



## **Supply Chain Fee & Subcontracting Policy 2021/22**

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<b>Author:</b>	VP Curriculum/Director of Business Development
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## Equality Impact Assessment Form

The completion of the Equality Impact Assessment (EIA) will help us to ensure that our policies, procedures and practices do not discriminate or disadvantage people and also improve or promote equality.

**In relation to: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; sexual orientation.**

1. Please explain if you identified any inequalities or possible discrimination in the policy, procedure or practice?

No inequalities or areas of discrimination identified.

2. If identified, how have you changed the policy, procedure or practice to remove or mitigate the inequality or discrimination?

Not applicable.

3. Any follow up actions required?

Not applicable.

# Contents

<b>1. Purpose and context</b>	4
<b>2. Scope</b>	4
<b>3. Responsibility</b>	4
<b>4. Reasons for subcontracting</b>	4
<b>5. Subcontracting process</b>	4
<b>6. Contracts</b>	5
<b>7. Monitoring performance of subcontracting arrangements</b>	6
<b>8. Data returns &amp; funding evidence</b>	6
<b>9. Reporting Subcontracting Arrangements to the ESFA</b>	6
<b>10 Improving teaching, learning &amp; assessment within subcontracting arrangements</b>	6
<b>11. Management fees</b>	7
<b>12. Payment terms</b>	8
<b>13. Communication and publication of the policy and fees</b>	8
<b>15. Monitoring &amp; review of the Policy</b>	9
Appendix 1	10

## **1. Purpose and context**

The purpose of this Policy is to ensure that Shipley College is transparent in its arrangements for managing its supply chain when entering into subcontracting arrangements.

The Policy and its supporting documents and Procedures are also in place to ensure that the College manages the process of subcontracting in accordance with published rules, whilst maintaining a high quality learning experience for all its learners and effective and professional relationships with its partners.

The content of this Policy has been developed with reference to:

Funding Rules 2020/21 (Education and Skills Funding Agency)

Note that any future proposals for sub-contracting would have to be agreed with the West Yorkshire Combined Authority.

## **2. Scope**

This Policy applies to all potential supply chain subcontracting partnership arrangements for the delivery of teaching, learning and assessment activity supported with funds supplied by the Education and Skills Funding Agency (ESFA), as well as any successor organisations.

## **3. Responsibility**

It is the responsibility of all staff to comply with the requirements of this Policy and for management to ensure its implementation.

Policy and practice is overseen by the Head of Business Development and Vice Principal Curriculum and with the approval of the College Senior Management Team (SMT) and governing body.

## **4. Reasons for subcontracting**

All subcontracting will be selected to ensure a clear strategic fit with the College's mission and values. There are a number of reasons the College may enter into subcontracting arrangements to meet the needs of learners, employers and the community including:

- To provide immediate provision whilst expanding direct capacity. This might include working with subcontractors to explore and learn about new Standards or sectors prior to investment in resources
- To provide access to, or engagement with, a new range of customers
- To establish a delivery model and market that is best delivered independently
- As a suitable route for expansion in a new area / market
- To fill gaps in niche delivery and provide niche delivery where the cost of developing direct delivery would be inappropriate
- To support employers with a wide geographic requirement and provide better geographical access for learners

## **5. Subcontracting process**

There are a number of stages Shipley College will complete with potential partners when considering or entering into subcontracting arrangements:

- I. The College may produce an invitation to tender for a specific type of provision or may receive an initial approach from a potential subcontractor.

These will take consideration of:

- a. Does it meet the strategic objectives and is it compatible with the strategic direction of the College?
- b. Does it meet the funding priorities of the College?
- c. Does the College have the capacity and expertise to monitor the quality of delivery proposed?

The College will look to keep subcontracting to a minimum as directed by the ESFA/West Yorkshire Combined Authority.

