



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

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Department for Education

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

Report by the Comptroller and Auditor General

Ordered by the House of Commons  
to be printed on 13 December 2017

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National Audit Act 1983 for presentation to the House of  
Commons in accordance with Section 9 of the Act

Sir Amyas Morse KCB  
Comptroller and Auditor General  
National Audit Office

12 December 2017

Our investigation focuses on the circumstances relating to the monitoring of Learndirect Ltd by the Education and Skills Funding Agency, the inspection of the company by Ofsted, and the funding of the company by various government bodies.

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## **Investigations**

We conduct investigations to establish the underlying facts in circumstances where concerns have been raised with us, or in response to intelligence that we have gathered through our wider work.

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# 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.

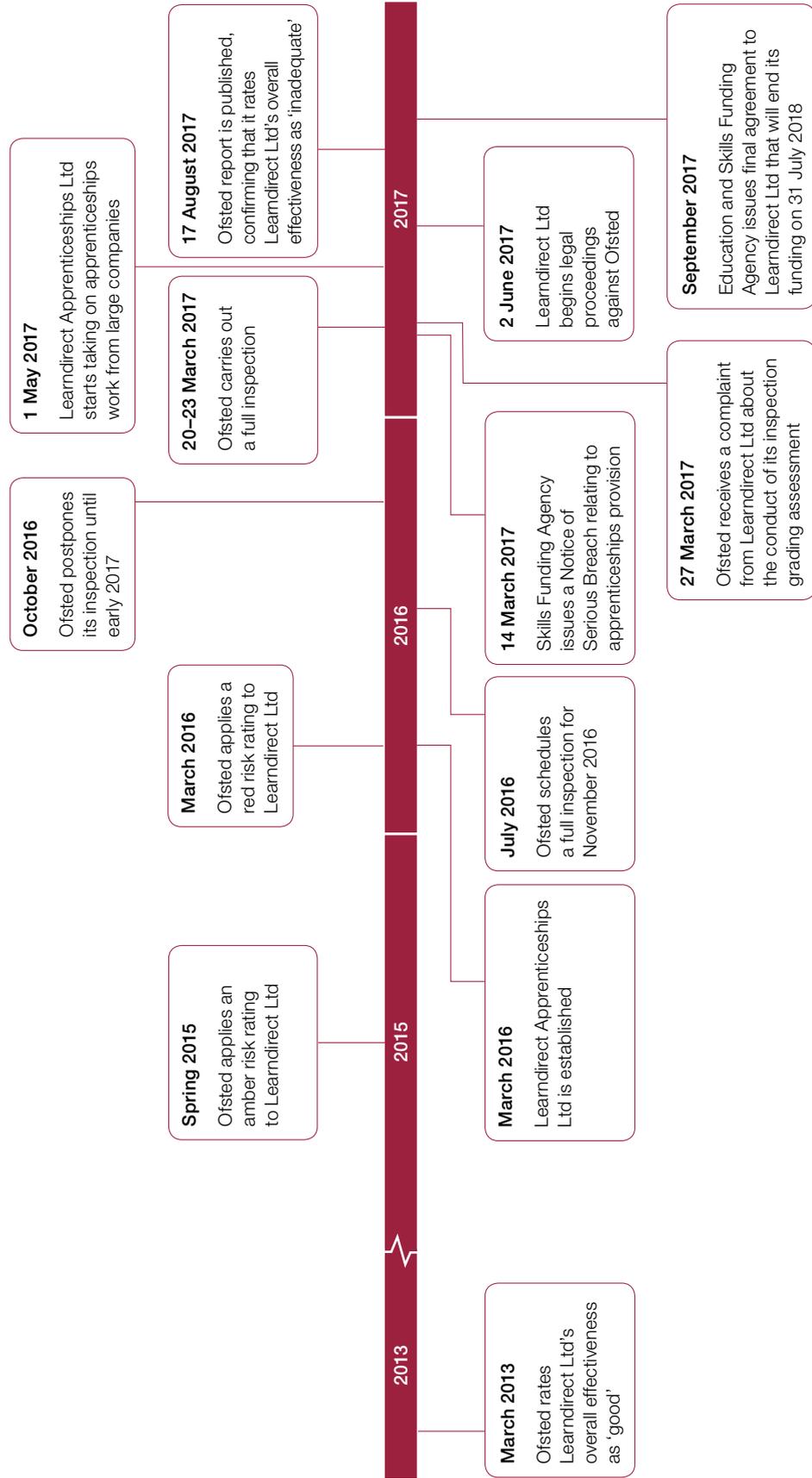
**3** Parliament and the media have questioned whether Learndirect Ltd's performance was subject to proper scrutiny, and whether correct and timely decisions were made about its continued funding. In response, this investigation sets out the facts relating to:

- 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).

# Part One

## The further education sector and Learndirect Ltd

**1.1** Further education broadly means formal learning that takes place outside of schools and higher education institutions. Around 4 million people learn in the further education sector each year. In England, this learning is provided by over 1,000 education and training providers, including around 190 general further education colleges, around 70 sixth-form colleges and over 700 commercial or charitable bodies.

**1.2** The Department for Education is responsible for the regulatory framework and policy governing further education in England. Most providers receive the majority of their funding from the Education and Skills Funding Agency (ESFA). ESFA's remit covers England only. It is also responsible for: ensuring that this funding is spent correctly; monitoring the financial health of providers; and checking that providers meet minimum performance standards in the main areas of provision that it funds.

**1.3** ESFA began operating in April 2017, subsuming two separate bodies: the Skills Funding Agency (SFA), whose role was to provide funding relating to learners aged 19 and over; and the Education Funding Agency, which had a parallel role with regard to learners aged 16 to 18.

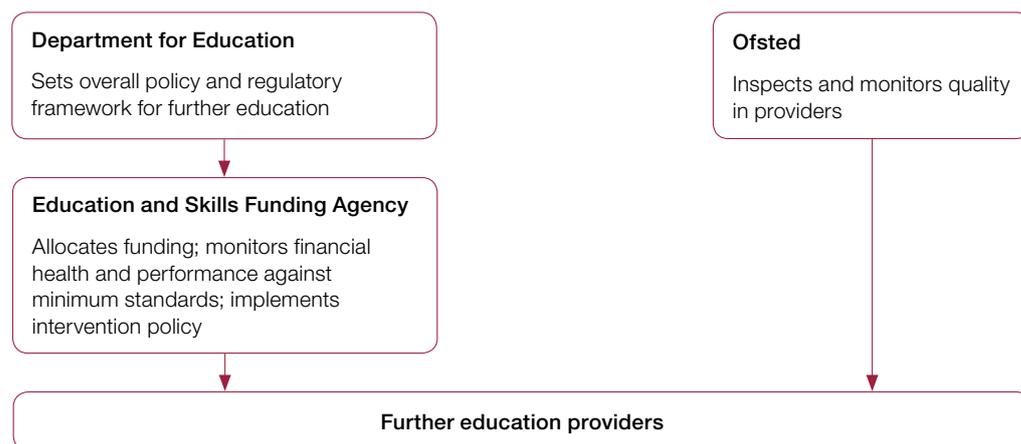
**1.4** Ofsted, whose remit also covers England only, inspects providers periodically, taking a risk-based approach. Poor performance in an Ofsted inspection can have serious consequences in terms of continued funding and operation within the sector. Funding and oversight arrangements in the sector are set out in **Figure 2**.

