



### Policy/Procedure/Guideline Review

<b>Policy/Procedure/Guideline:</b>	Subcontractor Fees and Charges Policy
<b>Senior Manager Responsible:</b>	Executive Director – Corporate Planning
<b>Author:</b>	Executive Director – Corporate Planning
<b>Approved By:</b>	Corporation Board
<b>Date Approved:</b>	1 October 2018
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<b>Publication:</b>	Nelson and Colne College Extranet Accrington and Rossendale College Intranet Nelson and Colne College Website Lancashire Adult Learning Website Accrington and Rossendale College Website
<b>Changes Made:</b>	Inclusion of Accrington and Rossendale College's Subcontractor Fees and Charges Policy for 2018/19 as Appendix A.  Amendment to Disclaimer section identifying we reserve the right to amend Accrington and Rossendale College's subcontracts to ensure compliance with ESFA Funding and Performance Management Rules and Subcontracting Rules.
<b>Agreed by Principal</b>	
<b>Agreed by Chair of Governors</b>	

## SUBCONTRACTOR FEES AND CHARGES POLICY

### 1. **Introduction**

- 1.1 This policy outlines Nelson and Colne College's position in relation to the subcontracting of provision and funding to partnership organisations and includes Apprenticeship delivery subcontracting in 2018/19.
- 1.2 Our approach for 2018/19 recognises that Accrington and Rossendale College has merged with Nelson and Colne College and through the merger a small number of subcontracts which were agreed prior to the merger have novated to Nelson and Colne College.
- 1.3 Nelson and Colne College for 2018/19 will adopt the Subcontractor Fees and Charges Policy previously agreed by Accrington and Rossendale College's in July 2018 for those subcontracts which novate to Nelson and Colne College, a copy of which is included at Appendix A.
- 1.4 This policy will replace Nelson and Colne College's previous Subcontractor Fees and Charges Policy upon the date that Accrington and Rossendale College merges with Nelson and Colne College.

### 2. **Definition of Subcontracting**

The Education and Skills Funding Agency (ESFA) defines a delivery subcontractor as a separate legal entity that has an agreement with the college to deliver any element of the education and training that is funded via the ESFA. The ESFA define a separate legal entity as including companies in a group, other associated companies and sole traders. It also includes individuals who are self-employed or supplied by an employment agency, unless those individuals are working under the direction and control of the college, in the same way as our own employees.

### 3. **Background**

- 3.1 Nelson and Colne College is committed to providing a range of services and training options to the communities of Pendle, the surrounding area and the wider area of Pennine Lancashire. The College's mission is to *"To deliver the highest quality, relevant, education and training to young people and adults in College, in community settings and in the workplace. To encourage and support all to overcome any barriers, to be ambitious and achieve"*. In order to achieve this mission, Nelson and Colne College seeks to identify any opportunities for the development of new training provision, which will widen participation and increase the opportunity of access to education, training and employment. Where this cannot be met directly by Nelson and Colne College, we will seek to subcontract this provision in order to meet demand.
- 3.2 The policy relates to the following Nelson and Colne College strategic priorities:

Strategic Priority 1:      Develop our curriculum in line with local and national policy and local and regional need

Strategic Priority 2: Through effective partnerships, seek new opportunities to enhance the impact and reputation of the College

Strategic Priority 3: Ensure that our learners enjoy 'Outstanding' teaching, progress and onward progression to their next steps

- 3.3 In 2016/17 LAL became part of Nelson and Colne College. LAL delivers a truly locally determined adult and community learning offer which is underpinned by strong local partnerships across Lancashire and provides engagement with communities. LAL has its own Strategic Plan which includes a framework of priorities.

