



Subcontracting & Partnership Policy 2023-24

Purpose of Policy/Document	<p>The purpose of this policy is to provide accurate and comprehensive information to staff, external agencies, and potential subcontractors on why the College may choose to subcontract, how it procures its subcontracted services, the applicable supply chain fees and charges used and how quality will be managed and monitored. The policy aims to ensure transparency and equitability around subcontracting and the associated retained fees. It covers the period 1st August 2023 to 31st July 2024.</p> <p>In preparing this document care has been taken to ensure that the recommendations of the Education & Skills Funding Agency (“the Agency”) - and applicable equivalents from Mayoral Authorities - for partnership work and fees as outlined in the relevant funding guidance have been given due consideration. Where appropriate, this document addresses the requirements of the current Subcontracting Standard as produced by the Agency and other funding bodies as applicable.</p> <p>The College has a policy of equal opportunities and seeks to ensure that arrangements for fees and charges are consistent with this.</p> <p>This policy supersedes and replaces the Partners & Management Fee Policy.</p>
Target Audience (staff/students/visitors/contractors)	<p>Staff Governors External agencies</p>
Particular Legal Requirements/Issues outside of EDD	<p>Specific funding stream-related Education and Skills Funding Agency (and West Midlands Combined Authority as appropriate) funding rules 2023/24 and those previous versions where still applicable.</p>
Links with Other Policies/Documents	<p>N/A</p>

For completion by The Executive

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Communicated via/Location:	Portal Website

(Policy Acceptance software/website/portal etc)	
Equality Impact Assessment Statement	The Equality Act 2010 does not require public authorities to carry out EIAs by law. The College does however, carefully consider the impact, when creating or amending its policies, on all concerned parties regarding Equality, Diversity and Inclusion and records this at SLT meetings in order to demonstrate compliance with Public Sector Equality Duty (PSED).

Introduction

The College engages with a limited number of subcontracted partners to deliver its apprenticeship and adult education provision in order to widen the curriculum offer to meet skills needs and requirements locally and regionally in line with its strategy. In order to do this, the College endeavours to develop partnerships to utilise expertise, skills and specialisms where it deems this adds to the overall offer; this may be due to geography, delivery in niche markets, specialist expertise or skills.

This policy governs the subcontracting provision within the College and applies to all Education and Skills Funding Agency ("the Agency") and Mayoral Combined Authority ("MCA") funded provision which the College subcontracts. The Subcontracting Policy is a mandatory requirement for subcontracting activity.

Heart of Worcestershire College ("the College") is the lead provider and principal contract holder for a number of Agency and MCA contracts and is therefore directly responsible for the management and maintenance of these contracts, ensuring that contractual requirements are complied with.

The College recognises it is *"solely responsible for the delivery of their contract/s whether or not they are delivered via a sub-contracting arrangement"* (Apprenticeship Funding Requirements 2011/12, Skills Funding Agency, July 2011).

This policy details how the College justifies, operationally manages and applies fees and charges to all sub-contracting activity supported with funds supplied by the Agency and MCAs or any successor organisations.

The policy will be reviewed each year (usually before the beginning of each new contract year) and updated as required. It will subsequently be published on the College website, and potential and existing subcontractors will be directed to it as the starting point in any relationship.

The processes outlined in this document are designed to minimise the risk inherent in subcontracting, and ensures that the processes employed are fair, transparent and effective. The underpinning principle in these processes is one of minimising risk rather than solely relying on the detection of risk in-learning.

The policy is intended to comply with the current requirements published by the Agency and relevant MCAs, and includes:

- Our reasons for subcontracting provision;
- Our contribution to improving the quality of teaching and learning across our partners;
- The range of management fees we charge partners;
- The support partners will receive in return for the management fee;
- Potential reasons for differences between partner fees;
- Payment terms;
- Quality assurance processes.

It is the responsibility of both the College and its subcontractors to refer to the rules and guidance of the Agency and/or MCA and any future updates in all matters regarding the delivery of the contract.