**1.5** Learndirect Ltd is part of the Pimco (Holdings) Ltd group, of which the private equity firm Lloyds Development Capital is the major shareholder. Learndirect Ltd was bought from Ufi Charitable Trust in 2011. The Trust became a registered charity in 2000, having been set up by government in 1998 as Ufi Ltd. It is the UK's largest commercial provider of skills, training and employment services. In early 2017 it had a network of 41 centres across the country, employing around 1,800 people. It trains learners for qualifications in core skills such as mathematics, English and information technology. It also offers a wide range of vocational qualifications, and provides the off-the-job training element for apprentices across numerous industries. Each year, the company engages with over 20,000 apprentices and around 55,000 other types of adult learner.

**Figure 2**

## Main funding and oversight arrangements for the further education sector

The Education and Skills Funding Agency (ESFA) gives funding to education providers. Ofsted is a non-ministerial government department that inspects education providers

**Notes**

- 1 The remit of the Department for Education, ESFA, and Ofsted covers England only. However, some further education providers may also be active in other parts of the UK and be funded by the devolved administrations for activity in these countries.
- 2 ESFA began operating in April 2017, having subsumed two separate funding bodies: the Skills Funding Agency (which funded adult learners) and the Education Funding Agency (which funded non-adult learners).

Source: National Audit Office

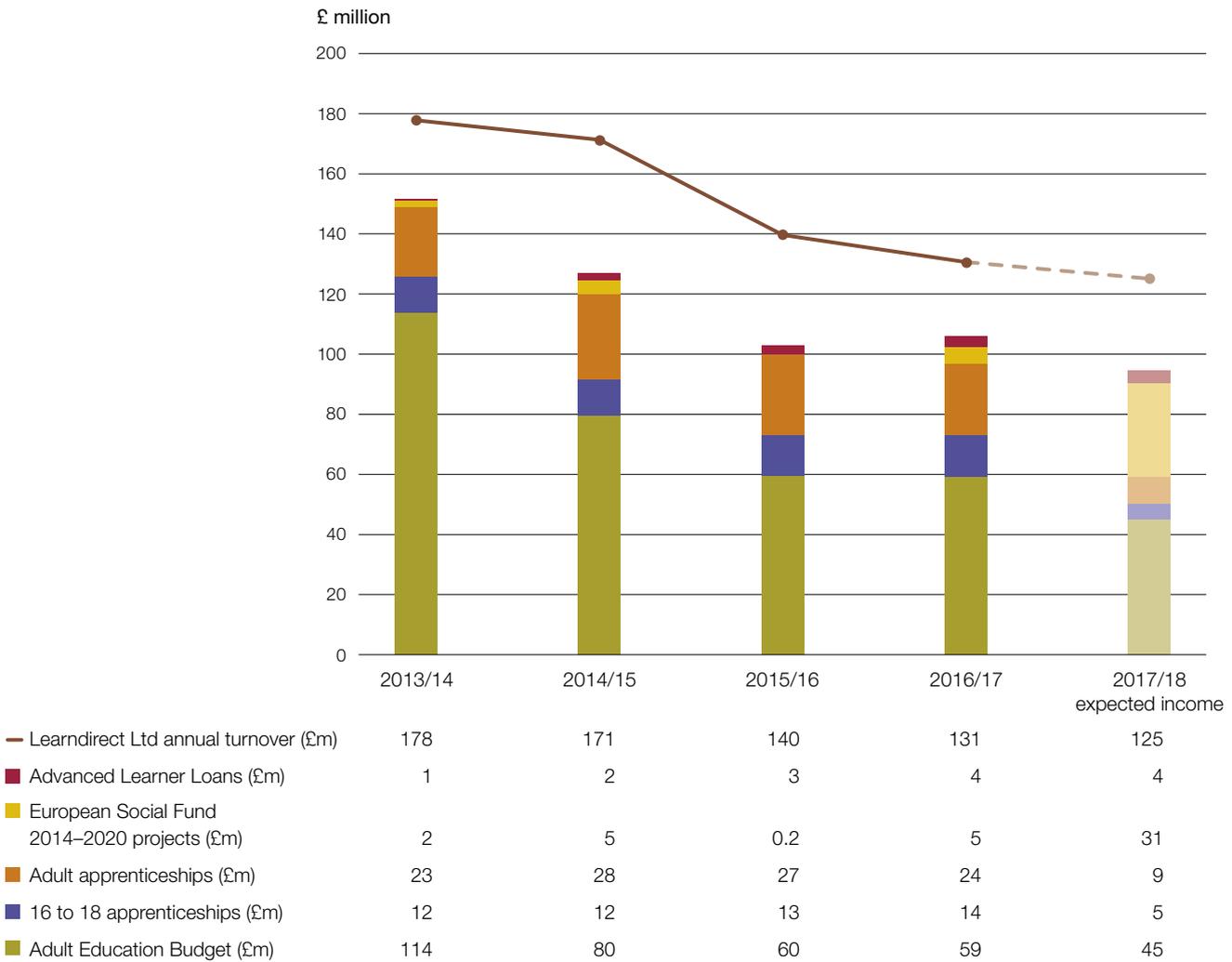
**1.6** In 2016/17, Learndirect Ltd received income of around £106 million in total from its ESFA contracts. **Figure 3** overleaf shows annual ESFA funding since 2013/14. Learndirect Ltd generated an income over £13 million in 2016/17 from its other main government business, comprising:

- £6.4 million from a contract with the Home Office to administer the 'Life in the UK' citizenship test;
- £3.8 million from a number of contracts with the Department for Work & Pensions (DWP) for employment related services; and
- £3.2 million from a contract with the Standards and Testing Agency to administer the initial teacher training tests for prospective teachers.

**Figure 3**

Learndirect Ltd’s income from Skills Funding Agency and Education and Skills Funding Agency (ESFA) contracts, 2013/14 to 2017/18

**Most of Learndirect Ltd’s income has come from the Skills Funding Agency**



**Notes**

- 1 Before 2016/17, the Adult Education Budget was known as ‘Adult Skills Budget’.
- 2 Between 2013/14 and 2015/16, funding for adult apprenticeships came from the Adult Skills Budget. In this graph, we have separated out adult apprenticeships for all years.
- 3 All values are based on an August to July financial year.
- 4 Advanced Learner Loans help people aged 19 and over to undertake general and technical qualifications at levels 3, 4, 5 and 6. ESFA provides funding to providers, which use this funding to issue loans to eligible learners.
- 5 Discretionary Learner Support and Advanced Loans Bursary funding from ESFA have not been included, as this funding is passed to learners via Learndirect Ltd. It is therefore not treated as income.
- 6 Apprenticeship Grant for Employers (AGE) funding from ESFA is not included, as this funding is passed to employers via Learndirect Ltd. It is therefore not treated as income.
- 7 The 2017/18 column represents the income Learndirect Ltd is expecting to receive from its ESFA contracts.
- 8 The 2017/18 dotted line represents Learndirect Ltd’s expected turnover for that year.

Source: Learndirect Ltd annual accounts and management accounts

**1.7** In addition, in 2016/17, Learndirect Ltd also had an income of:

- £1.7 million from other central government contracts;
- £1.8 million from contracts with the Scottish Government;
- £0.4 million from contracts with the National Assembly for Wales; and
- £1 million from contracts with English local authorities.

