

<b>New College Swindon</b>		<b>Author:</b>	Head of Partnerships	
<b>SECTION/TEAM:</b>	PARTNERSHIPS	<b>Review date:</b>	July 2021	

## Subcontracting (Fees and Charges Policy) 2020/21

### Scope

The College seeks to offer the widest range of suitable learning opportunities to its learners as need and demand requires. Subcontracting allows it to widen the range of opportunities offered in terms of subjects and geographical area to meet these demands.

The College is required to have a Supply-Chain Fees and Charges Policy to comply with the requirements of funding bodies; in particular the Education & Skills Funding Agency.

### Policy Aim

This document aims to provide consistency of approach and transparency to the College's supply chain fees and charges in relation to its subcontracting provision.

### Definition of Terms

*Education and Skills Funding Agency (ESFA)* - Government funded agency that supports provision for learners in further education provision who are between 16- 19 years old, learners who are aged 19 or over, and also includes Apprentices.

*Office for Students* - The Office for Students (OfS) is a non-departmental public body of the Department for Education, acting as the regulator and competition authority for the higher education sector in England.

*Provider Funding Report (PFR)* - monthly report produced following upload of learner data to the Hub, indicating funded start, on programme and achievement payments and adjusts according to any withdrawals/early leavers.

### Context

This policy is a mandatory requirement that must be in place prior to participating in any subcontracting activity. The content of this policy has been developed in line with AoC / AELP Common Accord; the current ESFA funded adult education budget (AEB): funding and performance management rules 2020 to 2021 and any subsequent iterations thereof.

This policy does not form part of the College's formal contract of employment, but it is a condition of employment that employees will abide by the rules and policies made by the College from time to time. Any failures to follow the policy could, therefore, result in disciplinary proceedings.

## **Overarching Principle**

The College will use its supply chains to optimise the impact and effectiveness of service delivery to the end user. The college will therefore ensure that:

- a. Supply chain management activities comply with the principles of best practice in the skills sector. In particular, they will be guided by the principles given in the LSIS publication *"Supply Chain Management- a good practice guide for the post-16 skills sector"* (Nov 2012 and subsequent iterations) and policies and guidance as issued by both the AoC and AELP.
- b. The College will at all times undertake fair and transparent procurement activities, conducting robust due diligence procedures on potential subcontractors to ensure compliance with the Common Accord at all levels and to ensure the highest quality of learning delivery is made available, demonstrating value for money and a positive impact on learner lives.
- c. The funding that is retained by the college will be related to the costs of the services provided. These services, and the levels of funding being retained for them, will be clearly documented and agreed by all parties. The rates of such retained funding will be commercially viable for both sides and will be negotiated and agreed in a fair and transparent manner. They will be proportionate to the actual services being provided.
- d. Where disputes between supply chain partners cannot be resolved through mutually agreed internal resolution procedures, the College will submit to independent outside arbitration or mediation and abide by its findings. Contract documents will require both parties to agree that the achievements of supply chains are attained through adherence to both the letter and spirit of contracts or partnerships. Signatories therefore commit that all discussions, communications, negotiations and actions undertaken to build, maintain and develop supply chains will be conducted in good faith in accordance with the Overarching Principle.

## **Rationale for subcontracting**

The College subcontracts its provision to supply the best teaching and learning experiences for its students. This may include:

- Subcontracting to a provider which has the resources to deliver a better learning experience for students, e.g. in a curriculum area not as well supported by the College's direct provision or where delivery is widespread and College systems do not support that style of delivery
- Sharing of good practice, e.g. where the subcontractor can improve the quality of its delivery through working with the College, or vice versa
- Subcontracting provision which is not suitable for delivery in the College environment e.g. NEET (Not in Employment, Education or Training) long-term unemployed students or adults with differing needs who, for a variety of reasons, are not ready to take up a place in a traditional college and will respond better to learning in a different environment.
- Subcontracting outreach provision to organisations that are better placed than the College to respond to local needs
- Subcontracting specialist provision to specialist providers where a need for that provision has been identified

The College engages with subcontractors to better meet customer needs. Reasons are varied but include:

- Expanding direct capacity. This might include working with subcontractors to explore and learn about new sectors prior to investment in resources
- Providing access to, or engagement with, a new range of customers
- To ensure delivery intention is met where there is a recognised risk in direct provision (e.g. through JCP referrals not being realised)
- To support another provider to develop capacity/quality
- To provide niche delivery where the cost of developing direct delivery would be inappropriate
- To support employers with a wide geographic requirement

### **Quality Assurance**

Subcontracted activity remains a fundamental part of the College's provision and we are proud to have delivered a diverse and complimentary range of subcontracted provision over a considerable number of years. The quality of the provision is monitored and managed through existing College QA processes and procedures, as amended in order to fully encompass all subcontracted activity. This is complimented by ad-hoc visits, desktop audits, funding compliance checks, i.e. learner eligibility and ongoing student satisfaction survey monitoring.

This Policy positions subcontracted provision as a core part of College activity to enable continuous improvements in the quality of teaching and learning for both the College and its subcontractors. This will be achieved through the sharing of effective practice across the supply chain, for example through the Self-Assessment Report process and mandatory attendance at Partnership Day events.