Responsibility

This policy is owned by the Assistant Principal (Funding, Data and External Contracts (FDEC)). The College's Corporation is responsible for the approval of this Policy. The

management of the subcontracting provision of education or training is coordinated through FDEC.

Definitions

Subcontracting within this policy refers to providers delivering education or training on behalf of the College. This encompasses subcontractors listed on the Agency's and the MCA's 'Declaration of Subcontractors'.

Pre-subcontracting activities

Why we subcontract - the educational rationale

The College has a strong track record of successfully managing consortia and subcontracted delivery across England, which includes mainstream employer related, Agency, MCA and ESF provision. We regard subcontractors as business and strategic partners, and we are open to achieving growth through these partners where there are direct benefits to learners and where applicable, employers. In addition, the College has an equally strong record of helping develop subcontracted partners to the extent that many have progressed to direct contracts with funding agencies where this has been appropriate. The ESFA and West Midlands Combined Authority ("WMCA") have recognised our strengths in this area and have referred potential partners to us in the past.

We are keen to build on these achievements, and we recognise that if we are to create an offer that truly meets the needs of learners, employers, and other stakeholders, we need to continue to work with diverse partners. Working with partners is a fundamental part of the College's strategy.

We subcontract with partners to provide:

- access to, or engagement with, a new range of customers that will enhance the opportunities available to learners and other stakeholders such as employers;
- niche delivery where the cost and practicalities of developing direct delivery would be inappropriate;
- innovative provision where the methods of engagement and/or delivery are new;
- additional and varied entry points for learners with disadvantages and/or barriers to learning;
- support for learners and employers with a wide geographic requirement.

The College does not and will not subcontract to meet short-term funding objectives, and this is demonstrated by the limited number of organisations we do subcontract with, and the small number of 'new' organisations subcontracted with. The College does not subcontract 16-19 study programme or associated funding streams (i.e., T-Levels).

Furthermore, in line with Agency expectations, we have substantially reduced the number of subcontractors in all ESFA-funded provision, encouraging as noted above, apprenticeship partners to become main providers with direct contracts.

The College reviews the organisations it subcontracts with at least annually, and as part of that annual review, (re)examines the rationale for subcontracting with each. Subcontractors are submitted for approval each year to the College's corporation.

Fairness in procurement

The College will at all times undertake fair and transparent procurement activities. Selection and procurement of subcontractors will be carried out in accordance with the College's relevant procurement policies and processes.

As noted previously, the Agency has been clear that it expects to see a reduction across the sector in subcontracted provision; the College has reduced the number of subcontractors it uses over the last 5 years, and has not sought to advertise new opportunities to subcontract with it, nor procure substantial numbers of new subcontracted provision.

Due diligence

While noting that it is the College's intentions not to proactively seek new subcontracted partners, there are robust procurement and due diligence processes in place, as referred to above.

We seek to minimise risk in terms of quality and the veracity of delivery by utilising a process of approved partner membership, which involves a two-step process:

- successful completion of a due diligence process, usually involving answering a number of questions, the submission of data and references, and attending one or more meetings;
- successful application through an Invitation to Tender (ITT) process, subsequently being awarded a contract to deliver one or more learning services through the College.

In assessing applications through this process, the College will seek to avoid undue impact on existing partner delivery, both in geographic and sectoral terms, and will endeavour to balance risk against demand and contractual performance.

It is important to note that all applicants must be registered with the UK Register of Learning Providers, and therefore be able to provide their UK Provider Reference Number (UKPRN). Applicants who are not able to provide a UKPRN will be rejected.

Where apprenticeship provision is delivered, we require that applicants are also registered on the Agency's Register of Apprenticeship Training Organisations (RoATP), with the appropriate 'type' of registration achieved potentially determining the contractual relationship.

We require elements of the due diligence process to be refreshed every contract year with every existing subcontractor.