LAL's vision is to *'Inspire Adults in Lancashire to achieve success in learning in order to improve skills for employment, the quality of personal and family lives, enhance the health, social and economic well-being of communities and raise ambition.'*

- 3.4 In addition to delivering the strategic objectives identified earlier for Nelson and Colne College, LAL subcontracted provision supports the achievement of LAL's strategic priorities which are:

- Strategic Priority 1 – Ensure a strong partnership between LAL and other stakeholders which delivers the best possible outcomes for Lancashire residents and contributes to wider Lancashire priorities.
- Strategic Priority 2 – Ensure a high quality, relevant and co-ordinated learning offer meeting learner needs
- Strategic Priority 3 – Ensure participation is accessible to all and provides clear progression routes for learners
- Strategic Priority 4 – Ensure LAL resources are well planned, deliver value for money and contribute to Pound Plus goals
- Strategic Priority 5 – Ensure that outcomes improve and there is a positive impact on learners' lives

#### 4. **Scope**

- 4.1 This policy details how Nelson and Colne College applies fees and charges to Subcontractors.
- 4.2 This policy indicates Nelson and Colne College's Subcontractor Policy for the 2018/19 academic year.
- 4.3 This policy is published in line with ESFA requirements stated in their latest published Funding Rules 2018/19.

#### 5. **Rationale for Subcontracting**

- 5.1 Nelson and Colne College subcontracts provision in line with the ESFA's Funding Rules 2018/19.
- 5.2 Indicative reasons for Nelson and Colne College subcontracting provision to partners include:
- The delivery of niche provision.

- Widening participation e.g. the offer of provision in a geographical area in which demand exceeds supply.
- To contract expert teaching and resources in a cost effective manner.
- To deliver provision which is not currently part of the College's existing teaching or materials resource.
- To deliver provision which engages hard-to-reach learners (e.g. Not in Employment , Education or Training - NEETs) with the ultimate aim of progression into mainstream College provision.
- Widen the range and scope of provision offered by the College in terms of engagement, retention and progression opportunities.
- Increase mutual referral opportunities between the College and its Subcontractor.
- Shared good practice.
- Ensuring value for money in the delivery of education and training services.
- Utilising subcontractors to complement our own delivery of Apprenticeships if requested by an employer.
- Capacity building both organisations, resources and provision to respond to identified need.

5.3 Subcontracting is a key part of LAL's Community Learning strategy, so in addition to the reasons identified in respect of Nelson and Colne College, LAL subcontracts provision where it enables greater targeting of specific geographies and client groups. LAL recognises that subcontracting provides opportunities to develop stronger partnerships with voluntary sector providers and enable better alignment with mainstream budgets.

## **6. Contribution to Improving Quality of Teaching and Learning**

6.1 Nelson and Colne College ensures subcontractors are included within its quality processes. Subcontractors are supported by the College to maintain the same high quality standards expected across all aspects of Nelson and Colne College.

6.2 Nelson and Colne College is committed to continuous improvement and this commitment covers all provision including subcontracted programmes. All subcontracted provision is included in our quality cycle which includes lesson observations, quality improvement meetings and shared quality improvement plans. Nelson and Colne College supports the subcontractor throughout this process to ensure quality provision is being delivered to the high standards expected.

## **7. Support for Subcontractors**

7.1 The contractual agreement outline the roles and responsibilities for both parties. The ongoing support given to the subcontractor typically includes:

- Performance management
- Regular review meetings
- Paperwork validation prior to submission to the funder
- Confirmation of learner eligibility
- Data input and submissions to the funder via the College's Individualised Learner Record.

- Learner tracking documents with learner status updates
- Quality meetings
- Audit compliance advice and guidance
- Funding and eligibility queries
- Sharing of good practice
- IAG on delivery methods and programme delivery
- Access to all development and training opportunities available to Nelson and Colne College staff
- Training (where relevant), advice and support to improve quality
- Advice on implementation of Nelson and Colne College policies.
- Tracking documents with transparent calculations to detail both the funding claimed by the College and the Payment passed to the Subcontractor
- A subcontractor manual and regular updates
- Where necessary, Internal Verification (IV) and assessor support can be provided by the College
- Where necessary, Health & Safety assessments