### **Improving Quality**

The College is committed to continual improvement in teaching and learning, both in its own direct provision and in its subcontracted provision. A range of approaches are employed in order to do this, such as session observations, audit visits, Self-Assessment Reports, Quality Improvement Plans and regular Partnership meeting days. In terms of provision, the following processes are in place to help monitor quality of provision and actively improve quality on an on-going basis:

- A robust schedule of Quality Assurance Audits that are carried out throughout the year
- Annual Reviews with target setting
- Completion of Course Review documentation and participation in the College's Predicted Achievement Rate monitoring process
- Regular management meetings between the College and all its subcontractors (with a minimum of one management meeting per term)
- Simulated QAA and Ofsted Inspections
- Training and Development workshops (as appropriate)

### **Publication of information relating to subcontracting**

In compliance with Education Skills Funding Agency and other agency funding rules that apply, the College will publish its subcontracting fees and charges before the start of each academic year. This will only relate to 'provision subcontracting' i.e. subcontracted delivery of full programmes. This does not include the delivery of a service as part of the delivery of a programme (for example, buying the delivery of part of an Apprenticeship framework or outreach support).

The College will ensure all actual and potential subcontractors have sight of this policy and any other relevant documents, such as the Fees and Charges Risk Factor Table. The Fees and Charges Risk Factor Table includes:

- The typical percentage range of fees retained to manage subcontractors, and how this range is calculated.

- The risk-based approach used to determine the level of fee retained through each subcontract.
- The contributory risk factors that would result in differences in fees charged for, or support provided to, different subcontractors might include:
  - Previous track record
  - Success levels
  - Type of customers to be engaged
  - Type of provision to be undertaken
  - Contract duration
- The risk bands that will be used to allocate college charges. Risk factors are given a score so that each subcontractor is aware of why they are in a particular band, this process will be used to give subcontractors an incentive to improve and thus reduce the risk band that they fall in. For example, higher risk subcontractors will be allocated less funding but receive more monitoring and support.
- Details of any successful completion 'bonuses' where subcontractors are paid some of the money retained, once it is clear that they will fulfil their contract.
- Payment terms between the college and subcontractors-timing of payments in relation to delivering provision and timescale for paying invoices and claims for funding received.
- The support subcontractors will receive in return for the fees charged.

#### Fees and Charges Risk Factor Table

The College's management fee is generally between 15 - 20% of funding drawn down against the provision to be delivered. This figure represents the total cost that the College incurs in effectively identifying, selecting and managing all subcontracted provision. This includes the minimum amount of QA activity that the College would attach to the lowest possible risk subcontractor.

Further charges to cover additional costs may be added to the base 20% fee to cover the cost to the College of any additional support that the College deems necessary to ensure the quality of teaching and learning and the success rates of any sub contracted provision. Additional cost is determined using a weighted table of risk factors. The table is available to all actual and potential subcontractors. It is designed to ensure that the cost of any additional support provided to a subcontractor is covered through the funding retained. Additional costs will be recalculated and negotiated each year at contract renewal, giving subcontractors the opportunity to reduce their fees through continuous improvement. This approach will allow the College to focus support where and when it is needed.

Overall Rating	Weighting	Score	Total
Previous track record	2.5%	0-3	Max 3 * 2.5%
Success levels	2.5%	0-3	Max 3 * 2.5%
Type of customers to be engaged	2.5%	0-3	Max 3 * 2.5%
Type of provision to be undertaken	2.5%	0-3	Max 3 * 2.5%
Contract performance and duration	2.5%	0-3	Max 3 * 2.5%
New subcontractor (first engagement)	2.5%	0-3	Max 3 * 2.5%

For example:

PARTNER	19-20 % Margin	Calc Margin	Previous Track Record	Achievement Rates	Type of Customer	Type of Provision	Contract Performance / Duration
Standard Management Fee (SMF)	85						
New Subcontractor		70	0	1	2	1	2

### **Additional Support for Sub Contractors**

The precise additional support given to each subcontractor will be negotiated with that subcontractor, but will be based on a 'risk banded' approach and may include:

- Additional site visits
- Additional lesson observations
- Additional tutor support
- More rigorous verification
- Additional visits from the Head of Partnerships and Partnerships Team Leader
- Additional support from the College's Quality Assurance Team

The risk band will be determined using the table above.

### **Additional charges per learner**

The College may also retain funding to cover the cost of any funded activity that it might undertake on behalf of the subcontractor such as:

- Awarding Organisation fees and charges
- Hiring of facilities/equipment within/from the College
- Internal Verification

### **Payment Terms**

Normally subcontractors are paid monthly in arrears for the delivery of provision subcontracted to them. Payment is spread over the length of the planned delivery contract, but may be extended where delivery continues past the end of the planned contract period if necessary to ensure the best outcome for the learners. Payment for achievements is held back until auditable proof of achievement is received by the College in line with the funding rules of the funding body.

The College will normally issue a PFR within 10 working days of the end of the month for which ESFA payment is due.

Upon receipt of satisfactory supporting evidence as detailed in the contract, the College will pay associated invoices within 30 days of the invoice date. This payment will be made by BACS transfer. However, if any supporting evidence is queried by the College then payment may be withheld until these queries are resolved, after which payment will then be made at the earliest possible opportunity.

### **Communication**

This policy will be reviewed in each summer term and updated as required. It will be published on the college web site during the July prior to the start of the academic year in which it will be applied. Potential subcontractors will be directed to it as the starting point in any relationship.

Any changes to the policy will be communicated to existing subcontractors at contract management meetings. Furthermore, the College will distribute a copy of this policy to all potential new subcontractors and discuss it

with them as part of the College's pre contracting process.

### **Publication of Policy**

An up-to-date copy of this policy will be posted on the College's website. Paper copies of the policy will be made available on request.

### **Related Publications**

Publications that should be referred to in conjunction with this policy are as follows:

*Adult education budget funding rules 2020 to 2021*

*Apprenticeship funding and performance management rules 2020 to 2021*

*ESFA funded adult education budget (AEB): funding and performance management rules 2020 to 2021*

*Advice: funding regulations for post-16 provision 2020 to 2021*