



National Audit Office

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## **Report**

by the Comptroller  
and Auditor General

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## **Department for Education**

# Investigation into the circumstances surrounding the monitoring, inspection and funding of Learndirect Ltd

# What this investigation is about

**1** Learndirect Ltd is the UK's largest commercial further education provider. It engages with around 75,000 learners each year. Its core business is skills, training and employment services. Most of its funding comes from the Education and Skills Funding Agency (ESFA), an executive agency of the Department for Education, but Learndirect Ltd also has contracts with other government bodies. In 2016/17, the company received £121 million from all of its central government contracts.<sup>1</sup>

**2** As it does for all providers that it funds, ESFA assesses Learndirect Ltd's financial health annually, and subjects its delivery performance to monthly monitoring and formal in-year review at fixed points. Periodically, Ofsted carries out more detailed inspection of the company. In March 2017, Ofsted carried out an inspection of Learndirect Ltd and rated its overall effectiveness as 'inadequate'. Government bodies subsequently made decisions about their ongoing funding of the company. In particular, as a result of the inspection, funding from ESFA is due to end in July 2018.

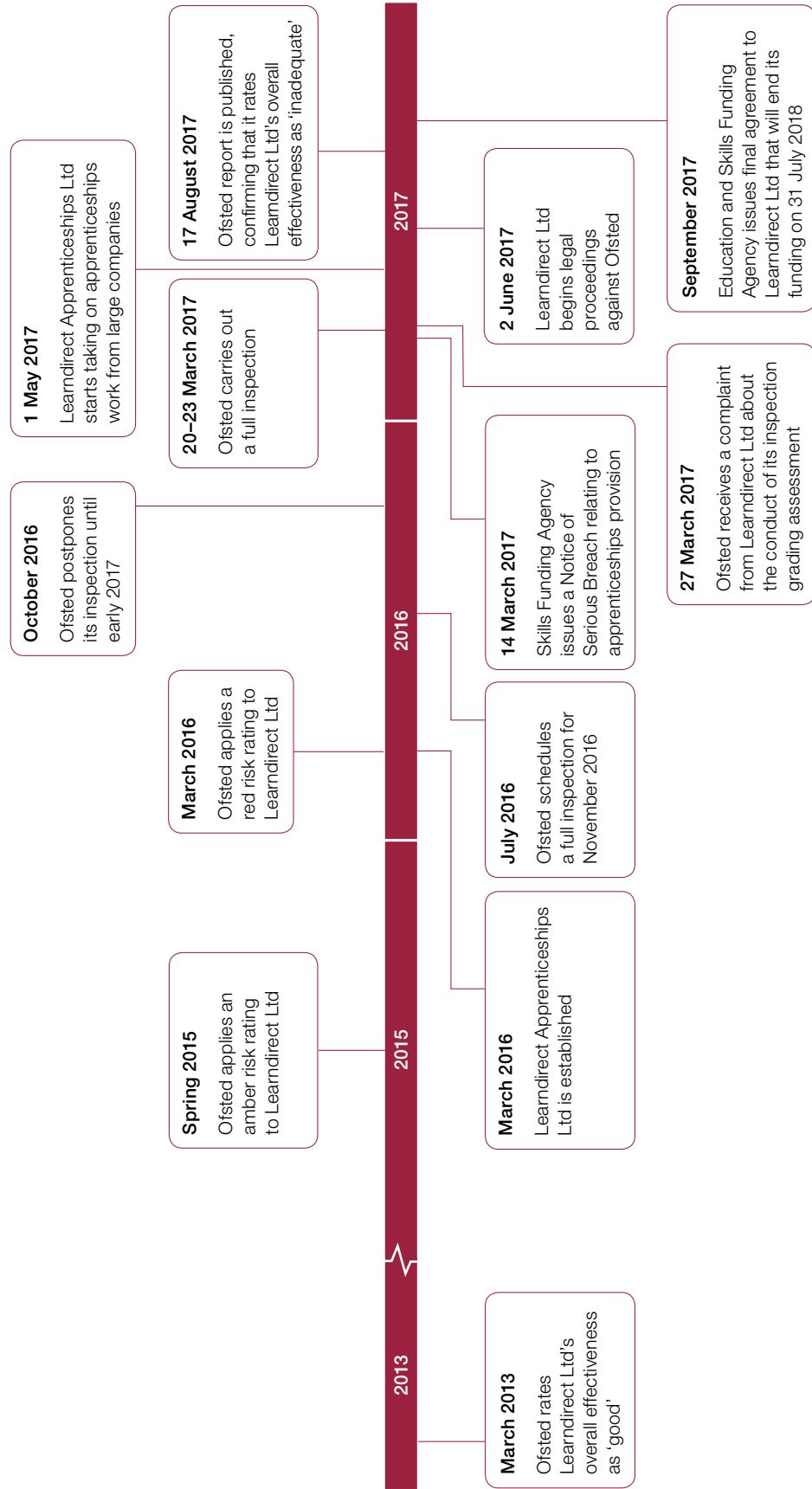
**3** Parliament and the media have questioned whether Learndirect Ltd's performance was subject to proper scrutiny, and whether correct and timely decisions were made about its continued funding. In response, this investigation sets out the facts relating to:

- monitoring activities carried out by ESFA and its predecessor body, the Skills Funding Agency;
- Ofsted's risk profiling and inspections; and
- the funding of Learndirect Ltd by a number of government bodies.