- 7.2 Subcontractors are involved in regular meetings with Nelson and Colne College to performance manage quality and mitigate any risks or issues related to the delivery of the subcontract.
- 7.3 The experience of the learner is paramount and Nelson and Colne College, and the Subcontractor will collaborate to ensure high quality provision is delivered and high levels of achievement are achieved and maintained.
- 7.4 Subcontractors will be subject to a programme of announced and unannounced audit visits during each funding year from Nelson and Colne College to ensure adherence to the Funding Rules 2018/19 and continued high quality delivery of the contracted provision.
- 7.5 All Subcontractors receive a contract prior to delivery of any provision on behalf of Nelson and Colne College.
- 7.6 Subcontractors are given a key contact at Nelson and Colne College for any issues relating to the subcontract delivery.
- 7.7 Subcontractors are given key curriculum contacts at Nelson and Colne College for any issues relating to curriculum aspects of the subcontract delivery.
- 7.8 Subcontractors are subject to a Due Diligence process ahead of any contracting. New Subcontractors are supported through this process including, for example, registration with the UK Register of Learning Providers and, if necessary, the Skills Funding Agency's Bravo Portal and the Quality Assurance Gateway Pre-Qualification Questionnaire (PQQ).

## **8. Funding and Management Fees**

- 8.1 Where Nelson and Colne College subcontracts provision which is funded via a formula funded route the fee retained is calculated as a percentage of the total contract value agreed with the subcontractor. This percentage is typically between 15% and 30% of the income received from the ESFA and is dependent on the level of additional support required by the

subcontractor over and above the management, administration and quality obligations of the College.

- 8.2 For experienced, long-term subcontractors who do not require any additional support over and above the management, administration and quality obligations of the College, the fee retained is 15%.
- 8.3 A due diligence exercise is completed for each Subcontractor which includes checks on financial, capacity, capability and quality prior to any contracts being issued. The management fee is calculated following a risk assessment of the Subcontractor and will include considerations such as:
- Historical records of the Subcontractor to meet recruitment, retention, achievement, success and funding targets.
  - Records of the Subcontractor meeting or exceeding benchmark achievement and success targets.
  - Quality of provision delivered by the Subcontractor.
  - Existing length of relationship between College and Subcontractor.
  - Financial health of the Subcontractor and its continued capacity to deliver provision on behalf of the College.
  - Adequate resourcing of subcontracted provision.
  - Size of the contract in terms of finance and volumes of learners.
  - Additional support required over and above the management, administration and quality obligations of the College.
- 8.4 The management fee is reviewed on an annual basis and is open to negotiation with each Subcontractor. The agreed value will be confirmed within the signed contract between both parties.
- 8.5 Where Nelson and Colne College subcontract provision which is funded via a Grant rather than the formula funded route then Subcontractors may be invited to submit a proposal against a Prospectus outlining the types of activity that are sought and the funding rates for the different types of activity. No monies are retained from the Subcontractor in this instance.

## **9. Payments**

- 9.1 Where Nelson and Colne College subcontracts provision which is funded via a formula funded route payments to Subcontractors are calculated using the relevant ESFA funding rates. This is communicated to each partner via a tracking document to ensure transparency. The exception to this is where Apprentice employers are working with Nelson and Colne College to deliver agreed elements of an Apprenticeship Framework/Standard. In this situation Nelson and Colne College will ensure that the employers are compensated for their actual cost of delivery.
- 9.2 Where Nelson and Colne College subcontracts provision which is funded via a Grant payments will be based on unique learners enrolled.
- 9.3 Payments to Subcontractors are subject to the management fee indicated in the contract.

- 9.4 Where Nelson and Colne College subcontracts provision which is funded via a formula funded route each payment to the Subcontractor is subject to an initial holdback of 20% of the payment value. This element will subsequently be passed on to the Subcontractor following satisfactory delivery of the subcontract arrangement as per the contract and the successful sign-off of the Individual Learner Record (ILR) for that academic year.
- 9.5 Nelson and Colne College reserves the right to withhold funding where in our opinion we do not hold sufficient progression evidence to support any on programme payment, for example.
- 9.6 The payment profiles for each Subcontractor will be agreed within the contract between the parties. Payment may, for example take place monthly, quarterly or following completion of a cohort of students.
- 9.7 For any payments to be made to the Subcontractor, the Subcontractor must conform to the terms and references within the contract and provide the required paperwork, data and information to enable Nelson and Colne College to make a successful claim via its Individual Learner Record (ILR) to the relevant funding agency.
- 9.7 Payment will be made within 30 days of receipt of a valid invoice agreed by both parties, subject to compliance with the contractual terms.