**1.8** On 1 March 2016, Learndirect Apprenticeships Ltd was established as a separate entity within Pimco (Holdings) Ltd group, as part of a long-term plan to sell off the apprenticeships element of the group's business. The board and management structures of the companies are explained in **Figure 4** overleaf.

**1.9** On 13 March 2017, SFA accepted Learndirect Apprenticeships Ltd onto its Register of Apprenticeship Training Providers. This meant that, from April 2017, when the apprenticeships levy was launched, Learndirect Apprenticeships Ltd could take on apprenticeships business relating to levy-paying employers.<sup>3</sup>

<sup>3</sup> The apprenticeship levy came into force on 6 April 2017. Employers with an annual pay bill of over £3 million are charged 0.5% of their pay bill annually in the form of a levy. The money each employer has paid into the levy is effectively made available to fund new apprenticeships.

**Figure 4**

The board and management structures of Pimco (Holdings) Ltd group, Learndirect Ltd and Learndirect Apprenticeships Ltd as of March 2017

**Board members are the same for Pimco (Holdings) Ltd group, Learndirect Ltd, and Learndirect Apprenticeships Ltd**

Position	Name	Pimco (Holdings) Ltd group	Learndirect Ltd	Learndirect Apprenticeships Ltd
Statutory directors	Ken Hills	●	●	●
	Andrew Palmer	●	●	●
	Chris Coulton	●	●	●
	John Darlington	●	●	●
	Paul Kilgour	●	●	●
	Simon Adcock	●	●	●
	James Chambers	●	●	●
	Gill Craven	●	●	●
	John Dewhirst	●	●	●
	Tracie Greenhalgh	●	●	●
	Dereth Wood	●	●	●
Board members	Ken Hills	●	●	●
	Andrew Palmer	●	●	●
	Chris Coulton	●	●	●
	John Darlington	●	●	●
	Paul Kilgour	●	●	●
	Simon Adcock	●	●	●
	John Dewhirst	●	●	●
Management team	Andrew Palmer	●	●	●
	Paul Kilgour	●	●	●
	Pamela Rae-Welsh	●	●	●
	Julia Chippendale	●	●	●
	Jenny Parkes	●	●	●
	Jon-Paul Rimington	●	●	●
	Steve Morris	●	●	●
	Jane Peters	●	●	●
	Paul Ferguson	●	●	●
	Gareth James	●	●	●
	Caroline Groom	●	●	●
	Rachel Kendall	●	●	●
	Sally Evans	●	●	●

● In post

● Not in post

● Not applicable. Pimco (Holdings) Ltd group is a non-trading body

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**Figure 4** *continued*

The board and management structures of Pimco (Holdings) Ltd group, Learndirect Ltd and Learndirect Apprenticeships Ltd as of March 2017

**Notes**

- 1 Ken Hills is board chair.
- 2 Andrew Palmer was appointed to Learndirect Ltd, and Pimco (Holdings) Ltd on 1 February 2017. He was appointed to Learndirect Apprenticeships Ltd on 1 March 2017.
- 3 Chris Coulton was appointed to the board of Pimco (Holdings) Ltd on 19 January 2017.
- 4 James Chambers resigned on 10 April 2017.
- 5 Gill Craven resigned on 1 August 2017.
- 6 John Dewhirst was appointed on 1 February 2017 and resigned on 31 May 2017.
- 7 Tracie Greenhalgh resigned on 15 August 2017.
- 8 Jon-Paul Rimington resigned on 30 November 2017.
- 9 Dereth Wood resigned on 1 August 2017.
- 10 Sally Evans left the company on 31 July 2017.

Source: Learndirect Ltd

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## Part Two

### Monitoring activities carried out by the Education and Skills Funding Agency and its predecessor body

#### General performance monitoring

**2.1** Each year, the Education and Skills Funding Agency (ESFA) produces data on the performance of individual further education providers, as did its predecessor, the Skills Funding Agency (SFA). A key measure is the proportion of learners who gain their qualification in each academic year.<sup>4</sup>

**2.2** Learndirect Ltd's performance in non-apprenticeships training from 2011/12 onwards shows fluctuations, but no overall decline. By contrast, performance in apprenticeships shows a decline from 2012/13 onwards. The overall achievement rate fell to under 60% for the first time in 2015/16 (the latest year for which data were available as at December 2017). Full details are in **Figure 5**.

#### Specific monitoring against minimum quality standards

**2.3** Each year, ESFA (and previously, SFA) sets out minimum quality standards that providers must reach. Any provider that fails to reach these standards is subject to 'intervention'. That intervention may be informal or formal, depending on factors such as: the provider's track record in performance against minimum standards; its track record for quality, and particularly inspection by Ofsted; and the existence of a strong improvement plan, based on a clear understanding of the reasons for failure.

**2.4** SFA's intervention guidance states that, for commercial training providers, formal intervention usually leads to contract termination.<sup>5</sup> It also states that, in very exceptional circumstances, where it is considered to better serve the needs of learners, formal intervention may instead take the form of a Notice of Serious Breach. This sets out the conditions necessary for the provider to continue to receive public funds. Failure to meet these conditions would then lead to contract termination. In practice, SFA has taken a more differentiated approach in the way it responds to formal triggers.

