



### Policy/Procedure/Guideline Review

<b>Policy/Procedure/Guideline:</b>	Subcontractor Fees and Charges Policy
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<b>Approved By:</b>	Board of Corporation
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<b>Changes Made:</b>	References to 2020/21 changed to 2021/22 Reviewed to ensure compliance with 2021/22 ESFA subcontracting guidance

# SUBCONTRACTOR FEES AND CHARGES POLICY

## 1. Introduction

- 1.1 This policy outlines Nelson and Colne College Groups's (the Group) position in relation to the subcontracting of provision and funding to partnership organisations and includes Apprenticeship delivery subcontracting in 2021/22.

## 2. Definition of Subcontracting

- 2.1 The Education and Skills Funding Agency (ESFA) defines a delivery subcontractor as a separate legal entity that has an agreement with the Group 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 Group, in the same way as our own employees.

## 3. Background

- 3.1 The Group has a clear purpose to secure excellent academic and career pathways for all learners, and to deliver education and training of the highest quality.
- 3.2 The Group is establishing itself as a beacon for teaching and learning, with a national reputation and the capacity to support other colleges in their improvement journey. It is an innovative provider; a research hub for teaching and learning, with a clear ambition to deliver the best possible experience and outcomes for learners.
- 3.3 Collaboration is key to success, and meaningful and productive relationships with stakeholders and employers is key to the financial and educational success of the institution.
- 3.4 Our organisational approach is to **'create the extraordinary'** and we do this through phenomenal staff, outstanding teaching and learning and an individualised approach to each of our learners. Where the Group subcontracts with other organisations it will ensure that they support our approach of creating the extraordinary.
- 3.5 The Group has established the following 4 priorities for 2021/22. The Group will ensure that any subcontracting arrangements support the achievement of these priorities.
1. To deliver Relevant, Impactful, High Quality Curriculum
  2. To build a Strong Culture and Reputation
  3. To continue to be Financially Secure and maintain capacity for ongoing investment
  4. To Create Extraordinary Learning and Working Environments

#### **4. Scope**

- 4.1 This policy details how the Group applies fees and charges to Subcontractors.
- 4.2 This policy indicates the Group's Subcontractor Policy for the 2021/22 academic year.
- 4.3 This policy is published in line with ESFA requirements stated in their latest published Funding Rules 2021/22.

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

- 5.1 The Group subcontracts provision in line with the ESFA's Funding Rules 2021/22.
- 5.2 Indicative reasons for the Group subcontracting provision to partners include the following, with each Subcontractor's Service Level Agreement clearly identifying the Group's reasoning for entering into a Subcontract arrangement.
  - 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 Group'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 Group in terms of engagement, retention and progression opportunities.
  - Increase mutual referral opportunities between the Group 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.

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

- 6.1 The Group ensures subcontractors are included within its quality processes. Subcontractors are supported to maintain the same high quality standards expected across all aspects of the Group.
- 6.2 The Group 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. The Group 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 outlines 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 Group'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 Group staff
- Training (where relevant), advice and support to improve quality
- Advice on implementation of Group policies.
- Tracking documents with transparent calculations to detail both the funding claimed by the Group 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 Group.
- Where necessary, Health & Safety assessments

7.2 Subcontractors are involved in regular meetings with the Group 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. The Group 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 visits during each funding year from the Group to ensure adherence to the Funding Rules 2021/22 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 the Group.

7.6 Subcontractors are given a key contact at the Group for any issues relating to the subcontract delivery.

7.7 Subcontractors are given key curriculum contacts at the Group 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 Education and Skills Funding Agency's Bravo Portal and the Quality Assurance Gateway Pre-Qualification Questionnaire (PQQ).

## **8. Funding, Charges and Services**

- 8.1 Where the Group 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 Group.
- 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 Group, 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 Services and costs will be determined 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 Group and Subcontractor.
  - Financial health of the Subcontractor and its continued capacity to deliver provision on behalf of the Group.
  - 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 Group.
- 8.4 Typically the Services provided to Subcontractors fall into three groups as detailed below, however, other services can be included as appropriate to the provision and requirements of the Subcontractor.

