

# Sub-Contracting Fees & Charges Policy 2022/2023

<b>Author:</b>	Director of Information & Planning	<b>Approved by:</b>	GSMT and the Board
<b>Version:</b>	For Board	<b>Date of approval:</b>	6 <sup>th</sup> July 2022
<b>Equality Impact Assessed</b>	Yes	<b>Review date:</b>	Annual: July 2023

## Contents

1. Purpose and Scope	3
2. Context	3
3. Overarching Principles	3
4. Rationale for Sub-Contracting	4
5. Quality Assurance	4
6. Risk Assessment	5
7. Management Fees	5
8. Agreements with Sub-contractors	7
9. Payment Arrangements	8
10. Contingency Plans	8
11. Policy Review and Communication	8
12. Implications	9

## 1. Purpose and Scope

- 1.1. The policy applies to the Capital City College Group (the Group). It aims to provide consistency of approach and transparency to the Group's appointment of sub-contractors and supply chain fees & charges in relation to its sub-contracting arrangements and to ensure compliance with all legal and contractual requirements.
- 1.2. It details how the Group will apply fees and charges to contracts with organisations sub-contracted to deliver education and training activities supported with funds supplied by the Greater London Authority (GLA), the Education and Skills Funding Agency (ESFA) and any successor organisations.

## 2. Context

- 2.1. The content of this policy has been developed in line with the Association of Colleges (AoC)/ The Association of Employment and Learning Providers (AELP) Common Accord, the GLA and ESFA Funding Rules, its sub-contracting control regulations and the LSIS Supply Chain Management document.

## 3. Overarching Principles

- 3.1. The Group will use its sub-contracting provision to optimise the impact and effectiveness of its service delivery to the end user. It is important the Group exercises control over sub-contracted provision to protect its reputation, finance and learners.

The Group will seek to ensure that:

- All sub-contracting arrangements comply with the principles of best practice in the skills sector, as set out in the ESFA's Subcontracting Standard.
- At all times it undertakes fair and transparent procurement activities in accordance with the Public Contracts Regulations 2015 and conducts robust due diligence procedures and processes on potential sub-contractors.
- Advance permission will be sought from the funding body in all cases where there is a potential actual or perceived conflict of interest.
- The highest quality of learning delivery is made available demonstrating value for money and a positive impact on learner lives.
- The funding retained by the Group is related to the cost of services the Group provides to its partners. Such services and the level of funding retained for them 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.
- Contract documents will require both parties to agree that the achievements of sub-contractors are attained through adherence to requirements. Signatories therefore commit that all communications, negotiations and actions undertaken to build, maintain and develop supply chains will be conducted in good faith in accordance with the overarching Principle.
- The group is committed to reducing its sub-contracting over time, and it will produce and maintain an annual plan setting out how it proposes to achieve this. Sub-contracting should not normally exceed 25% of any funding stream, and advance funding body permission in writing is required for it to do so.

## **4. Rationale for Sub-Contracting**

4.1. Sub-contracting is a vehicle by which the Group can meet its aims to widen access of provision to all the communities it serves. All sub-contracting must meet the Group's strategic aims and enhance the quality of its offer to learners. Through its sub-contracting arrangements, the Group will be in a position to:

- Offer programmes that enhance progression routes to other provision in the Group.
- Provide access to, or engagement with, a new range of customers.
- Grow the provision mix and provide learners and employers with niche or specialist provision through a partner where the cost of developing direct delivery would be too high.
- Offer programmes locally which it currently is not equipped to deliver. This might include working with sub-contractors to explore and learn about new frameworks or sectors prior to investment in resources.
- Offer programmes in communities that the Group finds hard to reach or has no physical presence, for example learners for whom attendance at a large college site would be difficult.
- Be responsive to learners and employers' requirements by offering flexibility of delivery of provision at times and venues convenient to them, for example to support employers with a wide geographic requirement.
- Progress its efficiency and effectiveness agenda through the delivery of cost effective programmes that address gaps in provision.

## **5. Quality Assurance**

5.1. Sub-contracted activity is a fundamental part of the Group's provision. The quality of the provision is managed and monitored by the Group to ensure full compliance with the relevant funding bodies' procedures and processes. Each sub-contractor will receive a regular and substantial programme of quality assurance checks, including short-notice visits and interviews with staff and learners, the level of which will depend on the assessed risk.