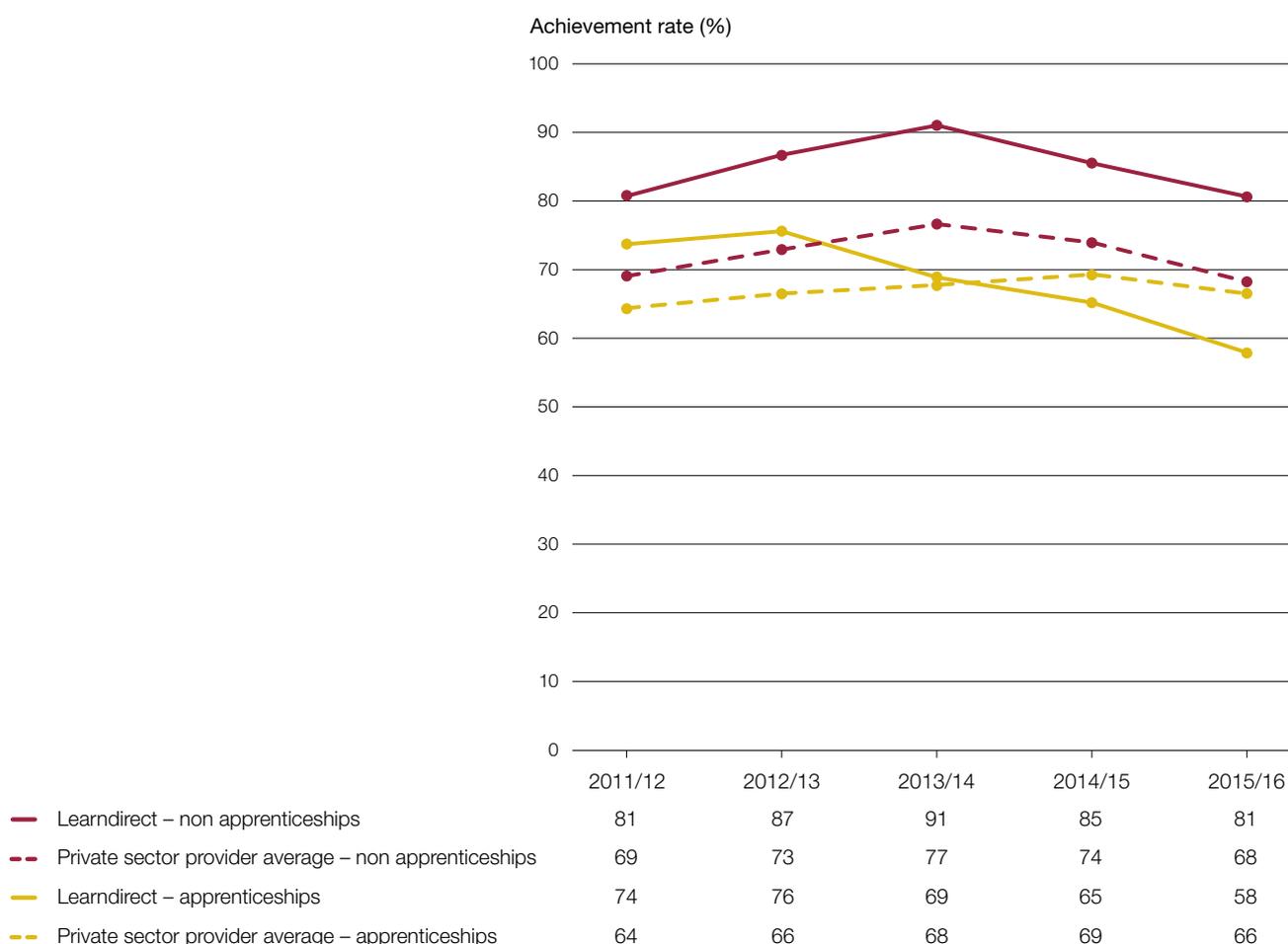
<sup>4</sup> From 2014/15, this measure became known as the Qualification Achievement Rate (QAR). Before 2014/15, it was known as the Qualification Success Rate (QSR).

<sup>5</sup> Skills Funding Agency, *Approach to Intervention*, November 2015, page 4.

**Figure 5**

## Learndirect Ltd's performance, 2011/12 to 2015/16

Learndirect Ltd's performance in apprenticeships has been declining since 2012/13

**Notes**

- 1 While there have been changes in methodology and terminology over time, these figures show the percentage of learners who gain their qualification each year.
- 2 Qualification Achievement Rates (QAR) are normally published in the December after the funding year to which they apply, and any formal intervention action is taken in the following spring.
- 3 Between 2011/12 and 2013/14 we used the Qualification Success Rate (QSR) for non-apprenticeships.
- 4 Between 2014/15 and 2015/16 we used the QAR for non-apprenticeships.
- 5 Before 2013/14, the QSR for non-apprenticeships was based on the learning planned end date. In the 2013/14 academic year, this was changed to a hybrid end year in order to maintain consistency with the methodology used for apprenticeships.
- 6 The QSR for apprenticeships has always used the hybrid end year.
- 7 In November 2016, guidance was published that explained that the definition of the hybrid end year had been changed for the 2015/16 academic year. Before 2015/16, the hybrid end year was defined as the later of the actual end date or the planned end date. From 2015/16, the hybrid end year is defined as the expected year that a learning aim is to end, the actual year a learning aim ended, or the reporting year – whichever is latest.
- 8 Changes were also made to how learners are defined as having withdrawn from their course. This had the effect of increasing the number of learners defined as having withdrawn from their course.
- 9 Private sector comparisons are an average of each private sector provider's headline performance, rather than overall sector headline performance. This controls for larger providers with more learners having a greater impact on the sector results.

Source: Education and Skills Funding Agency

**2.5** In February 2017, SFA published data on achievement rates for 2015/16. It had calculated the achievement rates using a different formula from that used in previous years. Because of this, SFA decided to take a more measured approach to determining what action to take with providers that failed to meet the minimum quality standards. It established that 69 commercial training providers were in scope for intervention because they had fallen below the minimum standards threshold of a 62% achievement rate in apprenticeship provision. SFA reviewed each provider in more detail, and decided to handle them as follows:

- 20 faced no action, as SFA accepted there were mitigating factors;
- 25 were issued with an advisory letter;
- 22 (including Learndirect Ltd) were issued with a Notice of Serious Breach; and
- two had their contracts terminated, as SFA decided there was no prospect of recovery or improvement.

**2.6** Accordingly, SFA issued Learndirect Ltd with a Notice of Serious Breach on 14 March 2017. It stated that the company must produce “an improvement plan that assures SFA that you are effecting swift, significant and sustained improvement to the type of provision which failed minimum standards. The plan must contain measureable milestones and improvement indicators.”

**2.7** Learndirect Ltd was aware of its falling achievement rates, and had produced an improvement plan in late 2016. The plan set out to address a number of areas that may have led to the decline in achievement rates, including:

- the performance of subcontractors;
- not tracking the progression of learners closely enough; and
- a corporate focus on large employer apprenticeships.

**2.8** In early April 2017, ESFA was preparing to publish the latest list of providers that had received a Notice of Serious Breach. The Department for Education was aware that Ofsted planned to rate Learndirect Ltd’s overall effectiveness as ‘inadequate’ in its latest inspection, but that the formal report was being delayed while Learndirect Ltd pursued a complaint about the inspection. The Department’s Communications team asked for Learndirect Ltd to be omitted from the list, because it did not want any information suggesting that the company was not meeting expectations to be in the public domain until Ofsted had made its final rating public. Accordingly, Learndirect Ltd was omitted from the list published on 14 April, although the company has been included in subsequent revisions.

**2.9** On 23 May 2017, ESFA held its first formal progress review meeting after issuing the Notice of Serious Breach. It noted that:

- a number of learners previously trained by providers that had lost their ESFA contract would be transferring to Learndirect Ltd, at the request of their employers;
- Learndirect Ltd had had a recovery plan in place since December 2016, and “a great deal of work has already been done to improve the quality of apprenticeship provision”; and
- while achievement rates were ‘tracking as expected’, significant improvements might not be apparent until the achievement data for 2017/18 were produced.

**2.10** ESFA initially planned to conduct monthly progress review meetings. However, in light of the developments arising from the Ofsted inspection and the discussions over continued funding of Learndirect Ltd, no more meetings were held. In September 2017, as part of its management of Learndirect Ltd’s 2017/18 funding (see Part Four), ESFA began an ‘enhanced’ monitoring regime, consisting of monthly meetings covering risk, quality and financial health.

**2.11** ESFA carries out a programme of funding audits of providers, allowing it to assess whether ESFA funding has been used appropriately and for the purposes intended. In July 2017, ESFA conducted such an audit at Learndirect Ltd, covering apprenticeship, Adult Education Budget and Advanced Learner Loans funding for 2016/17. It found an overall error rate of 1.07%, which is below the 5% threshold that ESFA considers an unsatisfactory result. In accordance with funding rules, Learndirect Ltd was required to pay back the funding claimed in error, which amounted to just under £43,000. The company’s error rates for previous years, and the associated amounts paid back were: in 2015/16, 2.64% with payback of £94,000; in 2014/15, 2.74% with payback of £65,000; in 2013/14, 2.5% with payback of £213,000; and in 2012/13, 1.3% with payback of £169,000.

