

## Subcontracting Fees & Charges Policy 2022/23

This policy outlines how New College Swindon will apply fees and charges to organisations who they subcontract with to deliver education and training provision

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## **POLICY STATEMENT**

### **1. SCOPE**

- 1.1** As a Lead Provider we are committed to detailing and publishing our Subcontracting Fees & Charges Policy for any subcontracted provision. We review and enhance our education and training provision to ensure we are a leading provider of choice.
- 1.2** This policy statement details how New College Swindon (NCS) will apply fees and charges to organisations who are subcontracted by NCS to deliver education and training provision.
- 1.3** This document as a minimum covers New College Swindon Subcontracting Fees and Charges Policy for the 2022/23 academic year.
- 1.4** This Policy will be reviewed on an annual basis by the accounting officer. The Policy is then approved for publication by the College's Corporation
- 1.5** This Policy has been written in accordance with:  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1105843/16 to 19 funding guidance Regulations 2022 to 2023-Version 1a FINAL PUBLISHED.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1105843/16_to_19_funding_guidance_Regulations_2022_to_2023-Version_1a_FINAL_PUBLISHED.pdf)  
[Subcontracting funding rules for ESFA funded post-16 funding \(excluding apprenticeships\) 2022 to 2023 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/1105843/16_to_19_funding_guidance_Regulations_2022_to_2023-Subcontracting_funding_rules_for_ESFA_funded_post-16_funding_(excluding_apprenticeships)_2022_to_2023_-_GOV.UK_(www.gov.uk).pdf)  
[ESFA subcontracting standard - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/1105843/16_to_19_funding_guidance_Regulations_2022_to_2023-ESFA_subcontracting_standard_-_GOV.UK_(www.gov.uk).pdf)  
[Adult education budget \(AEB\) funding rules 2022 to 2023 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/1105843/16_to_19_funding_guidance_Regulations_2022_to_2023-Adult_education_budget_(AEB)_funding_rules_2022_to_2023_-_GOV.UK_(www.gov.uk).pdf)

### **2. DISCLAIMER**

New College Swindon reserves the right to amend its subcontracting arrangements at any time in accordance with the requirements of the Funding Bodies and the terms and conditions contained in its standard contract for subcontracted provision.

### **3. RATIONALE FOR SUBCONTRACTING**

- 3.1** The College subcontracts its provision to supply the best teaching and learning experiences for its students. New College Swindon is committed to high quality delivery of a wide range of courses to meet the needs of the wider community, enhance the opportunities available to young people and adults, extend the breadth of provision and meet the requirements of identified skills gaps. 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

- To provide immediate provision whilst expanding direct capacity. This may include working with subcontractors to explore and learn about new programmes or sectors prior to investment in resources
- Widening participation by providing access to, or engagement with, a new range of customers
- 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
- To provide niche delivery where the cost of developing direct delivery would be inappropriate.

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

### **3.2 EXEMPTIONS TO THE POLICY**

Whilst NCS shall be responsible for payment of the fees, subcontracting to Apprentice End Point Assessment Organisations shall, therefore, be exempt from this Policy.

Should the employer ask NCS to help with the selection of an Apprentice End Point Assessment Organisation, NCS will comply with NCS Financial Regulations to procure the Apprentice Assessment Organisation for the employer and negotiate a set fee for the end point assessment.

#### **4. SELECTION PROCESS**

- 4.1 Organisations must be able to demonstrate that they meet all the requirements of Funding Commissioners' Funding and Performance Management Rules.
- 4.2 Organisations must be legal entities. If the legal entity is a registered company, it must be recorded as 'active' on the Companies House database. The organisation must be able to demonstrate that they meet all the requirements of New College Swindon to fulfil its commitments to quality assurance and financial and legal viability. Potential subcontractors will be required to complete a Partnership Pre-Qualification Questionnaire (PQQ) to enable New College Swindon to assess the quality of the applicant organisation. This includes confirmation, and a copy of, a range of policy documents including a Disability Policy, Equality and Diversity Policy, Health and Safety Policy and Procedures, Complaints Policy and Complaints Procedure, Staff Development Policy, GDPR, Data Protection, Safeguarding Policy and Prevent Policy.
- 4.3 Where an organisation meets both the required standards and a business need, a full due diligence process will be undertaken before confirming suitability.
- 4.4 The Chief Executive and College Corporation will undertake the final authorisation of all potential subcontractor proposals and must be satisfied that the proposed contract meets strategic aims and enhances the quality of New College Swindon offer to learners.
- 4.5 All subcontractors selected will be required to sign a legally binding contract.

