



1. Home (<https://www.gov.uk/>)
2. Complaints about post 16 education and training provision funded by ESFA (<https://www.gov.uk/government/publications/complaints-about-post-16-education-and-training-provision-funded-by-esfa>)
 1. Education & Skills Funding Agency (<https://www.gov.uk/government/organisations/education-and-skills-funding-agency>)

Guidance

Complaints about post 16 education and training provision funded by ESFA

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Contents

1. What this complaints procedure covers
2. What ESFA can investigate
3. What to do when you have a complaint



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1. What this complaints procedure covers

This procedure is for:

- learners
- parents
- authorised representatives of the learners
- employers

It sets out when and how to complain about post 16 training and education providers where the course in question is funded by the Education and Skills Funding Agency (ESFA). Employers may make a complaint either on their own behalf or on behalf of their apprentice where permission has been given.

The training and education providers covered by this procedure are:

- post 16 further education (FE) colleges
- sixth-form colleges
- independent training providers
- organisations delivering apprenticeships, including to their own staff, where we fund the apprenticeship provision
- organisations delivering Advanced Learner Loans and associated training
- organisations delivering other post 16 education and training such as specialist post 16 institutions
- organisations delivering end-point assessments for apprenticeships
- organisations that we no longer fund or those that have gone into administration/liquidation (we are limited in our powers to act in these instances, but will help and advise where possible)

ESFA, on behalf of the Secretary of State for Education, aims to deal with complaints fairly and proportionately.

Organisations should investigate your complaint in a full and fair way. ESFA can investigate whether they have done this.

This procedure does not cover the following:

- complaints concerning higher education (HE) courses in FE colleges, which you should direct to the Office of the Independent Adjudicator for HE (<http://www.oiahe.org.uk/contact-us/address-and-telephone-number.aspx>) (including degree apprenticeships)
- complaints concerning higher education (HE) institutions or universities including the Open University, which you should direct to Office of the Independent Adjudicator for HE (<http://www.oiahe.org.uk/contact-us/address-and-telephone-number.aspx>) (including degree apprenticeships)
- academies, including 16-19 academies, which should follow the academies complaints procedure (<https://www.gov.uk/government/publications/complain-about-an-academy>)
- academies, including 16-19 academies, which should follow the academies complaint procedure
- schools (including non-maintained special schools), which should follow the schools complaints procedure (<https://www.gov.uk/complain-about-school>)
- organisations that we do not contract with directly, including those who are delivering for another organisation that we do fund
- learners who are self-funded
- allegations of misuse of public funds or financial irregularity which we pass to our allegations team
- awarding bodies or awarding body documentation/text books - you should issue the relevant awarding body with a formal complaint
- complaints about qualifications, examinations and tests, which you should direct to the Office of Qualifications and Examinations Regulation (Ofqual) (<https://www.gov.uk/government/organisations/ofqual/about/complaints-procedure>)
- complaints about inspections by the Office for Standards in Education, Children's Services and Skills (Ofsted) (<https://www.gov.uk/government/organisations/ofsted/about/complaints-procedure>) which you should direct to it

We cannot help with complaints about:

- issues that are more than 12 months old except for exceptional cases related to some Advanced Learner Loans
- examination results, grades, marks assessment outcomes or curriculum content
- employment issues including potential employment (such as recruitment) with colleges, providers and employers - this includes employment concerns for an apprenticeship or a member of the college's staff
- governor or other voluntary employment issues at colleges and providers
- contractual or commercial disputes or arrangements between a provider and a party providing services to the provider or someone who is not a learner
- disputes between an employer and a provider in relation to the apprenticeship levy
- matters that are the subject of legal action
- matters that are better investigated by the police (we will assess this on a case by case basis and will explain our decision to you)
- the cancellation or reimbursement of an Advanced Learner Loan or fees paid. These matters should be referred to the Student Loans Company
- claims for compensation, a refund of fees or costs incurred when a learner has to transfer to another provider

- issues we have classified as serial (if this is the case we will have informed you of this)
- allegations of fraud, financial irregularity, whistleblowing and allegations of incentives or inducements from either providers or in the case of transfers, between two employers – these should be directed to the Allegations team via email to allegations.mailbox@education.gov.uk
- safeguarding concerns, which are not covered by the complaints procedure but we will pass these onto the appropriate team within ESFA who will contact the provider. We may also contact other organisations such as Ofsted and local authorities

For complaints about the prevention of extremism and radicalisation in post 16 organisations please email: counter.extremism@education.gov.uk.

2. What ESFA can investigate

We can only consider complaints on behalf of learners or apprentices whose courses we fund, or employers that we fund.

We cannot re-investigate a complaint you have made to the organisation. We can review whether the organisation has investigated your original complaint in line with their procedure.

We can only investigate if you have exhausted the organisation's own complaints procedure, including any appeal.