### **Curriculum Delivery/Development**

- Curriculum planning, delivery and development advice
- Skills updating sessions for delivery staff
- Sharing of 'Good Practice'
- Regular site visits and meetings
- Where necessary, Health & Safety assessments
- Where subcontractor is not matrix accredited IAG on delivery methods and programme delivery

### **Quality Assurance/Improvement**

- Quality meetings identifying good practice and areas for improvement
- Sharing of good practice, advice and support to improve quality including training on the Group's quality documentation and processes
- Access to all development and training opportunities available to all Group staff
- Monitoring visits to check learner files and schemes of work
- Conducting observations of teaching and learning including constructive feedback.
- Where necessary, Internal Verification (IV) and assessor support can be provided by the Group

### **Contract Management/Administration**

- Regular performance management review meetings
- Providing Management Information
- Audit compliance advice and guidance
- Funding and eligibility queries
- Training for all relevant staff in completion of compliant paperwork
- Advice on implementation of Group policies
- Ongoing administration support including in-depth checks of evidence submitted and regular feedback on issues identified
- Data input and submissions to the funder via the Group's Individualised Learner Record
- Ongoing data self-assessment (PDSAT) checks on all subcontract delivery
- The administration and processing of all subcontract provider electronic and hard copy documentation
- Controlling and administering the due diligence process prior to contract award
- Periodic updates of the due diligence process
- Drafting and issuing the initial contracts
- Issuing contractual variations as and when required
- Regular financial reports to inform invoicing

- 8.5 Our Service Level Agreement, clearly identifies the Services which will be provided by the Group and charges which apply to each of the Service Groupings.
- 8.6 Individual Service Level Agreements will identify the charges which will be apply based on the delivery of the full contract value and will identify the percentage that this charge reflects in relation to the overall value of the Agreement. To ensure that these costs remain in proportion with the actual delivery of services, the Group will retain the agreed percentage for the rate for the aim delivered.
- 8.7 Our services and fees are reviewed on an annual basis and are open to negotiation with each Subcontractor. The services provided by the Group aim to ensure that the services delivered by this Agreement are high quality learning and fully compliant with the requirements placed on the Group by the Agency via its Guidelines. The agreed value will be confirmed within the signed contract between both parties.
- 8.8 Where the Group subcontracts 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 the Group 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 the Group to deliver agreed elements of an Apprenticeship Framework/Standard. In this situation the Group will ensure that the employers are compensated for their actual cost of delivery.
- 9.2 Where the Group subcontracts provision which is Grant funded then 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 the Group 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 The Group 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 the Group to make a successful claim via its Individual Learner Record (ILR) to the relevant funding agency.
- 9.8 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**

- 10.1 The Group 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; the Group will work with the Subcontractor to ensure the continuity of delivery for learners enrolled on Group programmes appropriate to the circumstances. Options may include, but are not limited to:
  - Delivery at Group, or other appropriate premises
  - Delivery using Group staff
  - Transfer of delivery to an alternative Subcontractor

## **11. Reporting Subcontractor Arrangements**

- 11.1 The Group 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 The Group will publish the actual level of funding paid and retained for each subcontract in 2021/22 within 30 days of the 2021/22 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 our Staff Hub and via the following websites:
- Nelson and Colne College Group ([www.nelsongroup.ac.uk](http://www.nelsongroup.ac.uk))
  - 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 Group 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 Group 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 the Group's Assistant Principal – Performance and Planning.

**16. Management Responsibility**

- 16.1 The Assistant Principal - Performance and Planning has management responsibility for this policy across the Group.

**17. Equality Impact Assessment**

- 17.1 Subcontractors must adhere to the terms and conditions set within the Group's Equality, Diversity and Inclusion Policy.