without directly inspecting them. We are working with the ESFA to improve our access to relevant data, allowing us to evaluate and report on subcontractors in greater depth within our inspections of directly funded providers.

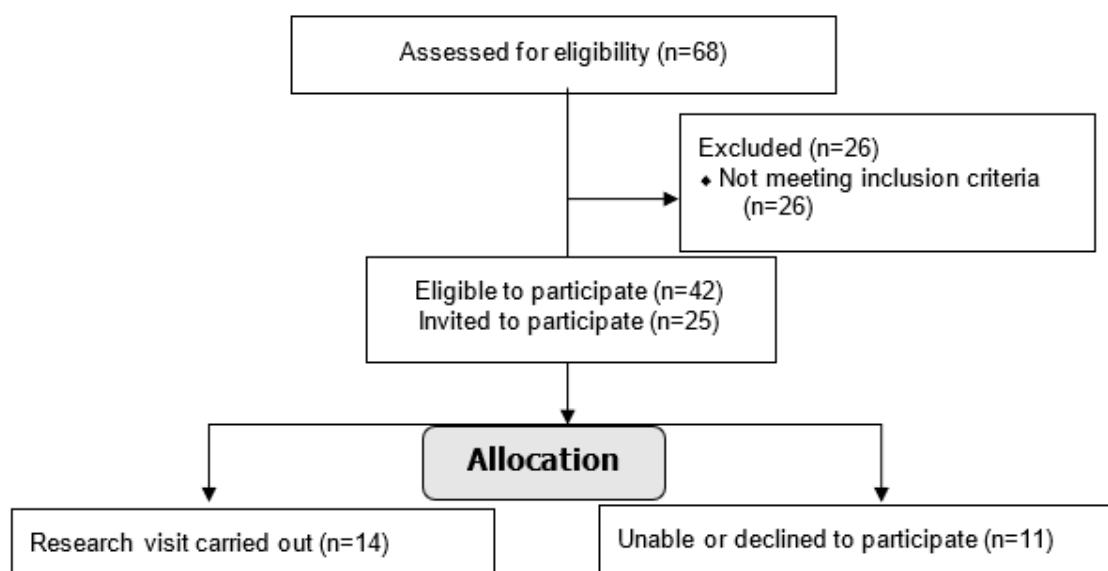
## Appendix 1: Methods and sample

This appendix sets out in more detail each of the methods and samples we used in this study. Detail about the generalisability of the findings can be found in the main body of the report.

### Research visits to subcontractors

We used a convenience and purposive sampling method to invite subcontractors to take part in the research project. This was due to there being no reliable data set which encompassed the subcontracting sector in autumn 2019. This meant we could not draw a representative sample of subcontractors to invite. Instead, we set out to visit a diverse group of up to 15 subcontractors that delivered provision as part of a subcontract. Figure 6 shows our sampling flow.

**Figure 6: Sample flow for research visits**



We identified 68 subcontractors that we were reasonably sure had live arrangements to deliver provision as part of a subcontract, through reviewing recent inspection reports of directly funded providers. We then excluded subcontractors that:

- could be part of an inspection within the next year, due to concerns about burden on providers
- combined providers that had not yet received an Ofsted inspection, which is our standard policy
- were linked with ongoing 'inadequate' inspection challenges, which is again our standard policy.

We took the remaining 42 subcontractors and grouped them into approximately 15 groups of two to four similar subcontractors. We grouped subcontractors together

based on type of provision they delivered, their sector and inspectors' expertise. Any additional subcontractors were held in a reserve list.

Each of the subcontractors in a group was assigned a number between one and four. A member of the project team then called the subcontractor numbered 1 in each cluster to recruit them to the project. When a subcontractor felt it was unable to take part, the second subcontractor in the same cluster was called to replace it and so on. If all subcontractors were exhausted, we contacted subcontractors in the reserve list or those that were ranked two to four when we had secured a visit with the subcontractor numbered 1. In total, we secured 14 research visits to subcontractors. Table 3 show a list of their characteristics at the time of our visits. To maintain anonymity, we have deliberately kept categories broad.