- II. The College completes a tendering process or evaluates a specific proposal - carried out by the College SMT
- III. Initial discussion takes place between both parties regarding the potential contract
- IV. Due Diligence checks are carried out by the College with the potential partner, including a site visit, where appropriate, against a strict set of key criteria (refer to Appendix 1)
- V. Evaluation and discussion of the outcome of Due Diligence
- VI. Checks made for any conflict of interest. Any conflicts of interest reported to the ESFA through the College's territorial manager and permission sought before entering into any arrangement
- VII. Draft contract produced for agreed partnership
- VIII. Contingency plan developed for learners in the event that a subcontract expires or is terminated for whatever reason
- IX. Final contract agreed, exchanged and signed by designated persons
- X. Commencement of partnership delivery and monitoring arrangements to include informing learners who are supported through subcontracting arrangements of the delivery subcontractor's roles and responsibilities in providing the learning

Both parties may withdraw from the process at any of the stages I to X above.

Following exchange of contracts, termination will be in line with the relevant contractual requirements.

## **6. Contracts**

ShIPLEY College has a legally approved and binding contract which meets the requirements of the funding agencies and current legislation. This is tailored for use when entering into any subcontracting arrangements with partners.

The contract is reviewed at the end of any subcontracting period to ensure it remains fit for purpose and compliant.

## **7. Monitoring performance of subcontracting arrangements**

Shipleigh College has a robust process for monitoring the performance of its subcontracted partners. This is documented in the Partnership Quality Manual which is issued to all partners.

Depending on the type of contract agreed, these processes usually include:

- Regular reporting (monthly or more frequently, as required) to the College of progress against a set of Key Performance Indicators
- Planned session observations by appropriate college staff of subcontracting staff delivering teaching, training or assessment with a report and action plan; this can also include occasional unannounced visits
- Regular evaluation of schemes of work, session plans, assessment methods & plans
- Regular internal audits of any documentation which underpins financial claims by the College
- Audits of Policies, Procedures and systems by College staff at predetermined visits
- Monitoring of contracts against profiles and financial performance
- Monitoring of partners' internal & external quality assurance mechanisms, for example relevant self-assessment reports, internal verification and external verification records, as well as current Ofsted reports

Performance of subcontractors will be reported in the College's Self Assessment Report.

## **8. Data returns & funding evidence**

The College requires all partners to complete the relevant data returns, records or other documents within the specified timescales detailed in the contract. It is essential that these are completed fully otherwise payments may be affected.

All partners must demonstrate they have current Policies and Procedures in place to ensure compliance with legislation around data protection and information privacy.

## **9. Reporting Subcontracting Arrangements to the ESFA**

The College will provide a fully completed delivery subcontractor declaration by the dates provided by the ESFA (at least twice a year and more frequently if changes are made between returns). This includes submitting a nil return if no subcontracting has taken place.

## **10 Improving teaching, learning & assessment within subcontracting arrangements**

Shipleigh College is committed to maintaining the highest standards of teaching, learning and assessment for all learners. Partners are required to evidence these standards and the College will monitor, review and support this process.

Depending on the nature of the contract, a range of support from the College will be available, as well as opportunities for both parties to share good practice, including:

- Observation, action planning and monitoring of standards of teaching, learning & assessment by the College team
- Peer observations between College and partner staff
- College advice on staff development planning, delivery and recording
- College staff development sessions available to partner staff
- College advice on teaching, learning and assessment materials and plans & and sharing of these by both parties
- College advice on self assessment and action planning processes
- College advice on development of Policies and Procedures

The College will, wherever possible, provide the services as part of the management fee but reserves the right to make charges depending on the type and nature of the contract.

## **11. Management fees**

The College will report its subcontracting fee charges policy and actual end-of-year subcontracting fees as required by the ESFA.

This will only relate to 'provision subcontracting' i.e. subcontracted delivery of full programmes or frameworks. Provision subcontracting lists will be agreed with regional ESFA officials prior to publication.

The College will ensure all actual and potential subcontractors have sight of this Policy and any other relevant documents related to fee charges.

The College management fee is based on a number of factors including:

- The funding value of the contract activity
- The risk and track record of the partner for the contract activity
- The type and level of support required from the College
- The duration of the contract

The typical College management fee ranges from 15% to 25% of the contractual value of the activity, depending on the variables above.

As a minimum the fee will include:

- College management time for the Due Diligence and pre contracting process, contracting, meetings & performance monitoring
- A risk related fee element, dependant on the provision subcontracted and track record of the potential partner
- College administration staff time
- Support with delivery of high quality teaching, learning & assessment, as detailed in 10. above

Additional charges will be agreed by both parties and based on any extra support or services provided by the College to the subcontractor.