Contracting arrangements

The College has a standard contract template, based on the principal Agency contract with the College, for subcontracting and this is used/adapted for all subcontracting agreements. Agreements are signed after approval has taken place, and before the subcontracting arrangement commences. The requirements of this policy form part of that contractual agreement. It will be signed by the subcontractor and the College. Terms and conditions will be agreed and included in the contract. The College, Ofsted, the MCA and the Agency are granted full permission and rights to monitor the quality of training being provided and visit the subcontractor at their premises, training sites or employer's premises from which they operate.

The College retains responsibility for all of the actions of our delivery subcontractors that are connected to, or arise out of, all the training and on-programme assessment that is subcontracted to them.

The overall strategic and operational management of subcontracted provision is led by a member of the College's SLT team, reporting and responsible to the Principal and Chief Executive, and the College's governors through corporation.

Quality assurance and performance management meetings

The College is committed to delivering high quality teaching and learning across its provision and will work with subcontractors to review progress and manage the quality of external provision.

In order to allow for appropriate oversight and support of quality of delivery, the following measures are currently in place to monitor subcontractors:

- Pre-contract discussions and planning meetings;
- Monthly production of detailed performance reports to each subcontractor;
- Quarterly performance quality reviews which include a review of the subcontractor's Quality Improvement Plans (QIPs);
- Regular contract review meetings between the College and its subcontractors;
- Regular peer and remote observations to check on the quality of Information, Advice and Guidance (IAG) teaching, learning, assessment and progress;
- Regular compliance reviews;
- Review of the subcontractor's Self-Assessment Report (SAR) and Quality Improvement Plans (QIP);
- Other ad hoc meetings, on-site visits and discussions take place for general issues as they arise but these also form part of our relationship management and support for subcontractors and give rise to actions and interventions where appropriate.

These mechanisms are designed to ensure the quality of delivery, that learners exist and that they are eligible for funding under the relevant Agency and MCA funding rules.

Quality assurance measures support subcontractors to implement and maintain high quality teaching, learning and assessment. Its focus is to ensure learners have a positive learning experience, allowing individuals to make individualised progress to achieve their career goals. Performance management measures ensure data and statutory compliance is upheld to ensure accuracy and transparency of ILR data, whilst monitoring quality assurance relating to the delivery programme(s).

The College will carry out unannounced 'spot' checks on programmes delivered by subcontractors at least once per contract year. These checks are to ascertain the courses identified to the College are taking place and that the learners enrolled on programmes are genuine learners. During these visits, a College representative will confirm that the learners are aware of their entitlement as College learners, that accommodation is appropriate and conducive to learning, and that equipment is sufficient to effectively support teaching and learning. In addition, the College will review learner support, progress and achievement processes.

Learner feedback

Subcontractors must evaluate learner feedback and provide evidence that this is obtained on a regular basis and ensure that any actions identified following analysis of learner feedback where judged appropriate, are implemented.

In addition, the College will undertake learner feedback on a random basis in order to receive independent feedback from leavers. This information assists the College in its quality monitoring and provides evidence to support our annual self-assessment.

Any issues raised will be investigated and brought to the attention of the subcontractor. The subcontractor will be given an analysis of all feedback received and, where appropriate, an action plan will be negotiated.

Employer feedback

Where subcontractors provide provision on behalf of the College to learners in the workplace, the subcontractor must evaluate employer feedback and provide evidence that this is undertaken on a regular basis and ensure that any actions identified are implemented. In addition, the College may undertake employer feedback on a random basis in order to receive independent feedback. This information assists the College in its quality monitoring and provides evidence to support our self-assessment process.

Subcontractor feedback

In order to assist the College in improving its services to subcontractor organisations, subcontractors will be given the opportunity to provide feedback on services provided by the College.

Teaching & Learning Observations

It is assumed that the subcontractor will undertake their own observations of teaching and learning to ensure and enhance the quality of provision. However, the College reserves the right to undertake observations of teaching and learning in line with our own policies.

External Verifier Reports

Although the College is not directly involved in the process of external verification, copies of External Verifier Reports for all programmes involving College learners must be forwarded to the College, and it should be informed of any external quality assurance verification visits that are arranged.