## **10. Contingency Plan**

Nelson and Colne College recognises that the learners supported by its subcontractors are its responsibility. Therefore, if for any reason, financial or otherwise, a Subcontractor is unable to continue delivery either temporarily or permanently; Nelson and Colne College will work with the Subcontractor to ensure the continuity of delivery for learners enrolled on College programmes appropriate to the circumstances. Options may include, but are not limited to:

- Delivery at College, or other appropriate premises
- Delivery using College staff
- Transfer of delivery to an alternative Subcontractor

## **11. Reporting Subcontractor Arrangements**

- 11.1 Nelson and Colne College will provide the ESFA with a fully completed Subcontractor Declaration Form in line with the dates provided, this will be at least twice a year and if changes are made to subcontracting arrangements these will be frequently.
- 11.2 Nelson and Colne College will publish the actual level of funding paid and retained for each subcontract in 2018/19 within 30 days of the 2018/19 ILR closing.

## **12. Contract**

- 12.1 All Subcontractors are required to agree and sign an agreement between both parties prior to delivery of any provision.
- 12.2 In agreement with both parties, variations to the agreement may be issued during the contract period, arrangements for this are outlined in the agreement. The variation may relate to, for example:
- Changes in the management fee dependent on the level of support required.
  - Changes to the volumes of learners and funding.
  - Changes to the range and scope of provision delivered by the Subcontractor.

## **13. Dissemination**

- 13.1 This policy is available on the Staff Extranet and via the following websites:
- Nelson and Colne College ([www.nelson.ac.uk](http://www.nelson.ac.uk))
  - Accrington and Rossendale College ([www.accross.ac.uk](http://www.accross.ac.uk))
  - Lancashire Adult Learning ([www.lal.ac.uk](http://www.lal.ac.uk))
- 13.2 Potential subcontractors can access this policy via the websites detailed above or be referred to it as part of the Due Diligence process.
- 13.3 The Policy is communicated to subcontractors through email, meetings and contract reviews and in advance of subcontracting discussions for subsequent years.

## **14. Disclaimer**

- 14.1 The College reserves the right to amend its subcontracting arrangements at any time in accordance with the terms and conditions contained in its subcontract agreements, this includes those subcontracts novated from Accrington and Rossendale College to ensure that the College complies with the ESFA's Funding and Performance Management Rules and Subcontractor Rules.

## **15. Monitoring and Review**

- 15.1 The policy will be reviewed annually by Nelson and Colne College's Executive Director – Corporate Planning.

## **16. Management Responsibility**

- 16.1 The Executive Director – Corporate Planning has management responsibility for this policy across Nelson and Colne College.



**17. Equality Impact Assessment**

- 17.1 Subcontractors must adhere to the terms and conditions set within Nelson and Colne College's Single Equality documents including the Single Equality Scheme.



## Subcontract Management Fee Policy 2018/19 - July 2018

### Scope

This policy statement details how Accrington and Rossendale College will apply fees and charges to contracts with organisations subcontracted to deliver training and education on the College's behalf. This Policy applies to all courses offered by subcontractors of the College, as listed on the 'Declaration of Subcontractors', where the subcontractor delivers the full programme of framework. This document outlines the College's Supply Chain Charges and Fees Policy for the 2018/19 academic year.

### Purpose

The aim of the policy is to provide accurate transparent and comprehensive information to external agencies on the fee policy that Accrington and Rossendale College adopts when subcontracting its provision. This policy is published in line with Education & Skills Funding Agency requirements as stated in the funding rules. The policy will be discussed with potential subcontractors during the negotiation of any new contracts.