**Table: 3 Characteristics of subcontractors visited**

Visit number	Provider type	Provision type	Main sector(s)	Geographic reach
1	Combined	Adult education short courses 16 to 19 courses Apprenticeships	Protective services Business administration	National
2	Stand-alone	Adult education short courses	Transport and logistics	Regional
3	Combined	Adult education short courses 16 to 19 courses Apprenticeships	Hair and beauty Business and administrative	Regional
4	Combined	Apprenticeships	Children and education Business and administrative Digital	National
5	Stand-alone	Apprenticeships 16 to 19 courses	Hair and beauty	Local
6	Combined	Apprenticeships	Children and education	Regional
7	Stand-alone	16 to 19 courses Adult education short courses	Creative and design	Local
8	Combined	Adult education short courses Apprenticeships	Social care Business and administrative Children and education	National
9	Stand-alone	Adult education short courses	Range of adult learning courses focused on employability	Regional
10	Combined	Adult education short courses	Transport and logistics	Regional
11	Stand-alone	Adult education short courses	Wide range of adult learning courses	National
12	Stand-alone	Adult education short courses	Range of adult learning courses focused on life skills	Regional
13	Stand-alone	Adult education short courses	Range of adult learning courses focused on life skills	Local
14	Stand-alone	Apprenticeships	Hair and beauty	Local

Research visits were carried out by trained inspectors during the autumn term in 2019/20. Our research and evaluation staff attended some of the visits. The exact numbers of activities in the visits varied depending on the nature of the subcontractor and its internal structure. This was discussed with the subcontractor from the outset. The visits focused on gathering evidence on the internal workings of subcontractors and their provision, as well as exploring their relationships with directly funded subcontractor(s). Activities included:

- interviews with senior managers, curriculum leads and contracting officers
- observations of provision and work
- discussions with learners
- discussions with teaching staff, where appropriate
- follow-up telephone interviews with employers, where applicable.

Interviews with subcontractors' staff were recorded, transcribed and then analysed using qualitative analysis software. On the rare occasion a recording failed, notes taken during the interviews were analysed in their place. Observation and discussion notes were written up on standardised forms by inspectors. These were then imported to add to the interview analysis.

## **Focus groups with FES inspectors**

We ran four focus groups with 38 FES inspectors from different regions. In these focus groups, we introduced the project, its aims and objectives and then asked a series of open questions to unpick:

- inspectors' decision-making around subcontracting on inspection
- the extent to which subcontracting informs judgements of directly funded providers
- how subcontracted provision feeds into report writing.

Each session was run by two members of the research and evaluation team. The focus groups were recorded, transcribed and then analysed using qualitative coding software.

## **Desk reviews of inspection reports and evidence**

We performed two desk reviews as part of this work. The first review was from a representative sample of 40 full inspection reports. These reports were extracted in 2019 and contain inspections performed under two frameworks: the CIF and the EIF. This sample was representative in terms of overall Ofsted judgement, region and provision type for the following types of subcontractors that we visited between February 2018 and September 2019: independent learning providers, local authority providers, not-for-profit organisations, employer providers, specialist designated institutions, general further education colleges, sixth-form colleges and specialist further education colleges.

A member of the project team systematically reviewed all reports for evidence of subcontracting. When subcontracting was present in the report, the corresponding evidence base was extracted. Fifteen out of 40 reports contained evidence of subcontracting. Of these 15 reports, 11 had available evidence bases. Ofsted's strict data retention and deletion policy meant that four evidence bases had been deleted. When evidence bases were available, all available evidence was systematically analysed for evidence of practice around subcontracting.

The second desk-review task was addressing large subcontractors. We sampled nine large subcontractors, defined as those that held contracts worth a cumulative value of £100,000 or more. The large subcontractors were drawn from the ESFA's database of declared subcontracting intentions. The large subcontractors in our sample held from one to 10 contracts with directly funded providers. We then used this database to identify which providers the subcontractors were likely to be working with over the last five years. All reports on these (directly funded) providers, published over the last five years, were read to see what we could learn about the subcontractors in our sample and their subcontracting practice more broadly. Some of the subcontractors we identified were also directly funded providers. When this was the case, we read their own inspection reports to see if there were any differences between their directly funded and subcontracted provision. This amounted to a total of 52 inspection reports in our sample.

