



Supply Chain Fee & Subcontracting Policy

Version:

Final

Authors:

Vice Principal Curriculum
Vice Principal Finance and Planning

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June 2024

Date of Audit Committee Approval:

25 June 2024

Impact Assessment Completed

Yes

Date of Next Review:

June 2025

Principal's Signature

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.

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1. Purpose and context

It is the policy of Shipley College not to subcontract Teaching, Learning and Assessment activities. This is in line with the ESFA's published commitment to see a significant reduction in the overall volume of subcontracted delivery in the sector. This policy sets out the College's contractual commitments associated with this choice not to subcontract.

The College recognises that there may be occasions when subcontracting may be considered to be in the best interests of learners. This policy sets out the circumstances in which subcontracting may be considered.

The policy has been developed with reference to the published rules, [Subcontracting funding rules for ESFA funded post-16 funding \(excluding apprenticeships 2024 to 2025\)](#), published June 2024.

2. Scope

This Policy applies to 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. This includes activities undertaken by students, apprentices (under an apprenticeship) and trainees.

The definition of "subcontracting" and "subcontractor" as set out in the ESFA Funding guidance are:

Subcontracting

"Any delivery to a learner's programme of learning by a separate legal entity. It does not matter if this is by a third party recruited to deliver on site (travel to teach), online learning or whether it is described as a service."

Subcontractor

"A separate legal entity or an individual (not an employee) that has an agreement (called a subcontract) with you to deliver any element of the education and training we fund. A separate legal entity includes, but is not limited to, companies in your group, other associated companies and sole traders. An individual could include a person who is a sole trader, self-employed, a freelancer or someone who is employed by an agency, unless those individuals are working under your direct management and control in the same way as your own employees. This does not include relationships between the lead provider and other third parties providing services such as marketing."

Threshold and Exemption Cases

Set out in the guidance are the following clauses:

- "If you subcontract more than 25% of the learners (based on Individualised Learner Record (ILR) data) for AEB or 16 to 19, you must submit an exemption case to the Department to obtain the Department's agreement.
- We will consider:
Your subcontracting policy, including your fees and charges policy, and whether this has been signed off by your officers who are charged with governance.
6.4.2: If you subcontract more than £100,000 in a funding year, we will consider the external auditor's report as set out in the subcontracting standard.

6.4.3: Whether the subcontracting is delivering to learners who may not otherwise have access to provision, including there being no alternative provision or the characteristics of the learner mean another lead provider may not be suitable.”

- “If you do not currently subcontract more than 25%, you are still required to review all subcontracted provision. You should ensure you review this on at least an annual basis, as well as the educational rationale for entering each subcontract and ensure these remain relevant and are supported by your officers who are charged with governance.”

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 Director of Business Development and Vice Principal Curriculum and with the approval of the College Senior Management Team (SMT) and governing body.

4. Reasons for considering entering into a subcontracting arrangement

Any proposal to introduce a subcontracting arrangement will need to demonstrate a strategic fit with the College’s mission and values and must be approved by the Corporation. There are a number of reasons when the College may enter into subcontracting arrangements to meet the needs of learners, employers and the community including:

The rationale for subcontracting the provision must enhance the quality of our learner offer. Subcontract delivery must not be used to meet short-term funding objectives. Any rationale must meet one of the following aims:

- Enhance the opportunities available to learners.
- Fill gaps in niche or expert provision or provide better access to facilities.
- Support better geographical access for learners.
- Support an entry point for disadvantaged groups.
- Support individuals who share protected characteristics, where there might otherwise be gaps.

5. Reporting Subcontracting Arrangements to the ESFA and WYCA

The College will submit a nil return to the ESFA to confirm no subcontracting has taken place, by the dates provided by the ESFA. Any decision to introduce subcontracting will be reported to ESFA and the West Yorkshire Combined Authority where relevant according to the published rules. Written permission would be sought from the ESFA at least 12 weeks prior to the planned start date of any learners.

6. Project Arrangements that are outside of ESFA jurisdiction

The College may at times participate in collaborative projects with other organisations which require the College to act as the Lead Partner and contract with delivery partner organisations, or to contract as a delivery partner with another Lead Partner.

SLT will consider the level of risk involved on a case by case basis and determine the necessity and extent of due diligence required. For example, where the College acts

as Lead Partner in a West Yorkshire Consortium of Colleges (WYCC) project with other education providers, including the other partner colleges, then the College will usually consider additional checks to be unnecessary due to the consortium's existing risk management processes and our established relationship. However, when acting as the Lead Partner with a new partner / groups of partners who are unknown to the College then the College will usually undertake additional due diligence checks.

Legally binding contracts will be in place for any project in which the College is acting as a Lead Partner or a delivery partner for a project.

As non ESFA contracts, the College is not bound by ESFA rules regarding management fees, payment terms and audit. Funding rules will be specific to the projects and determined by the funder.

Arrangements for monitoring delivery against Key Performance Indicators (KPIs) and quality will be undertaken as necessary, based on the type of contract that the College has entered into and the nature of the relationships with partner organisations.

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

- Regular reporting (monthly or more frequently, as required) of progress against a set of KPIs
- Quality checks including lesson observations, review of planning, delivery and evaluation
- Regular internal audits of any documentation which underpins financial claims by the College or the project management team (ie WYCC)
- Audits of Policies, Procedures and systems by College staff or project management team (ie WYCC) 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

The Corporation will receive reports on project partnership arrangements three times per year.

7. Monitoring & review of the Policy

This Policy will be monitored by the Vice Principal Finance and Planning in consultation with the Vice Principal Curriculum, reporting annually to the SLT and governors.

If the College deems it necessary or advantageous to introduce subcontracting the College would seek approval from the Corporation.

The Policy will be subject to review on an annual basis or more frequently, if required and published on the website by 31st October each year in line with the published rules. The Policy would be updated in accordance with the published rules if the decision is taken to enter into a subcontracting arrangement.

Policy Approved by:

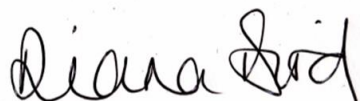
Governor name: Nigel Hainsworth

Signature:

A handwritten signature in black ink, appearing to read 'Nigel Hainsworth', written in a cursive style.

Chief Accounting officer name: Diana Bird

Signature:

A handwritten signature in black ink, appearing to read 'Diana Bird', written in a cursive style.

Appendix 1

16 to 19 Annex

"All ESFA funded provision, including enrichment, employment and pastoral (EEP) activity is a funded part of a study programme or T Level. Where the funded provider pays a third party to deliver such activity they are deemed to be a subcontractor."