### Disclaimer

The College reserves the right to amend its subcontracting arrangements at any time in accordance with the terms and conditions contained in its standard contract for subcontracted provision.

### 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:

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

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.

The funding that is retained by the College will be related to the costs of the services provided and the risks associated with the subcontractor meeting the standards required by the College. These services, and the levels of funding being retained, 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.

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**

Subcontracting enables the College to deliver high quality niche provision in areas where subcontractors' have extensive and focused specialist experience.

Subcontracting ensures cost effectiveness of programme delivery on occasions when it may be desirable for the College to run certain programmes but it is not viable for the College to build up in-house resources and expertise.

Subcontracting contributes towards the sustainability of the College's provision overall, as it helps the College to respond flexibly to changing market demands and emergent opportunities.

Subcontracting widens the range of progression opportunities for learners, both from Subcontractors' to the College's programmes and vice versa.

Subcontracting enables the College to widen participation and increase flexibility and access to education and training at home or in the workplace.

Subcontracting provides good development opportunities for both the College and its Subcontractors, to share good practice and new ways of working.

### **Upon commencement of the subcontracting process**

Accrington and Rosendale College will consider that the proposed subcontracting arrangement will be in the best interests of all parties.

We will ensure that:

- The proposed delivery is in the best interests of learners and employers and adds value to the work of the College
- The proposed delivery has a clear strategic fit with our mission, objectives and values
- There is sufficient expertise within the College to quality assure the provision
- There is sufficient staff resource in support areas to administer the processes and make alternative arrangements in the event of subcontractor failure to ensure learners are not disadvantaged
- The Subcontractor is approved by our due-diligence process
- There is sufficient funding available within our funding contract
- The Subcontractor agrees to work within the terms of our contract and is willing to engage in a mutually supportive relationship built on trust and respect

## **Improving the Quality of Teaching and Learning**

Subcontracted partners will be expected to meet Accrington and Rossendale College's quality assurance standards. The College is committed to supporting, developing and sharing good practice and professional development of staff through quality reviews, operational meetings, observations of teaching, learning and assessment and stakeholder feedback.

Subcontracted activity is a fundamental part of Accrington and Rossendale College's provision. The quality of the provision will be monitored and managed through our existing quality improvement process with the College's Self-Assessment Report / Quality Improvement Plan process ensuring continuous improvement in all parts of the learner journey. The College will also regularly review External Moderator reports and monitor the implementation of any required actions.

## **Fees retained by the College**

The management fee retained by the College is calculated as a percentage of the total contract value agreed with the Subcontractor. The typical percentage range of fees retained by the College to manage Subcontractors is 10% to 30%.

The management fee is calculated using risk assessment of the following factors.

- Track record of the Subcontractor with regard to meeting success and funding targets.
- The type of provision to be undertaken
- Length and history of previous contract relationship with the College.
- Financial standing of the Subcontractor.
- Anticipated demands of the contract on the College's resources.
- Contract size with regard to both funding and learner numbers.
- Learner fees

The management fee is open to negotiation and review by Subcontractors subject to reference to specified criteria. The final fee is agreed by both parties and is dependent upon the level of support required, the experience of the Subcontractor, their target learners; their track record, published success rates and the level of risk as determined by the due diligence process.

## **Support for Subcontractors**

The exact mix and level of support for each Subcontractor will vary depending on the needs of the individual Subcontractor. However, all partners will receive a high level of support and guidance and access to College systems, including:

- Quality management systems
- Certification and registration with awarding bodies if required
- Management Information Services and data control advice
- Audit of management systems and delivery and observation of teaching, learning and assessment
- Safeguarding of Young People and Vulnerable Adults procedures
- Health and Safety compliance
- Teaching, Learning and Assessment observations and coaching
- CPD Opportunities, training and development
- Policy development

- Support with Funding Rules compliance
- Regular national updates regarding funding and policy guidance
- Equality and diversity support

**Payment Terms between the College and its Subcontractors**

Payments from the College to the sub-contractor will be paid upon invoice from the sub-contractor to the College at intervals stated in the contract. Payments will be made by BACS.