## **Financial health monitoring**

**2.12** ESFA (and previously, SFA) collects financial data from providers, based on their audited annual accounts. It uses this information to calculate financial ratios. It then converts these ratios to scores, which it combines to produce an overall financial health rating. It can moderate a provider’s rating in light of other factors, such as significant forthcoming changes in income. The ratings awarded to Learndirect Ltd since 2011/12, along with key observations made by SFA, are shown in **Figure 6** overleaf.

**2.13** SFA’s 2015 guidance stated that failure to meet the criteria for financial health or control can be a trigger for formal intervention.<sup>6</sup> As explained in paragraph 2.4, formal intervention can take the form of contract termination, or a Notice of Serious Breach which may later lead to contract termination.

6 See footnote 5.

**2.14** SFA finalised its assessment of Learndirect Ltd's 2014/15 accounts in July 2016. At that point, SFA believed that the sale of Learndirect Ltd's apprenticeships business, if it went ahead, would significantly improve the company's financial position. As a result, SFA did not issue a Notice of Serious Breach. In January 2017, knowing that the sale had not gone ahead, and having confirmed that the financial health rating of 'inadequate' should continue, SFA wrote to Learndirect Ltd requiring the company to provide "evidence of financial resources and the level of turnover sufficient to enable it to continue to perform the contract."

**2.15** The two parties were discussing how Learndirect Ltd might provide a financial guarantee when Ofsted conducted its March 2017 inspection. Once SFA knew the provisional outcome of the inspection, it stopped the discussions about the financial guarantee, as it anticipated that Learndirect Ltd's contract would be terminated. The company's most recent accounts were published in November 2017, and they have been shared with ESFA for financial assessment.

## Figure 6

Financial health ratings given to Learndirect Ltd by the Skills Funding Agency (SFA) from 2011/12 to 2015/16

**Learndirect Ltd's financial health has been considered 'inadequate' since 2014/15**

Financial year	Rating	Observations made by the Skills Funding Agency
2011/12	Satisfactory	N/A
2012/13	Satisfactory	N/A
2013/14	Satisfactory	Initial ratio analysis produced a rating of 'inadequate', due to dividends of £15 million and amounts owed to group undertakings of almost £64 million. The rating was moderated to 'satisfactory' following guarantees from the parent company about the amounts owed to group undertakings.
2014/15	Inadequate	During the year, a significant proportion of the amounts owed to group undertakings were moved to long-term liabilities. The rating was awarded due to (1) high borrowings and (2) low profitability relative to turnover.
2015/16	Inadequate	Learndirect Ltd extended its accounting period, and did not file financial statements for the year-end 31 July 2016. In the absence of formal financial statements, SFA received management accounts that confirmed the 'inadequate' rating was still appropriate.

### Notes

- 1 There are four ratings: outstanding, good, satisfactory, and inadequate.
- 2 Assessment takes place in the year after the accounts are filed. So, for example, the rating for 2014/15 actually took place in 2015/16.
- 3 Ratings for 2011/12 to 2014/15 refer to Learndirect Ltd's standard financial year, which ran from 1 August to 31 July.
- 4 Learndirect Ltd has explained that it extended its accounting period because of uncertainties caused by the March 2017 Ofsted inspection, which occurred as the company was preparing to file accounts for 2015/16 by the due date of 30 April 2017. In November 2017, accounts were published covering the 18-month period from 1 August 2015 to 31 January 2017.
- 5 Learndirect Ltd has explained that the £15 million dividends in 2013/14 were intragroup dividends, and that this distinction was made clear to SFA at the time.

Source: Education and Skills Funding Agency

# Part Three

## Ofsted inspections

### **March 2013 inspection and subsequent risk ratings**

**3.1** Ofsted has inspected Learndirect Ltd's quality of provision twice in the last five years. In March 2013, it rated the company's overall effectiveness as 'good', and drew particular attention to the fact that:

- a very good proportion of learners achieved their planned qualification in Learndirect centres, and outcomes for apprentices were good;
- inspirational leadership at all levels and exceptionally good team working ensured that a very large number of learners had at least a good experience; and
- management of subcontractors was excellent.

**3.2** When Ofsted published its most recent inspection handbook in 2015, it stated that providers rated as 'good' for overall effectiveness would usually be subject to a short (rather than a 'full') inspection within three years. As such, Ofsted was likely to conduct a short inspection of Learndirect Ltd by 2018. However, Ofsted also carries out monitoring activities to identify any changes in a provider's risk profile that might prompt an inspection at an earlier date.

**3.3** Ofsted did not carry out a risk assessment of Learndirect Ltd in 2014, because it took assurance from the outcome of the 2013 inspection. Its spring 2015 risk assessment generated a score of 'poor' for apprenticeships, and a 'fail' for provision for 16- to 18-year-olds and full level 3 classroom-based teaching. Ofsted considered that these latter elements constituted only a small part of total provision; therefore, it applied an amber risk rating overall.

### **Aborted plans for an inspection in 2016**

**3.4** In March 2016, Ofsted changed its risk rating for Learndirect Ltd to red. The rating was based on poor performance in a larger number of areas than in its 2015 risk assessment, and particularly in apprenticeships, about which Ofsted had concerns regarding the timeliness of success rates and the large numbers of leavers. In July 2016, Ofsted made an internal decision to schedule a full inspection, rather than a short inspection, for 1 to 4 November 2016.

**3.5** In September 2016, Learndirect Ltd asked Ofsted about the protocol for informing the oversight bodies about changes to its business. Following guidance, the company informed the Skills Funding Agency (SFA) that it was negotiating the sale of its apprenticeships business to another party. Ofsted's policy on deferring inspections states that a deferral may be granted if "the provision is due to merge, close or move and it is decided that no useful purpose will be served in inspecting it." On 11 October, Ofsted decided that, as Learndirect Ltd's apprenticeships provision was about to move and there was no evidence that learners' welfare was at risk, it would defer the inspection to the period between January and March 2017.

### **March 2017 inspection**

#### Timing and process

**3.6** In December 2016, SFA informed Ofsted that Learndirect Ltd's negotiations to sell its apprenticeships business had fallen through. SFA also informed Ofsted that it had given the company a rating of 'inadequate' for financial health for 2015/16. In mid-January, Ofsted discussed inspecting as soon as possible, and certainly before the end of February, in light of provisional SFA data on the company's 2015/16 performance. However, Ofsted learned that final 2015/16 performance data would not be available until February, and therefore decided to re-schedule the full inspection for March 2017.

**3.7** On 16 March, Ofsted notified Learndirect Ltd that it intended to conduct an inspection on 20 to 23 March. Ofsted had known since the start of the year that Learndirect Ltd was in the process of transferring its apprenticeships activity to Learndirect Apprenticeships Ltd. The company immediately asked Ofsted to defer the inspection because of this transfer of apprenticeships activity, which had been approved by SFA and meant that Learndirect Ltd would not be delivering any apprenticeships training after 1 May 2017.