## **Analysis using publicly available data**

Our data and insight team carried out analysis using data published by the ESFA covering declared subcontractors, with cumulative contract values of £100,000 or more.<sup>13</sup> The latest list was published in February 2020 and covers: the subcontracting arrangements for directly funded apprenticeships starting from 1 April 2018 to 31 March 2019 (this excludes those funded through the levy), and the subcontracting arrangements for all 19+ education and training funding streams from August 2018 to July 2019.

Within the published list, most of directly funded providers declare which subcontractors they will work with over the year and the maximum/expected amount they have agreed to pay them.<sup>14</sup> This can change during the year depending on the number of learners recruited and/or the funding they are given. There is no published data on the final amounts of money that are exchanged between the directly funded providers and their subcontractors.

## **Generalisability of findings**

Findings from our research visits reflect views of the participants we spoke to and the provision we observed. Data was mainly collected through interviews and focus

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<sup>13</sup> 'List of declared subcontractors', Education and Skills Funding Agency, February 2020; [www.gov.uk/government/publications/sfa-subcontractors-list](http://www.gov.uk/government/publications/sfa-subcontractors-list).

<sup>14</sup> A small number of main providers can put in a very low 'holding' figure (£1 or £2) to indicate that they plan to work with the subcontractor. These small contracts appear in the data when the subcontractor's total value of contracts is £100,000 or more.

groups and is thus self-reported. We did not attempt to independently verify all the information. For example, if a subcontractor reported having an IQA strategy and explained it to us, we did not request it to verify its contents.

Findings from our focus groups represent the opinions of around half of Ofsted's FES Her Majesty's Inspectors. As with the research visits, this is self-reported data. Where possible, we cross-referenced this data with our findings from our desk research activities.

Findings from our inspection reports can be generalised to be representative of Ofsted's selection practice between February 2018 and September 2019 for the following provider types: independent learning providers, local authority providers, not-for-profit organisations, employer providers, specialist designated institutions and all college types. The reports cover inspections performed under two frameworks: the CIF and EIF.

Findings from our evidence bases represent those inspections only, as only 11 of 15 reports we reviewed had available evidence bases. Ofsted's strict data retention and deletion policy meant that four evidence bases had been deleted. As with the reports, our evidence bases covered inspections performed under the CIF and EIF.

Findings from our case studies of large subcontractors that deliver significant amounts of provision within a subcontract apply to those reports we reviewed only.

Our quantitative analysis is based on publicly available data from the ESFA. The ESFA publishes this list around once a year. This list covers subcontracting for apprenticeships and 19+ learner funding streams where the subcontractors in question have intended cumulative contract values over £100,000 only. The data, and our analysis, therefore, excludes small subcontractors (with values under £100k) and does not cover 16 to 19 education and training funding streams. The available data covers intended/expected contract values. Data is not published that covers the final amounts of money exchanged between the directly funded providers and their subcontractor(s).

## Appendix 2: FES policy developments 2009–2020

This appendix sets out some of the main policy developments and department changes within FES over the previous decade. It is not designed to be an exhaustive list but is there to demonstrate some of the core policy changes within the sector.

**Table 4: Summary of key FES policy developments 2009–2020**

Year	Name	Summary
<b>2009</b>	Apprenticeships, Skills, Children and Learning Act 2009	Introduced the 'apprenticeship offer' to provide an apprenticeship place to all qualified young people (aged 16 to 19) who did not have one and wanted one. Included provisions intended to ensure that young people in schools receive proper information, advice and guidance about vocational training opportunities.
<b>2010</b>	Higher Apprenticeship Fund	The fund aimed to develop a range of higher-level apprenticeships and fund 20,000 apprentices by 2015. The fund, totalling £25 million, was awarded to 29 higher apprenticeship projects, in sectors including accountancy, engineering and law.
<b>2010</b>	Departmental change: Education Funding Agency and Skills Funding Agency established	The Education Funding Agency (EFA), and The Skills Funding Agency (SFA) were created to take over funding responsibilities within the FES sector from the Learning and Skills Council. EFA was housed within the Department for Education and was responsible for funding learners age 16 to 19. SFA was part of the Department for Business, Innovation and Skills and was responsible for adult funding.
<b>2011</b>	Education Act 2011	The Education Act 2011 removed the previous 'apprenticeship offer' created by the Apprenticeships, Skills, Children and Learning Act 2009. Instead, the Education Act 2011 introduced a new duty, the new 'apprenticeship offer', to fund apprenticeships for young people who have already secured a place. A new duty was also created to 'make reasonable efforts to ensure employers participate in apprenticeship training'.
<b>2011</b>	'Access to Apprenticeships' pathway	The pathway was targeted at 16- to 24-year-olds requiring extra support and aimed to prepare them for an apprenticeship. The pathway involved unpaid work experience focusing on specific elements of an apprenticeship framework, for up to six months.
<b>2011</b>	Apprenticeship Grant for Employers of 16- to 24-year-olds	The scheme was set up to pay £1,500 to small businesses hiring a young apprentice if the firm had not hired an apprentice before.
<b>2012</b>	Employer Ownership of Skills Pilot	The Employer Ownership of Skills Pilot was a fund awarded to businesses in England engaged in designing and delivering their own training solutions.
<b>2012</b>	Minimum standards for apprenticeships	The Statement on Apprenticeship Quality summarised the aspects of apprenticeships subject to minimum standards:

a minimum length of 12 months, 280 hours guided learning, employed for 30 hours a week, and training to Level 2 in maths and English.

<b>2012</b>	The Richard Review of Apprenticeships in England	The review examined how apprenticeships meet the needs of the economy, how they deliver quality training, and how to maximise the impact of government investment in apprenticeships.
<b>2013</b>	Advanced Learning loans for apprentices	Advanced Learning loans were the first-time apprentices (aged 24 and over, studying at Level 3 and above) were expected to pay towards the cost of their training. Employers contributed up to half of the training costs and apprentices were expected to contribute the remainder through Advanced Learning loans.
<b>2013</b>	Traineeships	To help young people get an apprenticeship or other job, traineeships provide education, training and work experience to young people aged under 24, who are unemployed and have little work experience but can be prepared for employment or an apprenticeship within six months.
<b>2014</b>	New Apprenticeship Standards and Funding	Employer-led apprenticeship standards are being developed through employer groups to make apprenticeships more responsive to employer needs. In line with recommendations from the Richard Review, the government will route apprenticeship funding through employers rather than paying training providers directly.
<b>2015</b>	Deregulation Act 2015	The Act made several changes to simplify the existing apprenticeship system and formally separated apprenticeships in England and Wales.
<b>2016</b>	Targets for public bodies	The Enterprise Act 2016 provided the Secretary of State with the power to set targets for apprenticeships in public bodies in England to contribute towards meeting the national targets. A consultation document was published on apprenticeship targets for public sector bodies.
<b>2016</b>	Establishment of ESFA	The Skills Funding Agency, formerly part of the Department for Business, Innovation and Skills, was combined with the Education Funding agency, part of the Department for Education. Responsibility for apprenticeships and skills, along with higher and further education policy, was all transferred to the Department for Education.
<b>2016</b>	The Institute for Apprenticeships	The institute was established by the Enterprise Act 2016. The aim of the institute is to ensure high-quality apprenticeship standards and to advise the government on funding for each standard.
<b>2016</b>	Changes to apprenticeship funding	The Department for Education and the ESFA published proposals for changes to apprenticeship funding on 12 August 2016. Following a consultation exercise, the final funding policy was published on 25 October.

<b>2017</b>	Apprenticeships levy	The apprenticeship levy came into effect in 2017, with all UK employers with a pay bill of over £3 million per year paying the levy. The levy is paid into an apprenticeship service account, and funds in this account must be spent on apprenticeship training and assessment.
<b>2018</b>	National Retraining Scheme	The scheme included a new careers guidance service to help people identify work opportunities in their area and courses to develop key transferable skills.
<b>2018</b>	RoATP redesign	Following a review of the RoATP, ESFA announced a strengthened approach in 2018, according to which only providers that meet the tougher registration requirements can access government funding. The new rules also require subcontractors delivering less than the previous threshold of £100,000 a year to be listed on the RoATP.
<b>2019</b>	Adult Education Budget (AEB) Devolution	In 2015 to 2016, the government agreed the transfer of certain adult education functions, in the Apprenticeships Skills, Children and Learning Act 2009, to local areas. The relevant part of the AEB participation budget was transferred to local areas to carry out the adult education functions, from academic year 2019/2020.
<b>2019</b>	Spending Round 2019	This set out £400 million of additional funding for further education (covering 16 to 19 education), which included funding to develop the National Retraining Scheme to equip people with the skills they need for the future.

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