**4** This investigation focuses mainly on the period from March 2013, when Ofsted conducted its previous inspection of the company, to autumn 2017. A timeline of key events is in **Figure 1**. The report contains detailed information gathered from each of the organisations named above. However, it does not seek to evaluate the value for money of Ofsted's and ESFA's work, or to draw wider conclusions about government funding and oversight of the further education sector.

<sup>1</sup> Until 18 April 2017, Learndirect Ltd's financial year ran from August to July. This aligns with the further education sector's academic year. Throughout this report, references to Learndirect Ltd's income and activities relate to this form of financial year.

**Figure 1**  
Timeline of key events



# Summary

## Key findings

Events before Ofsted's March 2017 inspection

**1 Ofsted inspected Learndirect Ltd in March 2013, and rated its overall effectiveness as 'good'.** The inspection drew attention to the high proportion of learners who achieved their planned qualification, the quality of leadership, and the excellent management of subcontractors (paragraph 3.1).

**2 Learndirect Ltd's achievement rates (the proportion of learners who gain their qualification each year) for non-apprenticeships training were reasonably stable over time, but achievement rates for apprenticeships declined from 2012/13 onwards.** Performance monitoring carried out by the Education and Skills Funding Agency (ESFA) and its predecessor the Skills Funding Agency (SFA) showed that achievement rates for non-apprenticeship courses were just over 80% in 2011/12. They rose to just over 90% in 2013/14, but fell back to around 80% again in 2015/16 (the latest year for which data were available as at December 2017). By contrast, achievement rates for apprenticeships stood at 74% in 2011/12, but fell to 58% in 2015/16 (paragraphs 2.1, 2.2 and Figure 5).

**3 In late 2015, SFA downgraded its financial health rating for Learndirect Ltd from 'satisfactory' to 'inadequate'.** SFA noted that the company's 2014/15 accounts showed high borrowing and low profitability relative to turnover. The company extended its accounting period, and did not file financial statements for the year-end 31 July 2016. The company has explained that it took this decision because of uncertainties caused by the March 2017 Ofsted inspection. In the absence of formal financial statements, SFA received management accounts which confirmed that the 'inadequate' rating was still appropriate. SFA kept the issue under scrutiny, and in January 2017 wrote to Learndirect Ltd requiring the company to show that it was still able to meet its contractual obligations. Learndirect Ltd's most recent set of accounts, covering the 18-month period from August 2015 to January 2017, were published in November 2017 and shared with ESFA (paragraphs 2.12 to 2.15, and Figure 6).

**4 Ofsted scheduled an inspection of Learndirect Ltd for late 2016, but this did not take place.** In 2015, Ofsted rated Learndirect Ltd's risk profile as amber, because of concerns about apprenticeships and other elements of provision that it regarded as relatively small. In March 2016, it changed the rating to red, because of increased concerns about apprenticeships and other aspects of provision. Ofsted planned a full inspection for early November. In September 2016, Learndirect Ltd informed SFA that it was negotiating the sale of its apprenticeships business (a sale that did not ultimately conclude). Ofsted therefore decided to postpone the inspection to early 2017 (paragraphs 3.3 to 3.5).

**5 On 14 March 2017, SFA issued Learndirect Ltd with a Notice of Serious Breach in relation to the standard of its apprenticeships provision.** Data on achievement rates for 2015/16 showed that the company had fallen below the apprenticeships minimum standards threshold of 62%. While failure to meet minimum standards can lead to contract termination, on this occasion SFA decided to impose the less severe sanction of issuing a formal Notice of Serious Breach which requires the company to improve (paragraphs 2.3 to 2.8 and Figure 5).

**6 On 16 March 2017, Ofsted informed Learndirect Ltd that it intended to carry out an inspection on 20 to 23 March.** The company asked for the inspection to be deferred, because it was about to transfer its apprenticeships activity to Learndirect Apprenticeships Ltd. This was another company in the group, which was set up in March 2016 as a dedicated vehicle for future apprenticeships business. SFA had given approval for the change. The transfer was scheduled to take place on 1 May 2017, and meant that Learndirect Ltd would no longer carry out apprenticeships training from that date. Ofsted rejected the deferral request, and carried out the inspection as planned (paragraphs 1.8 and 3.6 to 3.8).