Payment will be made to the sub-contractor on satisfactory completion of the learning programme, and on submission of all required documentation in accordance with the requirements set by the Education and Skills Funding Agency Audit, and detailed in the Audit Compliance Guidelines, and any subsequent additions and amendments and following validation of the evidence in the ILR return. The College will make the appropriate payment to the Subcontractor based on the level of income calculated by the validation process less the agreed management fee.

Accrington and Rosendale College expects that the Subcontractors will fully engage in the assessment of accuracy of payments and they therefore have the responsibility to review their remittances to identify any inaccuracies.

**ESFA Approval**

For 2018/19, the College is unable to enter into any new subcontracting arrangements without prior approval from the Education and Skills Funding Agency.

<b>Supply Chain Fees- Risk Banding framework</b>		
<b>(% of contract value)</b>	<b>Costs</b>	<b>Charges</b>
Rationale	Services & support provided within fee	Additional services (additional fees may apply)
<p><b>Low risk (10-15%)</b></p> <ul style="list-style-type: none"> <li>• Established partner with minimum 3 years relationship</li> <li>• Contract minimum of 10% of total sub-contracted allocation</li> <li>• Provision meets priority needs of Education and Skills Funding Agency or local community</li> <li>• High success rates comparable with College targets</li> <li>• High cost of delivery</li> <li>• Delivery close proximity</li> </ul>	<ul style="list-style-type: none"> <li>• Annual contract review and planning meeting. The meeting will include the following agenda items:                             <ul style="list-style-type: none"> <li>➤ Self-assessment review</li> <li>➤ Development plan update</li> <li>➤ Review of key performance indicators.</li> <li>➤ Feedback from quality audits and stakeholders</li> <li>➤ Due diligence update</li> <li>➤ CPD</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Exam registration</li> <li>• Internal Verification services</li> <li>• Liaison with External Verification</li> <li>• Exam centre registration</li> <li>• Purchase of resources</li> </ul>

<b>Supply Chain Fees- Risk Banding framework</b>		
<b>(% of contract value)</b>	<b>Costs</b>	<b>Charges</b>
Rationale	Services & support provided within fee	Additional services (additional fees may apply)
<p><b>Medium risk (20%)</b></p> <ul style="list-style-type: none"> <li>• Established partner with minimum 2 years relationship</li> <li>• Contract minimum of 5% of total sub-contracted provision</li> <li>• Provision meets priority needs of local / community or sector priorities</li> <li>• High success rates comparable with College targets</li> <li>• Medium cost of delivery</li> </ul> <p><b>High risk (25-30%)</b></p> <ul style="list-style-type: none"> <li>• New partner, or partner with less than 2 years relationship</li> <li>• Limited experience of partner in delivering education and training</li> <li>• Low contract value</li> <li>• New provision, or provision with higher risks (eg ESOL, NEETS)</li> <li>• Success rates below College targets</li> <li>• Low cost of delivery</li> <li>• Delivery at distance</li> </ul>	<ul style="list-style-type: none"> <li>➢ College update on strategic priorities</li> <li>➢ Contract review.</li> </ul> <ul style="list-style-type: none"> <li>• Regular monitoring meetings (telephone / face to face)</li> <li>• Registration support (<i>unless agreed otherwise</i>)</li> <li>• Training and support on administrative process, systems and paperwork</li> <li>• Timely records, payments , invoicing arrangements</li> <li>• Single point of contact for queries etc</li> <li>• Access to Health, Safety &amp; Security /Safeguarding / Equality &amp; Diversity training and materials</li> <li>• Training and support in best practice in teaching, learning and assessment.</li> </ul>	

This policy is reviewed annually and made available on the College website. This policy was approved by our Executive Committee on 24th July 2018 and is due for review in July 2019.

As required by the Education and Skills Funding Agency Funding Guidance, the information relating to the actual fees and charges relating to subcontracting arrangements in 2017/18 is required to be published alongside the fee policy. This is available on the college website.