#### **5. QUALITY ASSURANCE**

- 5.1 To ensure that all subcontracted provision is of the highest quality, all partners will be included in New College Swindon's Quality Assurance Cycle and will be guided and supported by New College Swindon to follow this process.
- 5.2 New College Swindon is committed to a policy of continual improvement to the quality of teaching, learning and assessment. In support of this we will require Subcontracting partners to attend specific training that we offer which sets out to share best practice across our direct and Subcontracting delivery.
- 5.3 New College Swindon will provide opportunities for subcontractors to share good practice through quality monitoring and audit compliance visits including observations of teaching, learning and assessment and utilising learner and employer feedback.

- 5.4 Subcontractors are required to hold course centre approvals in their own right and fully liaise with the awarding organisations. Subcontracted provision may be required to undergo course approval with New College Swindon. In addition, New College Swindon will regularly review External Moderator reports submitted by subcontractors and monitor actions arising from these as required.
- 5.5 New College Swindon will regularly validate the outcomes of subcontractors' own quality monitoring processes.
- 5.6 Full details of New College Swindon requirements are identified in the contract between New College Swindon and the subcontractor

## **6. MANAGEMENT FEE AND CHARGES 2022-2023**

- 6.1 The management fee retained by New College Swindon is calculated as a percentage of the total contract value agreed with the subcontractor, which is reviewed and published on an annual basis. This will include a list of specific costs for managing the subcontractor for quality monitoring activities and any other support activities offered by NCS to the subcontractor that contributes to delivering high quality teaching, learning and assessment.
- 6.2 The management fee for subcontracted work is generally between 15-20%.
- 6.3 Any variations to this management fee are agreed on a contract and case by case basis and will only be undertaken by negotiation and agreement by both parties. Any variation will be authorised by the Deputy Principal, Finance and Resources.

## **7. STRATEGIC REDUCTION IN SUBCONTRACTING**

- 7.1 New College Swindon aims to decrease its reliance on the utilisation of its funding through subcontracting in 2022/23 in a way that protects learners on existing programmes but also meets external requirements. Subcontracted provision will however be contracted on a limited volume basis where delivery is in line with Government / LEP priorities and only when the best interests of the College's local and wider communities are served through the utilisation of subcontracted provision.

## **8. NEW COLLEGE SWINDON SUPPORT FOR SUBCONTRACTORS**

**8.1** The management fee charged will cover the cost of New College Swindon providing the Subcontractor with overall management, Quality Assurance and administration of their Contract, and specifically including the following services:

- Advice and guidance and due diligence assessment at pre-contract stage
- Assigned Manager and Co-ordinator to oversee the provision and to ensure subcontractor is meeting all aspects of the Contract
- Learner support including: paperwork, advice and guidance on eligibility, processing enrolment documents, on-programme and completion support
- Complete data management and entry of learner data onto ILR to ensure timely and accurate processing and submission of data to funding body
- Financial management including calculation of fees due, processing of invoices and calculation
- Monthly monitoring of learner achievements and success rates
- Regular and on-going provision of administrative, technical and management information support, from initial starts, on programme support, through to completion and achievement
- Quality assurance visits including observations of teaching, learning and assessment and learning walks with detailed feedback identifying good practice and areas for improvement
- Audit visits – announced and unannounced
- Contract monitoring visits
- Termly Standard Review meetings
- Specific training including: Self-Assessment preparation and completion, Teaching, Learning and Assessment and audit compliance
- Access to New College Swindon staff development and training sessions for staff employed by the subcontractor, where appropriate
- Annual survey of learners and Employers
- Annual audit of MIS data including enrolment forms and attendance records  
Review of learner documentation including tracking records, reviews and ILPs

## **8.2 THE RESPONSIBILITIES OF SUBCONTRACTORS**

All learners provided with education and training under a subcontractor engaged by New College Swindon remain the responsibility of New College Swindon.

Subcontractors must ensure that they meet all the requirements of New College Swindon to fulfil its commitments to quality assurance, financial and legal viability and learner success and achievement.

The subcontractor is responsible for:

- Providing all essential information requested by the College as part of the Due Diligence process. The documentation must be updated regularly and/or at New College Swindon's request for the duration of the contract.
- Informing New College Swindon of any changes of ownership of the organisation, management structure, loss of centre accreditation and/or direct claim status.
- Ensuring learners are eligible for funding in accordance with ESFA and ESF Funding Rules
- Ensuring that their organisation's systems and processes are robust and appropriate to enable full compliance with the aforementioned funding rules