#### Events arising from Ofsted's March 2017 inspection

**7 On completion of its inspection, Ofsted rated Learndirect Ltd's overall effectiveness as 'inadequate', but the company challenged this judgement before Ofsted's report was published.** On 27 March, Ofsted received a complaint from the company about the timing and basis of the inspection, and the evidence gathered to reach conclusions about the quality of apprenticeships provision. On 11 May, Ofsted informed the company that its complaint had not been upheld. On 2 June, Learndirect Ltd began legal proceedings against Ofsted, challenging the conduct of the inspection and publication of the inspection report (paragraphs 3.9 to 3.11).

**8 Learndirect Ltd's legal challenge was ultimately unsuccessful, and the inspection report was published on 17 August.** The report confirmed the overall effectiveness rating of 'inadequate', which was based mainly on 'inadequate' ratings for 'outcomes for learners' and 'apprenticeships'. A 'requires improvement' rating was given for the other five elements of the inspection (paragraphs 3.11, 3.12 and Figure 7).

**9 Learndirect Ltd and Ofsted identified similar key reasons for the company's declining performance.** Ofsted identified poor management of subcontractors' performance, weak oversight of learners' progress and insufficient focus on apprenticeships training relating to small and medium-sized employers as factors that contributed to its rating of Learndirect Ltd as 'inadequate'. These areas had previously been identified as reasons for a decline in achievement rates in an improvement plan produced by the company in late 2016 (paragraphs 2.7 and 3.13).

**10 In late October 2017, Ofsted carried out a re-inspection monitoring visit.** It found that Learndirect Ltd had started to take action in response to the areas of weakness identified at the March 2017 inspection (paragraphs 3.19 and 3.20).

Learndirect Ltd's ongoing funding

**11 ESFA decided that continuing to fund Learndirect Ltd for the 2017/18 academic year, after it was rated 'inadequate', was in the best interests of learners and other public services that the company delivers.** In most cases where Ofsted rates a commercial training provider's overall effectiveness as 'inadequate', ESFA withdraws funding within three months. But ESFA concluded that funding Learndirect Ltd for the 2017/18 academic year would allow learners to complete their learning in an orderly manner. ESFA facilitated the production of a 'Heads of Terms' document in September 2017. This set out how Learndirect Ltd's contractual arrangements with ESFA and other government bodies would be amended (paragraphs 4.2 to 4.5).

**12 In 2017/18, Learndirect Ltd is expecting to generate income of around £105 million from its main government contracts, most of which will cease by July 2018.** Learndirect Ltd expects to receive around £95 million from ESFA in 2017/18 – comprised of £45 million from the Adult Education Budget (AEB), £31 million for European Social Fund 2014–2020 projects, £14 million to complete the training of existing apprentices, and £4 million from Advanced Learner Loans.<sup>2</sup> Learndirect Ltd expects a combined income of £10.8 million from contracts with the Home Office, Department for Work & Pensions, and Standards and Testing Agency (paragraph 4.1 and Figure 8).

<sup>2</sup> Just over £5 million for 16 to 18 apprenticeships, and just over £9 million for adult apprenticeships.

**13 The amount of AEB funding awarded to Learndirect Ltd for 2017/18 was based directly on a proportion of its 2016/17 funding rather than a specific bid made by Learndirect Ltd itself.** Delays in the AEB procurement as a result of the general election in June 2017 meant that all 2016/17 contracts were extended by three months, to October 2017. In late July 2017, Learndirect Ltd withdrew its bid for 2017/18 AEB funding. The company believed this would give it the best prospect of receiving some funding in 2017/18, having determined that Ofsted's inspection rating of 'inadequate' was likely to be confirmed and no AEB funding would be available if this were the case. In August 2017, new ESFA funding rules stated that providers that did not enter the procurement process, or that were unsuccessful, would receive 75% of their 2016/17 AEB funding in order to run their existing provision down and allow learners to complete their courses. ESFA wrote to Learndirect Ltd in September 2017, confirming that it would receive £45 million in AEB funding for 2017/18 (paragraphs 4.6 to 4.14, and Figures 8, 9 and 10).

**14 Learndirect Ltd has withdrawn from any new apprenticeships business.** Since publication of the Ofsted report, employers whose apprentices have not yet completed their training have been offered the choice of remaining with Learndirect Ltd or moving to alternative providers. The Heads of Terms states that Learndirect Ltd will work with apprentices whose apprenticeships are still ongoing, in accordance with the existing ESFA contract. The document also acknowledges that while Learndirect Ltd completes its training of existing apprentices, Learndirect Apprenticeships Ltd will continue to build up its apprenticeships activity with large employers (paragraphs 1.8, 1.9, 4.15 and 4.16).

**15 The Home Office and the Standards and Testing Agency plan to re-procure the service currently being provided by Learndirect Ltd.** Under the Heads of Terms, Learndirect Ltd is committed to meeting its contractual obligations. Both re-procurements are open competitive tenders, for which Learndirect Ltd will be eligible to bid (paragraphs 4.17 to 4.21).