

SUB-CONTRACTING FEES & CHARGES POLICY

2022/23

Approved by the Governing Body on: 14 July 2022

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DATE: June 2022

VERSION 4

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1. Scope

- 1.1 This Subcontracting Supply Chain Policy is a mandatory requirement that must be in place prior to participating in any subcontracting activity from 1 August 2022. The content of this policy has been developed in line with the ESFA Funding Rules, the LSIS Supply Chain Management document and the AoC/AELP Common Accord and Funding and Management Rules 2014 to 2020 European Social Fund (ESF) programmes.
- 1.2 This policy applies to all supply chain activity funded through the Education & Skills Funding Agency (ESFA) whereby Calderdale College enters into a subcontracting agreement with a supplier for Apprenticeship, 16-18 or Adult Skills recruitment and delivery as well as the delivery of European Social Funds (ESF) programmes.
- 1.3 This policy provides transparency for all sub-contractors, funding bodies and other associated parties or individuals regarding the procurement, due diligence process, support and charging rationale related to the College's sub-contracted provision.

2. Rationale for subcontracting

- 2.1 The ESFA defines a sub-contractor as an organisation that is engaged in a contractual and legally binding arrangement with a lead provider to deliver provision, ultimately funded by ESFA.
- 2.2 Calderdale College:
 - Recognises the benefits that effective subcontracting can bring to extending the accessibility of provision for students and thereby contribute to the economic prosperity of our neighbouring local communities.
 - Uses subcontractors to widen participation amongst student groups that it would otherwise be "hard to reach" and other individuals that face barriers to participation in learning and work.
 - Uses subcontractors as appropriate to fill gaps in, and to extend the breadth of its provision: for example, through widening the range of apprenticeship frameworks offered to employers and students and broadening the range of sector subject areas or business sectors that can be covered.
 - Uses subcontractors to deliver on ESF programmes to support better geographical access for learners and provide better access to training facilities.
- 2.3 As noted in the College's published subcontracting rationale, all subcontracting by the College meets one or more of the following aims: -
 - Enhances the opportunities available to young people and adults:
 - Fills gaps in niche or expert provision, or provides better access to training facilities:
 - Supports better geographical access for learners
 - Offers an entry point for disadvantaged groups: and;
 - Considers the impact on the individuals who share protected characteristics and in particular where alternative provision may not be available to them or meet the particular needs

3. Exemptions to the policy

- 3.1 From May 2017, the Apprentice Funding and Performance Management rules, passed the responsibility to choose Apprentice Assessment Organisations (IAAO's) to Employers and for them to negotiate the fees. Whilst Calderdale College will be responsible for payment of the fees, subcontracting to AAO's will be exempt from the policy.

4. Quality improvement

4.1 Calderdale College:

- Actively works with subcontractors to improve the quality of the teaching and learning they deliver and thereby improve the overall quality of teaching and learning (following the College's TLA framework) for all College learners.
- Undertakes observations on all aspects of teaching and learning including information, advice and guidance, progress reviews and assessment.
- Provides timely and meaningful feedback to both subcontractor and their delivery staff and observations are incorporated into the College moderation and standardisation process, in order that improvement actions impact both internal and subcontractor quality.
- Carries out learner voice surveys to gather feedback from students.
- Supports subcontractors to implement effective policies and procedures relating to teaching and learning including assessment and verification policies and procedures.
- Ensures that subcontractors have appropriate policies and procedures in place to fulfil College statutory safeguarding obligations and duties under PREVENT
- Supports subcontractors to develop an effective Self-Assessment Report (SAR) and Quality Improvement Plan (QIP) for incorporation into the whole College SAR.

- 4.2 Where subcontracting relates to ESF delivery, annual observations are completed on participants induction and the quality of teaching, learning and assessment. Subcontractors follow their own moderation and standardisation processes so these observations are not incorporated in the College's moderation and standardisation process. Regular performance reviews with subcontractors include discussions on quality improvements in relation to ESF programmes delivery and although a number of subcontractors complete SARs and QIPs, these are not incorporated into the wider College SAR.

5. Support provided to subcontractors

- 5.1 Calderdale College recognises its responsibility to support all subcontracted partners to develop, deliver and sustain high quality provision that meets the needs of the community and learners. The management fee deducted from allocated funds is used directly to provide a comprehensive programme of support and compliance measures to ensure public funds are protected and used effectively.

The mix of support will vary depending on the needs and experience of the individual contractors, and includes:

- A Director of Commercial Services and Partnerships to manage the relationship with the subcontractor and take overall responsibility for subcontracting.
- Comprehensive quality management systems and controls, along with a Head of Quality to ensure that the quality of subcontractor's delivery meets its expectations and to support the continuous improvement of the subcontractor's provision.
- A commitment to undertake a regular and substantial programme of quality assurance checks on the education and training provided by sub-contractors, including visits at short or no notice and face-to-face interviews with staff and learners. These checks include whether the learners exist and are eligible and involve direct observation of initial guidance, assessment and delivery of learning programmes.
- A commitment to ensure that all of the subcontractor's delivery meets the ESFA Funding Rules.
- Self-assessment report and quality improvement plan review and support as appropriate
- Overarching policies for key areas impacting on learners including: safeguarding and prevent, health and safety, equality and diversity
- Data Services functions relating to the submission of funding claims to the ESFA, along with a Head of Data Services to ensure the timely and accurate recording of student information on the College's ILR.
- Partnership meetings which include national and local updates regarding funding, policy, quality and curriculum developments; and the opportunity to share good practice

Level of support will be enhanced and performance monitored more frequently on the request of the subcontractor or where concerns regarding the meeting of contractual requirements are identified.