- Providing New College Swindon and, if necessary, the Funding Commissioners (or their nominated representatives) reasonable access to their premises and their documentation for the purposes of quality assuring the training delivery falling under the scope of this subcontract.
- Providing suitably qualified and competent staff for the delivery of the qualifications and training under this subcontracting arrangement. New College Swindon will require evidence of staff qualifications, experience and DBS check.
- Following match funding rules as set out in the ESFA's Funding Rules which include the use of the ESF logo.
- Compliance with all current Data Protection Legislation/GDPR to the extent that it relates to processing of personal data and privacy and all applicable Law about the processing of personal data and privacy.
- In delivering the Provision, the subcontractor must ensure it actively promotes equality and diversity, fundamental British values of democracy, the rule of law, individual liberty, and mutual respect and tolerance of those with different faiths and beliefs, and promote principles that support equality of opportunity for all.
- Informing New College Swindon if they discover any irregular financial or delivery activity in their organisation including:
  - Non delivery of training when funds have been paid.
  - Sanctions imposed by an awarding organisation.
  - An inadequate Ofsted grade.
  - Complaints or allegations by learners, staff or other relevant parties.
  - Allegations of fraud.
- Submission of learner enrolments, registers and completion of all documentary evidence in a timely manner and with minimal errors or omissions.
- Learner registration and certification processes for learners
- Internal and external verification activity
- Providing details of any accidents or dangerous occurrences affecting learners or the learning environment.
- Providing details of any Safeguarding issues.
- Providing an annual Self-Assessment Report.
- Informing and encouraging learners and employers benefitting from this contractual arrangement of the requirement to participate in New College Swindon Quality Monitoring activities and surveys when required.
- Participate in an OFSTED inspection, or other external quality assurance activity.

Should either party need to withdraw from this contract, the subcontractor must agree to cooperate fully with New College Swindon to ensure there is continuity of learning for the learners. All learner details, files, paperwork and or electronic records should be passed to New College Swindon as soon as possible for the purposes of finding and supporting suitable, high quality alternative provision.

## 9. PAYMENT TERMS

9.2 Payments are calculated on a monthly basis and are based on actual funding generated, the management fee, any audit hold-back (see 9.5), payments to date and the delivery of agreed services in accordance with the contract.

9.3 In exceptional circumstances, for example where there has been a failure relating to systems or processes to enable generation of funds, New College Swindon may process a payment. This payment will be authorised by the Chief Financial Officer.

- 9.4 Where there are is any evidence of non-compliance with the conditions of the contract or this policy, or related issues or concerns, New College Swindon reserves the right to withhold payment until conditions are fully met.
- 9.5 If there are any concerns about impact on the outcome of external or internal audit, New College Swindon reserves the right to withhold 10% of payments due to the subcontractor as audit hold back. This audit hold back will be paid to the subcontractor at the end of the financial year, subject to submission of all evidence and successful external or internal audit.
- 9.6 For any funding to be generated for a given month, subcontractors are required to submit enrolment and achievement evidence to ensure that the data is processed by New College Swindon in time for the monthly ILR return and the subsequent funding calculation. The detailed schedule for evidence submission and monthly financial deadlines, with specific dates for each month is detailed below:

**22/23 ILR returns and paperwork submissions\*\***

Period	Partner Paperwork Submission Cut-off Date	ILR Submission Date	Payments to Partners
R01	01-Sep-22	06/09/2022	Partner invoices are paid within 30 days of receipt and take up to 3 working days to be credited into the partners account. The exception to this is the final reconciliation R14, where partners will be notified of invoice or credit note values in the following month and processed as soon as authorised.
R02	29-Sep-22	06/10/2022	
R03	28-Oct-22	04/11/2022	
R04	29-Nov-22	06/12/2021	
R05	15-Dec-22	06/01/2023	
R06	27-Jan-23	06/02/2023	
R07	24-Feb-23	06/03/2023	
R08	29-Mar-23	06/04/2023	
R09	28-April-23	05/05/2023	
R10	30-May-23	06/06/2023	
R11	28-Jun-23	06/07/2023	
R12	26-Jul-23	04/08/2023	
R13	07-Sep-2023**	14/09/2023	
R14	01-Oct-2023**	19/10/2023	

**\*\* Dates subject to change depending on enrolment arrangements and staff resources.**



## **10. POLICY DISSEMINATION AND REVIEW**

10.1 This Subcontracting Fees and Charging Policy will be published before any subcontracting agreements for the 2022-23 funding year. It will be made available to all staff through NCS Intranet and for existing and potential partners, and other stakeholders, on our website:

<https://www.newcollege.ac.uk/about/policies-and-procedures>

10.2 All potential subcontractors will be made aware of the policy as part of any tendering process.

10.3 This policy will be reviewed annually by NCS Group Leadership Team to ensure it reflects any changes in funding rules and requirements and approved by NCS Corporation.

10.4 Any changes to this policy that are required mid-contract will be discussed with the subcontractors, prior to changes being implemented

10.5 NCS will obtain an annual report from an external auditor for the delivery of subcontract provision. The report will provide assurance on the arrangements to manage and control our subcontracted delivery subcontractors and comply with any guidance issued by our Funders. NCS will supply our Funders with a certificate signed by the external auditor and an authorised signatory to confirm that NCS has received a report that provides satisfactory assurance.

10.6 New College Swindon will publish the actual level of funding paid and retained for each subcontractor annually on New College Swindon web sites. This data will be published Within 30 days of the final ILR closing date.