**3.8** Ofsted rejected the request for deferral, based on: its uncertainty about the timing of the transfer of provision; the large number of learners involved; and the apparent decline in performance. Ofsted carried out a full inspection on 20 to 23 March, as planned. Its normal approach for a very large national provider of this type is to spend 24 days' worth of inspector time on-site. Taking account of Learndirect Ltd's unusual size, Ofsted decided to increase the resources on this inspection to 55 on-site days.

**3.9** In each inspection, the provider is given an overall effectiveness rating, and a rating for individual aspects, according to a four-point scale:

- Grade 1 – outstanding
- Grade 2 – good
- Grade 3 – requires improvement
- Grade 4 – inadequate.

On 24 March, Ofsted contacted SFA to say that the provisional overall effectiveness rating arising from the inspection was 'inadequate'. Ofsted followed this up with a more qualitative summary of the main findings from the inspection. At that point, Ofsted planned to publish the report on 4 May.

**3.10** On 27 March, Learndirect Ltd made a complaint to Ofsted about the inspection, and asked Ofsted to withhold publication of the inspection report until the complaints process had been completed. Among other areas, the company complained that Ofsted had:

- not taken account of Learndirect Ltd being at the end of a process to separate its activities into two distinct businesses;
- effectively carried out a joint inspection of two separate businesses; it believed that, if Ofsted had inspected only the activity that was due to remain in Learndirect Ltd, this would have led to a 'requires improvement' rating, rather than 'inadequate', for overall effectiveness; and
- gathered insufficient evidence to reach reliable conclusions about the quality of the company's apprenticeships provision.

**3.11** On 21 April, Ofsted's regional director informed Learndirect Ltd that the report would be withheld during general election 'purdah', and would therefore be published on 9 June.<sup>7</sup> Ofsted applied its normal procedures for dealing with the complaint, by asking a team that was independent of the inspection team to review the evidence. On 11 May, Ofsted informed Learndirect Ltd that its complaint had not been upheld. On 2 June, Learndirect Ltd began legal proceedings against Ofsted, to challenge the conduct of the inspection and delay publication of any inspection report until the conclusion of legal proceedings. This legal challenge was ultimately unsuccessful, and the inspection report was published on 17 August.

## Final assessment

**3.12** Ofsted's inspection handbook states that a provider is likely to receive a rating of 'inadequate' for overall effectiveness where "any one of the key judgements is 'inadequate' and/or safeguarding is ineffective". These key judgements relate to: effectiveness of leadership and management; quality of teaching, learning and assessment; personal development, behaviour and welfare; and outcomes for learners. The results of the March 2017 inspection are set out in **Figure 7** overleaf.

<sup>7</sup> Purdah is a parliamentary term that refers to the period before elections or referendums when, by convention (not law), there are restrictions on the conduct of public bodies and the individuals who work for them.

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## Figure 7

### Results of the March 2017 Ofsted inspection

**Ofsted awarded Learndirect Ltd a rating of 'inadequate' for overall effectiveness, largely due to its 'inadequate' rating on outcomes for learners**

Element of inspection	Rating awarded
Effectiveness of leadership and management	Requires improvement
Quality of teaching, learning and assessment	Requires improvement
Personal development, behaviour and welfare	Requires improvement
Outcomes for learners	Inadequate
Adult learning programmes	Requires improvement
Apprenticeships	Inadequate
Traineeships	Requires improvement
<b>Overall effectiveness</b>	<b>Inadequate</b>

#### Note

1 Ofsted uses four ratings: outstanding, good, requires improvement, and inadequate.

Source: Ofsted inspection report, August 2017

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**3.13** The Ofsted report set out several factors that lay behind the change in rating since 2013, including:

- directors not challenging senior leaders to ensure that planned actions to tackle the decline in achievement rates were implemented;
- managers who oversaw subcontractors not providing intensive support to improve provision at their poorest performing providers, or acting robustly to remove contracts if subcontractors failed to respond positively to this support;
- managers of adult learning programmes having insufficient data on learners' destinations, to identify which courses increase learners' chances of progressing into employment or further training; and
- directors and senior leaders not working sufficiently closely with smaller employers of apprentices.

**3.14** Under 'outcomes for learners', Ofsted's findings included that:

- not enough learners and apprentices achieved their qualifications and developed their skills to enable them to progress at work or into further education and training;
- the proportion of apprentices who completed their programmes successfully, and the proportion who achieved them within the planned timescale, had declined in the previous three years and were 'very low'; and
- some 70% of apprentices in 2015/16 fell below the minimum standards for overall achievement, while six out of 10 apprentices did not achieve their apprenticeship within the planned timescale.

**3.15** With regard to adult learners in particular, Ofsted found that:

- the proportion achieving their qualification had declined in the previous three years;
- too few achieved English and mathematics qualifications, despite a significant investment in teaching staff; and
- too few secured employment when they left.

**3.16** Under 'adult learning programmes', Ofsted made critical comment on the way tutors used assessments of learners' starting points when planning learning, and the quality of feedback following assessment. The report also found that reviews of learners' achievements were lacking in a number of regards, and that too many tutors failed to challenge instances of poor attendance, punctuality and behaviour. Ofsted also concluded that tutors planned most classroom-based sessions well, and that they provided high quality personal support to most learners.

**3.17** Under 'apprenticeships', Ofsted concluded that around a third of all apprentices did not receive their entitlement to off-the-job learning, and that oversight of the progress that apprentices made on their programmes was weak. Ofsted also found that assessors were not sufficiently rigorous and skilled in identifying apprentices' abilities at the start of their programme, and that too many assessors did not give apprentices feedback on what they should do to improve their skills.

**3.18** Ofsted found that Learndirect Ltd had developed very effective partnerships with a range of high profile corporate apprenticeship clients. The report also noted that Learndirect Ltd's managers worked closely with corporate apprenticeship clients to meet their requirements, and that apprentices at these employers made good progress, developed new skills and enjoyed their learning.

### **October 2017 re-inspection monitoring visit**

**3.19** Ofsted conducted a re-inspection monitoring visit to Learndirect Ltd at the end of October 2017. Such a visit follows Ofsted's guidance, which states that an 'inadequate' provider that continues to receive funding will normally receive re-inspection monitoring visits, starting soon after publication of the inspection report.

**3.20** In line with Ofsted's guidance, the re-inspection monitoring visit did not include an overall judgement on progress. Ofsted covered six main themes, and found that Learndirect Ltd had started to take action on each of them, although the pace of improvement in its adult learning provision had been quicker, and its impact had been greater, than in its apprenticeships provision. It was too early for inspectors to judge the impact of improvements for learners.

# Part Four

## Government funding decisions

### Learndirect Ltd's government funding for 2017/18

**4.1** Learndirect Ltd is expecting income of around £105 million from its main government contracts in 2017/18. This funding, and how it compares with Learndirect Ltd's funding for 2016/17, is set out in **Figure 8** overleaf. The rest of this part explains the background to this continued funding.

### Processes followed by the funding bodies

**4.2** The policy of the Education and Skills Funding Agency (ESFA) is to withdraw funding from commercial providers whose overall effectiveness is rated as 'inadequate' by Ofsted.<sup>8</sup> From 2015 to August 2017, Ofsted gave an 'inadequate' rating to 26 commercial providers, excluding Learndirect Ltd. In 23 cases, ESFA (or its predecessor, the Skills Funding Agency, SFA) terminated the contract with a notice period of three months or fewer. The other three cases involved a four- or six-month notice period, in order to maximise the number of learners able to complete their courses.