We can investigate complaints about the organisations we fund in relation to:

- the quality, management or experience of education and training
- undue delay or non-compliance with their published complaints procedures
- poor administration
- the quality of assessments for example, how an assessment or an end point assessment has been done (excluding outcomes)
- equality and diversity issues (except where there is a more appropriate mechanism for dealing with the matter, for example through the court, tribunals or other organisations)
- Advanced Learner Loans
- apprenticeship providers from employers
- from employers, parents or other third parties on behalf of apprentice(s) (with written permission)

3. What to do when you have a complaint

3.1 Complain to the organisations delivering the education or training

Before contacting ESFA, you must issue a formal complaint to your provider and exhaust their complaints procedure, including any appeals processes.

Providers should have a complaints procedure:

- and ensure that learners and employers are made aware of it; and
- for employers that is set out in the agreement they have with the employer.

Your provider should investigate your complaint in accordance with their policy.

You should receive a letter or email explaining the outcome of your complaint, and which should also show

that you have fully exhausted the organisation's complaints procedure.

3.2 When to contact ESFA

If you have fully exhausted the provider's complaints procedure, have evidence of this and remain dissatisfied, you can contact ESFA.

You can also contact ESFA if you are being prevented from exhausting the organisation's complaints procedure, or if you are no longer able to contact them because they are no longer trading.

3.3 How to complain to ESFA

We only accept complaints in writing, by email or letter, except where we are required to make reasonable adjustments. Please let us know if this applies to you, either through a third party or by calling us (<https://www.gov.uk/contact-dfe>), and we will arrange for someone to handle your complaint accordingly.

If you have difficulties in providing details in writing or if you are under 18, we will consider complaints made on your behalf by a third party. You will need to confirm that we can communicate with that third party on your behalf. If the complaint is on behalf of more than one person, we will need written permission from everyone.

You should email complaints to complaints.esfa@education.gov.uk, or put them in a letter to:

Customer Service Team,
Education and Skills Funding Agency
Cheylesmore House
Quinton Road
Coventry CV1 2WT

When you contact us about your complaint, you will need to provide us with the following:

- the name of the organisation you are complaining about
- details of what your complaint is, together with the relevant documents
- evidence that you have fully exhausted the organisation's complaints procedure, including any appeals process (for example, written correspondence confirming the outcome)
- permission to disclose details of your complaint to the organisation concerned
- if you are acting on behalf of a learner, evidence that you have their permission to do so

We can only investigate on behalf of learners whose courses we fund or employers that we fund. We may ask you for further information to help us confirm this.

3.4 What happens next

On receipt of your complaint, we will check:

- if we fund the course/organisation
- if it falls into one of the categories we can investigate
- if the original decision or action complained about occurred more than 12 months ago (unless it is about an Advanced Learner Loan)
- whether you have exhausted the organisation's complaints procedure including any appeals process

We will acknowledge receipt and send a copy of this procedure. We will also inform you of whether the complaint is one that we can investigate. If we cannot investigate your complaint, we may also signpost you to another organisation that may be able to help you.

We will appoint an officer with appropriate knowledge and expertise to investigate your complaint.

If we can investigate, we will email a summary of the complaint to you. In some complex cases, we will request that you agree to the summary. Where this happens, you will have 5 working days to respond to us.

Within 10 working days of agreeing a summary, we will send the information that you have provided along with a summary of the complaint to the provider. We will then ask the organisation to share with us:

- details and copies of the relevant procedure
- confirmation that their procedures have been exhausted
- a response to the summary of complaint, together with relevant documents
- confirmation that we can share the information provided with the complainant

If the organisation's procedures have not been exhausted, we will let you know that we will not investigate the matter further until that has happened. If we decide the organisation has unduly delayed resolving the complaint, or will not resolve the complaint within a reasonable timescale, we may continue to investigate. If we determine that you are self-funded, we will write to you to say that we cannot investigate the matter further.

If we need more information, we may contact those involved to get further information or evidence.

We aim to finalise the findings within 25 working days of your complaint summary being agreed. We will notify you of the outcome and our findings, and that will conclude the investigation.

If at any point during the investigation, we encounter a delay in responding to or providing correspondence, we will notify you of the delay and provide details of when you can expect a response.

3.5 What action ESFA will take

The organisations we fund are independent bodies and ESFA has limited power to intervene in their day-to-day running. ESFA's role is to ensure they have acted according to their complaints procedures.

If your complaint is upheld, we may consider action against the organisation, such as:

- asking them to review their complaints procedure to ensure non-recurrence
- asking them to review their handling of your case

Working with other ESFA teams and/or intelligence, we may consider:

- whether we continue to fund the organisation
- invoking clauses from the funding agreements, financial memoranda and/or contracts between ESFA and the organisation

3.6 What to do if you are not satisfied

If you are not happy with the way we handled your complaint against a provider, you can fill in the complaint form (https://form.education.gov.uk/en/AchieveForms/?form_uri=sandbox-publish://AF-Process-f1453496-7d8a-463f-9f33-1da2ac47ed76/AF-Stage-1e64d4cc-25fb-499a-a8d7-74e98203ac00/definition.json&redirectlink=%2Fen&cancelRedirectLink=%2Fen) to issue a formal complaint about ESFA.