Continuing Professional Development

Teaching staff employed by subcontractors to deliver College provision are entitled to access staff development opportunities at the College.

Internal policies

Subcontractors are required to have robust internal policies to ensure compliance with legislative undertakings and general good practice and make certain that policies are regularly updated and effectively implemented, the requirements of which are identified in the contract. As a minimum any subcontractor will be expected to evidence a policy or policies covering the following topics approved at an appropriate level in the organisation (assured through checks):

- Employment law & appeals;
- Data Protection (GDPR compliant);
- Health & Safety;
- Equal Opportunity/Equality & Diversity;
- Assessment & Internal Validation;
- Safeguarding & Prevent;
- Insurance:
 - Employers Liability Insurance;
 - Public Liability Insurance Cover.

Contingency planning

In the event that:

- the College withdraws from a partnership arrangement (either through its own decision or by instruction from its principal funders);
- a partner withdraws from the arrangement, *or*
- a partner goes into liquidation or administration

the College will take steps to ensure that provision is made so that any current learners involved are able to complete their qualifications.

Each particular event will have specific needs and considerations, but the College's general approach is outlined in the contract between it and each partner.

Supply Chain Fees and charges

The 'Supply Chain Fees and Charges' applies to subcontractors of the College as listed on the 'Declaration of Subcontractors' and notified to the MCA and Agency.

A fee is charged for the following reasons:

- to contribute to the administration of and support for sub-contracted provision;
- to contribute to the administration of the claims process, whereby the College makes claims based on partner data to the MCA and the Agency;
- to contribute to the compliance and quality assurance functions within partnership provision.

Included in the many benefits obtained by subcontracted partners are:

- access to funding not otherwise available to individual or niche providers;
- the security of a consistent funding stream;
- regular, consistent and informative contract management that complies with Agency funding requirements;
- access to staff capacity building and consultancy support;
- guidance on funding and other compliance and quality issues, including health and safety, equality and diversity, and safeguarding etc.

The College normally retains a maximum of 20% of funding delivered through subcontractors for a standard subcontracting agreement. The exact percentage is specified in each partner's contract with the College. The fee is expressed as a percentage of the MCV and is not based on the actual value of the claims made against the MCV.

The College's current fees are usually charged monthly. There may be variances in partner fees for a variety of reasons, which may include some or all of the following:

- the perceived risk of sub-contracting with the particular partner;
- the size of the contract;
- the nature of the provision sub-contracted;
- the geographical location of the partner and/or the provision;
- whether the partner is new to the College or is an established partner with a proven track record, *and*
- the outcomes of compliance, assurance and performance reviews.

In general terms, the College's approach to determining the proportion of a fee that will contribute to the College's costs will be determined by staffing budgets associated with the follow broad headings:

- data management services (41%), *and*
- quality and compliance services (35%).

The balance of the fee will generally split between:

- contract management (14%), *and*
- additional services (10%).

Payments

In consideration of the services to be provided by the subcontracted partner, the College will make the payments to them in accordance with the schedules contained within the contract between the College and the partner; the College will endeavour to make such payments within 30 days of them being due, subject to any particular clauses within the contract.

Payments will normally be made by BACS transfer negating the need for invoicing, ensuring an efficient and effective use of funds, and aiding cashflow management.

Policy review and communication

The College will review this policy and the subcontracting rationale annually. The subcontracting rationale should be amended by the 31st July each year and needs to be approved by the governors. Any changes to the policy will be communicated to existing subcontractors at the contract management meetings. The policy will be discussed with new subcontractors prior to their engagement. An up-to-date copy of this policy will be posted on the College's website and paper copies will be made available upon request.

Declaration of use of subcontractors

In line with MCA and Agency funding rules, the College will submit a subcontractor use declaration to each at least twice each year summarising the value of any subcontracted provision paid for in the previous period. The College will also publish a summary of payments made to subcontractors in the previous year on its website each year.