**4.3** In May 2017, around six weeks after the Ofsted inspection, ESFA was formulating a plan to manage the withdrawal of funding from Learndirect Ltd and the wider impact of such action, if the Ofsted inspection result should be confirmed. ESFA believed that the size of Learndirect Ltd made it an unusual case, to which special considerations should apply. Specifically, ESFA concluded that continuing to fund Learndirect Ltd for the 2017/18 academic year would best meet the interests of learners, allowing the company to wind down and let learners complete their courses with minimal disruption. ESFA recognised that such a decision would require ministerial review, which would not be possible until after the general election. Accordingly, ESFA put a formal submission to the minister on 4 July 2017.

**4.4** In June 2017, ESFA, the Home Office, Department for Work & Pensions (DWP) and Standards and Testing Agency (STA) entered into discussions about potential changes to Learndirect Ltd's main government contracts. The outcome of these discussions was formalised in a 'Heads of Terms' document, issued in September 2017 after publication of the Ofsted report. The Heads of Terms itself is not legally binding in most regards, but is an agreement to change the terms of existing contracts. Once such changes are made to the contracts, they become legally binding.

<sup>8</sup> A different approach applies to other types of provider such as further education colleges, who do not normally have funding withdrawn in these circumstances.

**Figure 8**

## Learndirect Ltd's income from its main government contracts, 2016/17 to 2018/19

**Learndirect Ltd expects to receive £105.4 million from its main government contracts in 2017/18**

Funding source	Actual 2016/17 income (£m)	Learndirect Ltd's expected 2017/18 income (£m)	Learndirect Ltd's expected 2018/19 income (£m)
Education and Skills Funding Agency (ESFA), for Adult Education Budget (AEB)	59.2	45	0
ESFA, for 16 to 18 apprenticeships	14	5.3	0 <sup>4</sup>
ESFA, for adult apprenticeships	23.8	9.1	0 <sup>4</sup>
ESFA, for Advanced Learner Loans <sup>1</sup>	3.6	4.2	0
ESFA, for European Social Fund <sup>2</sup>	5.3	31.1	See note 2
Home Office	6.4	6.3	See note 5
Department for Work & Pensions (DWP), for Work Programme <sup>3</sup>	2.7	0.9	0 <sup>3</sup>
Standards and Testing Agency	3.2	3.6	See note 5
<b>Total</b>	<b>118.2</b>	<b>105.4</b>	<b>Unknown</b>

**Notes**

- 1 Advanced Learner Loans help people aged 19 and over to undertake general and technical qualifications at levels 3, 4, 5 and 6. ESFA gives funding to providers which use this funding to issue loans to eligible learners.
- 2 Learndirect Ltd was allocated £47.1 million by ESFA as part of its European Social Fund 2014–2020 projects. In 2017/18 Learndirect Ltd is expecting to claim £31.1 million against its allocation. The Heads of Terms states that Learndirect Ltd's European Social Fund contracts with ESFA will end in July 2018, and that learners will not be enrolled on courses that cannot be completed before 31 July 2018. Learndirect Ltd has told us that it is discussing with Local Enterprise Partnerships the possibility of funding after July 2018.
- 3 Learndirect Ltd has a number of contracts with DWP, but the Work Programme contract is the largest of these. Learndirect Ltd's contract for the DWP Work Programme will run into 2018/19, but the company has informed us that it is taking a prudent approach to its forecast for this contract.
- 4 From 2018/19, all apprenticeships training will be undertaken by Learndirect Apprenticeships Ltd.
- 5 These contracts will be re-procured. Learndirect Ltd will be eligible to bid for them.
- 6 Totals may not sum due to rounding.

Source: Learndirect Ltd management accounts

**4.5** The Heads of Terms stated that ESFA would carry out monthly monitoring of Learndirect Ltd's performance against a wind-down plan. This would be facilitated by Learndirect Ltd providing monthly reports on: staffing and management changes; reductions in activity, including closure of centres and cessation of programmes; and financial forecasts, demonstrating the company's ability to continue during the wind-down period.

### **Decisions relating to Adult Education Budget (AEB) funding**

**4.6** In 2016/17, Learndirect Ltd received around £59 million of AEB funding to deliver level 2 and level 3 qualifications to individuals aged 19 or over, and traineeships to individuals aged 16 to 24. As with other providers, this was an annual contract, which was due to end on 31 July 2017.

**4.7** The 2017/18 AEB funding application process began on 27 January 2017, when SFA published an invitation to tender. **Figure 9** shows the original timetable for the procurement exercise. Learndirect Ltd submitted its bid for 2017/18 AEB funding in February 2017, requesting approximately £85 million to train 127,000 learners, across 150 local authorities in England.

**4.8** The tender process did not go ahead as planned as a result of the general election in June 2017. ESFA decided to extend all 2016/17 contracts by three months, to October 2017. In mid-July, ESFA was still considering its options for funding Learndirect Ltd in the event that the Ofsted inspection result was confirmed. ESFA asked Learndirect Ltd to generate some 2017/18 AEB funding scenarios and their consequences. The two main scenarios that the company presented were:

- scenario A – allocation of £48 million of AEB funding; and
- scenario B – allocation of £40 million of AEB funding.

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**Figure 9**  
Original timetable for the 2017/18 Adult Education Budget (AEB) procurement exercise

Task	Deadline
Publication of invitation to tender	27 January 2017
Invitation to tender closes	27 February 2017
Notification of tender results	19 May 2017
Mandatory 10-day standstill period	30 May 2017
Contracts issued	June 2017
Delivery commences	1 August 2017

Source: Education and Skills Funding Agency

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**4.9** Under scenario A, the company would deliver training to adults throughout the country, while also reducing the number of its business centres from 41 to seven. Learndirect Ltd believed that this scenario posed no risk to its activities with the Home Office and STA, or to activities funded by ESFA's European Social Fund projects. The scenario would also allow Learndirect Ltd to operate in 2018/19 with a new pipeline of non-ESFA projects, while also developing the Learndirect Apprenticeships Ltd business.

**4.10** Under scenario B, Learndirect Ltd would deliver training to adults throughout the country, and either reduce the number of its business centres to seven, or maintain all 41 of them. The company deemed the former option unacceptable because its peak cash requirement of £1.7 million was too great, and the business would probably become insolvent. Under the latter option, Learndirect Ltd believed it was unlikely that it would be able to meet the costs of the 41 centres in 2018/19, placing it into administration.

**4.11** According to Learndirect Ltd, scenario B also posed a significant threat to its activities with the Home Office and STA, and activities funded by ESFA's European Social Fund projects. The company said that, should it become insolvent or go into administration, these activities might cease at the same time. Furthermore, as Learndirect Apprenticeships Ltd would be financially dependent on Learndirect Ltd up to 2017/18, Learndirect Apprenticeships Ltd's ability to continue its programme of provision to learners would be adversely affected.

**4.12** Learndirect Ltd contacted ESFA on 25 July to withdraw its bid for 2017/18 AEB funding, believing that this course of action offered the best prospect for receiving some AEB funding in 2017/18. It was aware that it would receive no funding at all if Ofsted should publish an inspection rating of 'inadequate' before the decision on funding was made, but believed that remaining outside the formal procurement process might mean that some funding would still be made available.