6. Contracting arrangements and payment terms

- 6.1 All sub-contractors and delivery providers engaged by Calderdale College will be issued with a provider delivery contract.
- 6.2 The contract will set out the maximum amount of funding that is available to the subcontractor. Calderdale College will agree a fee structure with each subcontractor that recognises the full extent of the subcontracted provision, the risks presented by this, and the costs of the contract management and risk mitigation.
- 6.3 Calderdale College will agree with the subcontractor the total contract value and monthly profile payment.
- 6.4 If necessary, Calderdale College will vary the profiles to meet the requirements of the funding body rules and the published performance management rules that apply. Where a subcontractor does not achieve the contracted profile, Calderdale College may adjust the remaining profiles within the whole subcontractor contract.

- 6.5 No payment will be made in relation to a learner where the subcontractor has failed to notify the College of any relevant enrolment, attendance or achievement by that learner in accordance with the provisions of the contract, or where a learner has failed to meet the start criteria in relation to funding eligibility.
- 6.6 The College will not be under any obligation to make payment to the subcontractor in respect of learners over and above any upper limit on the number of learners or the maximum amount of funding allocated to the subcontractor.
- 6.7 If the College pays any amounts to a subcontractor in relation to any learner who is subsequently deemed not to be eligible for payment of funding by the respective funding body, the College will be entitled to be fully refunded by the Subcontractor. At the discretion of the College such a refund will either be payable within 30 days of notice by the College to the subcontractor, or may be deducted from the funding payable in relation to a subsequent payment period.
- 6.8 If, in respect of any funded learner, the funding body shall for any reason whatsoever (being a reason outside the control of the College) refuse or fail to pay the funding of any learner the College shall be under no obligation to pay any part of the funds relating to that learner to the subcontractor and any part of the funding relating to the said learner shall be fully refunded to the College by the subcontractor.
- 6.9 Calderdale College payment terms are 30 days from invoice date for study programmes. For non-ESF funded contracts, the College will make payment to the subcontractor within 30 days of the College receiving confirmation of the funding agency's approval of the evidence the subcontractor has submitted in relation to the services delivered
- 6.10 Calderdale College will retain a management fee not exceeding 20% of total funding (grant and fees or levy) in 2022/23 which is deducted from the funding income received prior to the allocation of funds to the subcontractors.
- 6.11 The management fee represents a reasonable contribution towards the cost that the College incurs in effectively identifying, selecting and managing all subcontracting provision, regardless of the level of support provided.

7. Due diligence & tendering

- 7.1 The procurement of delivery subcontractors adheres to the Public Contracts Regulations 2015 and the Treaty Principles as detailed on the ESIF National Procurement Requirements. Applicants who successfully complete the procurement process must pass Gateway and Due Diligence checks and any applicable pre-contract requirements before a contract is issued. Applicants can be rejected at any stage of this process.
- 7.2 The College has a Gateway and Due Diligence process that, if successfully completed, approves an organisation to work with the College as a subcontractor for an initial period of 1 year. This includes a review of standard policies and a check of financial stability in relation to future partnership and subcontracting arrangements. This activity will not be viewed in isolation and other pre-contractual checks will be considered, depending on individual contract requirements, e./g. site visit, full pre-contract visit.

- 7.3 Once subcontractors are on contract, they are required to complete an annual refresh application of the Gateway and Due Diligence process to remain on the College's supply chain. The refresh includes a review of standard policies and a check of the organisation's ongoing credit risk rating. Re-assessment of annual accounts also takes place, and a further full financial assessment is completed at this time.
- 7.4 Any subcontractor who does not meet, or continues to meet, the minimum due diligence and finance health checks will have their right to recruit new learners suspended and may have their subcontract terminated, dependant on the circumstances.
- 7.5 Where a subcontractor is in receipt of an aggregate subcontract value of ESFA funding for delivering education and training that totals £100,000 or more each funding year, the College will share the results of any due diligence checks with the ESFA via a signed return on a timely basis.
- 7.6 The College will not permit subcontracting to take place with anyone who does not hold a direct contract with the College. No secondary level of subcontracting is permitted.

8. Communication

- 8.1 The Fees and Charges Policy will be routinely communicated to and discussed with current subcontractors as part of the contract review process.
- 8.2 The Fees and Charges Policy will be communicated to potential subcontractors as part of the procurement process.
- 8.3 The Fees and Charges Policy is available on www.calderdale.ac.uk

9. Policy review

- 9.1 The fees and charges policy will be reviewed annually, however may be reviewed more frequently in response to changes in government policy or funding.

| Prepared by: | Authorised by: | Date: | Review Date: | Committee |
|---------------------------------------|----------------|-------|--------------|--|
| Executive Director, Finance & Funding | Governing Body | | July 2023 | Board on recommendation of Finance & Resources Committee |

| Change(s) Made | Reason for Change |
|----------------|-------------------|
| | |

| Review Date | Reviewed by: | Initial Approval by: | Final Approval by: | Next Review Date: | Review Period |
|--------------------|--|-----------------------------|---------------------------|--------------------------|----------------------|
| July 2021 | Executive Director Finance and Funding | Governing Body | Governing Body | July 2022 | 1 Year |
| July 2022 | Executive Director Finance and Funding | Governing Body | Governing Body | July 2023 | 1 Year |

10. Equality impact assessment

| First Assessment Conducted by: | Date: | Final/Approved Assessment Conducted by: | Date: |
|---------------------------------------|--------------|--|--------------|
| Quality Systems Manager | 11/03/2019 | Quality Systems Manager | 11/03/2019 |

11. Publication

| Audience: | Published: |
|------------------|---|
| Staff | Staff Intranet |
| General | College Website Any potential subcontractor and delivery partner |