These charges may include any hire of equipment or facilities, learner related fees for registration, certification, staff services to support recruitment, initial or diagnostic assessment, additional support, delivery, verification, training for learners, staff and management.

## **12. Payment terms**

The price per enrolled learner will be as calculated in accordance with the Funding Rules (including but not limited to the documents referred to at [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/977854/ESFA\\_funded\\_adult\\_education\\_budget\\_AEB\\_funding\\_and\\_performance\\_rules\\_2020\\_to\\_2021.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/977854/ESFA_funded_adult_education_budget_AEB_funding_and_performance_rules_2020_to_2021.pdf)) less the College management fee, which shall be retained by the College. The price paid is limited to the maximum value of the contract.

Where the required supporting evidence is incomplete then payments will be delayed until the situation is rectified or will be forfeited, if not submitted.

The partner must, within one working week following each payment date, submit a correctly prepared invoice to the College reflecting the part of the price due to them, as relates to each programme or fraction of a programme completed in the immediately preceding payment period, together with such supporting documentation in a form that the College may reasonably require to enable it to verify the invoice.

Payment will be made by the College within 30 days of receipt of a correctly prepared invoice and supporting documentation, provided the College has received the corresponding funding from the Funding Body.

In addition, any learner claimed by the partner to be on-programme after a period of 4 weeks and which the College has not received the required evidence of contact will be withdrawn from their programme. The partner will cease to receive payments in respect of learners who withdraw from a programme with effect from the date of withdrawal or such earlier date as the College specifies in writing.

The price will be paid by the College in such instalments and at such times as specified by the College in writing from time to time acting reasonably.

## **13. Communication and publication of the policy and fees**

In compliance with the Education and Skills Funding Agency (ESFA) and other agency funding rules that apply, the College will publish the Subcontracting Fees and Charges Policy on the Shipley College website. The College will report its actual end-of-year subcontracting fees as required by ESFA.

This will only relate to 'provision subcontracting' i.e. subcontracted delivery of full programmes or frameworks. It will not include the delivery of 'service subcontracting' as part of the delivery of a programme (for example, buying the delivery of part of a programme).

Provision subcontracting lists will be agreed with local ESFA Officials prior to publication.

## **14. Audit arrangements**

Where the subcontracted ESFA funding exceeds £100,000 or a subcontractor is in receipt of over £100,000 of ESFA funding in a single funding year, the College will obtain

- a report from external auditors that provides assurance on the arrangements to manage and control delivery subcontractors, and confirmation that the College is compliant with guidance issued by the ESFA.

- a certificate signed by the external auditor and an authorised signatory to acknowledge receipt of a satisfactory report

The College will ensure that a copy of the external auditor's final report including the action plan of agreed recommendations is provided to the ESFA for review.

### **15. Monitoring & review of the Policy**

This Policy will be monitored by the Head of Business Development in consultation with the Vice Principal Curriculum, reporting annually to the SMT and governors.

The College has a contractual requirement to complete the Subcontractor Declaration Form issued by the ESFA.

The Policy will be subject to review on an annual basis or more frequently, if required and published on the website.

Policy Approved by:

Governor name: Nigel Hainsworth

Signature:



Chief Accounting officer name: Nav Chohan

Signature:



## Appendix 1



# Due Diligence evidence record

**Name of partner organisation:**

**Registered address and postcode of partner organisation:**

**UKPRN:**

**ROTO reference:**

**Date Due Diligence commenced:**

**Note:**

All signed declarations or disclosures detailed below should be signed by a Director of the company or appropriate senior manager.

All required Policies and Procedures must be current and reviewed regularly. Discussions at a planned meeting will also assist in providing evidence for some of the requirements above.