**4.13** In August 2017, ESFA published an updated set of rules stating that all independent providers with a contract for services, such as Learndirect Ltd, would have their existing 2016/17 contracts extended for three months to 31 October 2017.<sup>9</sup> After this date, providers that did not enter the AEB procurement or that were unsuccessful, would be awarded a 12-month contract extension, ending on 31 July 2018. This allowed providers to continue offering courses to new learners for an additional year, providing no courses ran beyond 31 July 2018. Due to the previous three-month extension, less funding was available for these contract extensions than originally contracted for. Therefore, for all providers given the 12-month contract extension, the value for 2017/18 was set at 75% of their 2016/17 AEB contract.

<sup>9</sup> The first set of rules was published in June 2017.

**4.14** On 6 September 2017, ESFA wrote to Learndirect Ltd providing the details of the funding it was to receive for the run-down contract extension. **Figure 10** shows the details of the funding allocated for 2017/18. The total value of this extension represents 75% of the value of Learndirect Ltd's 2016/17 AEB contract. This agreement is consistent with the Heads of Terms, which states that the existing AEB contract will be extended to 31 July 2018, and that the company will ensure that learners are enrolled only on courses that can be completed by that date.

### Figure 10

Learndirect Ltd's Adult Education Budget (AEB) run-down contract value for 2017/18

For 2017/18, Learndirect Ltd was awarded 75% of the value of its 2016/17 contract for AEB funding

	Three-month extension value <sup>1</sup>	Nine-month run-down contract value <sup>2</sup>	Total 12-month contract value <sup>3</sup>
<b>Total</b>	<b>£15.9 million</b>	<b>£29.2 million</b>	<b>£45.1 million</b>

#### Notes

- 1 The three-month contract extension ran from 1 August 2017 to 31 October 2017.
- 2 The nine-month run-down contract ran from 1 November 2017 to 31 July 2018.
- 3 The total 12-month contract value ran from 1 August 2017 to 31 July 2018.

Source: National Audit Office analysis of information provided by the Education and Skills Funding Agency

## Decisions relating to apprenticeships funding

**4.15** In 2016/17, SFA gave Learndirect Ltd around £38 million to deliver apprenticeships for 16- to 18-year-olds and adult apprenticeships.<sup>10</sup> In October 2016, SFA launched the 2017/18 procurement exercise for small and medium-sized enterprise (SME) apprenticeships. In April 2017, ESFA (which had, by then, superseded SFA) paused this procurement exercise. In early 2017, Pimco (Holdings) Ltd group made a business decision to withdraw from the SME apprenticeships market because it believed that funding changes presented additional challenges to serving this market. Instead, it would focus only on new apprenticeships training for employers funded via the apprenticeship levy, which would be delivered by Learndirect Apprenticeships Ltd.<sup>11</sup> As such, Learndirect Ltd has taken on no new apprenticeship business since April 2017.

<sup>10</sup> Just under £14 million for 16 to 18 apprenticeships, and just under £24 million for adult apprenticeships.

<sup>11</sup> In summer 2015, government announced the introduction of the apprenticeship levy. Effective from 6 April 2017, employers with an annual pay bill of over £3 million are charged 0.5% of their pay bill. The money raised is then made available to them, to fund new apprenticeships.

**4.16** The Heads of Terms states that Learndirect Ltd will work with all existing apprentices in accordance with the existing ESFA contract, to allow them to finish their training. Apprenticeship employers are to be offered the choice of remaining with Learndirect Ltd or accessing alternative training providers. Learndirect Ltd is not to start any more 16 to 18 traineeships, although ESFA will fund those trainees who may not finish their traineeships until 2018.<sup>12</sup> The document also acknowledges that, while Learndirect Ltd completes the training of existing apprentices whose employers choose to remain with it, Learndirect Apprenticeships Ltd will continue to build up its business with a focus on large employers who pay the apprenticeship levy.

### **Decisions relating to other government contracts**

**4.17** Learndirect Ltd is the single supplier on the government's framework agreement for Computer Based Testing Services.<sup>13</sup> This agreement allows public bodies to access Learndirect Ltd's services for providing online testing, both remotely and at specific premises. The Home Office and STA used this framework agreement to contract services from Learndirect Ltd.

**4.18** The Home Office contract is for providing 'Life in the UK' tests, which are necessary for applications for British citizenship or settlement in the UK. These tests must be conducted at specified test centres.

**4.19** Under the STA contract, Learndirect Ltd delivers initial teacher training tests. All applicants to initial teacher training must pass these tests. The tests also must be taken at specified test centres.

**4.20** The Home Office and STA will re-procure these contracts in an open competitive tender, not using the Computer Based Testing Services framework. As such, Learndirect Ltd will be eligible to bid for the contracts.

**4.21** The Heads of Terms set out changes to the contracts that the Home Office and STA hold with Learndirect Ltd. It stated that Learndirect Ltd should:

- acknowledge that the Home Office and STA intend to procure replacement contracts, starting before the end of 2017;
- meet its contractual obligations until the replacement contracts are in place;
- acknowledge that their contracts may be ended early, and that the company may only claim breakage costs in accordance with their respective contracts;
- undergo an open book audit to be completed by September 2017; and
- provide the information needed to procure the replacement contracts, including: management accounts; staffing costs and volumes; cash flow forecasts; and a continuity of service plan.

<sup>12</sup> A traineeship is an education and training programme designed to help young people who want to get an apprenticeship or job but do not have appropriate skills or experience.

<sup>13</sup> Framework agreement number RM995.

**4.22** Learndirect Ltd also holds a number of contracts with DWP for employment related services. The Heads of Terms required that Learndirect Ltd should:

- provide data about staff delivering against DWP contracts in accordance with the relevant employment regulations;<sup>14</sup> and
- manage the DWP contract in accordance with its terms during this period.

**4.23** In 2017/18, DWP is following a business-as-usual approach to its dealings with Learndirect Ltd. But it is considering contingency options to ensure it can change provider if this should become necessary.

<sup>14</sup> Specifically, Transfer of Undertakings (Protection of Employment), or TUPE, regulations.

# Appendix One

## Our investigative approach

### Scope

1 Parliament and the media have questioned whether Learndirect Ltd's performance has been subject to proper scrutiny, and whether correct and timely decisions have been made about its continued funding. We conducted an investigation into how government has monitored, inspected and funded Learndirect Ltd.

2 We therefore investigated:

- the monitoring of Learndirect Ltd's quality and financial health, as conducted by the Education and Skills Funding Agency and its predecessor the Skills Funding Agency;
- the risk profiling and inspections conducted by Ofsted; and
- the funding of Learndirect Ltd by a number of government bodies.

### Methods

3 In examining the issues set out at paragraph 2 above, we drew on a variety of evidence sources. We:

- reviewed policy documents and management information from the Education and Skills Funding Agency;
- examined Ofsted inspection reports and material relating to inspection decisions;
- collated information on funding from the Education and Skills Funding Agency, Department for Education, Home Office and other government bodies; and
- triangulated our evidence against material made available to us by Learndirect Ltd.

4 We also interviewed key individuals from the Department for Education, Education and Skills Funding Agency, Ofsted, Department for Work & Pensions, Home Office, Standards and Testing Agency, and Learndirect Ltd.





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