	<b>Evidence required</b>	<b>Seen by (College staff)</b>	<b>Date seen</b>
1	A signed declaration which details all the contracts held with the Education and Skills Funding Agency (ESFA)		
2	A signed disclosure of the names of Directors and Senior Managers together with details of their previous appointments particularly with organisations that held funding agreements with the ESFA. Checked for any conflicts of interest		
3	A signed declaration that the partner is not in any litigation which might affect its ability to deliver the proposed activity e.g. any action in civil or criminal courts or in an employment tribunal.  A credit check to be carried out. Must not be above average risk warning, or it has passed a resolution (or the court has made an order) to wind up or liquidate the company, or administrators have been appointed .		
4	Confirmation that the subcontractor is a legal entity, and active on Companies House if a registered company). A copy of the most recent accounts including the income & expenditure accounts and ensure they are not overdue at Companies House		

5	<p>A signed declaration that the partner has no current or historic irregular financial or delivery activity and is not inadvertently funding extremist organisations</p> <p><b>or</b> evidence is provided of such activity which may include but is not restricted to:</p> <ul style="list-style-type: none"> <li>• Inadequate Ofsted grade awarded</li> <li>• Substantiated non-delivery of training where funds have been paid</li> <li>• Sanctions imposed by awarding organisations</li> <li>• Serious allegations and/or complaints by individuals working for the partner, by learners or by other relevant parties</li> <li>• non-delivery of training when funds have been paid</li> </ul>		
6	Confirmation that the subcontractor appears on <u>the list of declared subcontractors</u> and the Register of Training Organisations (ROTO) where the total value of the subcontract of ESFA funding from Shipley College exceeds £100,000 or where the total amount of subcontracted ESFA funding received by the subcontractor exceeds £100,000		
7	Declaration of any intention to further subcontract any part of the proposed provision (as this requires advanced ESFA approval from the Chief Executive via the College).		
8	A copy of the Sustainability Policy.		
9	Copies of all Policies and Procedures which cover Health & Safety particularly as it affects learners and appropriate insurance and risk assessments.		
10	Evidence of compliance with the Modern Slavery Act 2015.		
11	A signed declaration which details all reportable injuries, diseases and dangerous occurrences covered by the RIDDOR regulations over the last 3 years together with the actions implemented to prevent re-occurrence.		
12	A copy of the Policies and Procedures relating to equality and diversity and any supporting documentation such as reviews or reports.		
13	A copy of the Policies and Procedures relating to safeguarding of young people and vulnerable adults and to preventing and dealing with bullying and harassment and protecting learners from radicalisation and extremism.		
14	Evidence that relevant staff have been trained to ensure they understand their Prevent duties.		
15	A copy of the Policy and Procedures for dealing effectively with compliments or complaints.		
16	A copy of the Policy and Procedures for dealing effectively with learner discipline and sanctions.		
17	Evidence of checks for residency status of staff and learners to meet legislative requirements.		

18	A signed declaration which states that all staff involved in the contract delivery have had a recent DBS check and that the outcome of these checks have been seen by management and meet the requirements of the safeguarding policies and procedures.		
19	Written proof that the organisation has notified the Data Commissioner that they process personal information for data protection purposes.		
20	Copies of Policies and Procedures which cover the requirements of the Data Protection Act/GDPR for the safe storage of personal data relating to learner records.		
21	Written proposals how appropriate personal data will be exchanged with College securely for learners within the contract.		
22	Copies of operational manuals which specify how the organisation will collect, process and store personal data for learners within the contract.		
23	A signed declaration that states that the organisation will meet the Agency requirements to securely store records relating to the contract for a period of 6 years following completion of the contract.		
24	Evidence of the appointment of the team employed to deliver the programme to show there is sufficient capacity to deliver the contract.		
25	Evidence the organisation has sufficient physical and educational resources to deliver the contract.		
26	Copies of the qualification certificates of delivery, assessment and quality assurance team members to show they are appropriately qualified to deliver, assess and internally verify the contract.		
27	Evidence of awarding body approval and that quality assurance procedures are in place which ensure all assessments are subject to the appropriate internal verification or moderation processes; IV plans.		
28	Evidence that the organisation has the capacity to offer appropriate information, advice & guidance arrangements in place for all learners.		
29	Copies of schemes of work which show timely and appropriate delivery model, and how Health & Safety within the workplace will be covered with all learners as part of the learning programme; Copies of Individual Learning Plans, tracking and review documentation to support learners' progress and ensure learner progress is monitored.		
30	Evidence that appropriate learner support mechanisms are in place to facilitate support learners with additional learning needs.		
31	Evidence of the systems proposed to monitor attendance and retention and to ensure any withdrawals are promptly notified to the College.		