5.2. The Group will provide the necessary support and training required for compliance with its QA processes and regularly validates the outcomes of sub-contractors' own quality monitoring processes.

5.3. The Group has in place rigorous quality and performance checks to ensure:

- The delivery of quality targets and outcomes and timely implementation of corrective actions when necessary.
- Focus is given to improving the quality of teaching, learning and assessment where applicable to ensure the student experience is consistent with that offered directly by the Group.
- All sub-contractors are fully compliant with the Group's safeguarding procedures and Prevent strategy against radicalisation
- That outcomes are in line with national benchmarks.

5.4. Sub-contractors who are independently assessed by Ofsted as having made “Insufficient Progress” in a monitoring visit will have their recruitment of new learners suspended. Sub-contractors who are independently inspected by Ofsted and graded “Inadequate” will have their contract terminated as soon as practicable.

## 6. Risk Assessment

6.1. The sub-contracting process includes due diligence processes which assess the level of risk associated with the proposed arrangements, including the provider’s capacity and capability to deliver the contract in full.

6.2. A series of risk factors will be considered which will impact on both the level of oversight required on behalf of the Group and consequently, the level of management fees charged. These risk factors include but are not restricted to:

- Duration of the contract
- Value of the contract
- Nature of the provision
- Facilities provided
- Financial Health
- Track record of the sub-contractor
- Historic trends of completion, leaver or drop-out rates
- Quality of teaching, learning and assessment
- Rigour of quality assurance systems and processes
- Ofsted rating
- Geographical coverage
- Delivery model
- Sensitivity of the client group
- Industry type and vocational area
- New sub-contractor (first engagement)
- Existence on RoATP for apprenticeships

## 7. Management Fees

7.1. The management fees charged will typically range between **15%** and **30%** dependent upon the level of risk assessed and support provided by the Group to ensure the quality of teaching, learning and assessment meets the required standards and the sub-contractor complies with all regulatory and contractual requirements. Where funding rules set a limit, this will be complied with.

7.2. The exact mix and level of support for each subcontractor will vary depending on the needs of the individual Subcontractor. However, they will receive a high level of support and guidance including:

- Contract set up and support.
- Due diligence and Risk assessment.
- Quality Management Systems
- Certification and registration with awarding bodies if required
- Management Information Services and data control advice
- Access to ILT platforms
- Data processing, validation and submission of data to funding organisations.
- Reporting of regulatory and contractual requirements.
- On-going performance monitoring against agreed contract levels.
- Review meetings and progress reports.
- Enrolment, Funding Rules and Audit compliance training.

- Quality and monitoring visits with detailed feedback identifying areas of good practice and those for improvement.
- Teaching, Learning and assessment support
- Safeguarding of Young People and Vulnerable Adults training and processes
- Health & Safety compliance
- CPD opportunities and planned training and development
- Invoicing and payment procedures.
- Access to additional learner support.
- Collecting stakeholder feedback and costs.
- Learner financial support
- Capacity Building through training and development
- Delivery by CCCG of part of the necessary teaching & learning

This represents the standard process that the Group undertakes in effectively identifying, selecting and managing all sub-contracted provision.

7.3. Following the outcome of contract negotiations including support required from the Group, additional assistance and associated charges may be identified as a mandatory element of a sub-contracting arrangement. Such additional services may be mutually agreed between the Group and the sub-contractor. The cost of such additional support provided will be covered through the funding retained and will account for the variation in the management fees charged.

Additional support and associated charges will be calculated and negotiated each year at contract renewal, possibly giving sub-contractors the opportunity to reduce their fees through continuous improvement. This approach will allow the Group to focus support where and when it is needed, and also allow for transparency and fairness in the determination of the management fee.

Additional support activities that may be offered to sub-contractors may include:

- Awarding body Fees and Charges
- Hiring of facilities/equipment within/from the Group.
- Costs of developing specific facilities to deliver the provision
- Use of other Group resources.
- Internal verification
- Additional site visits.
- More extensive support for quality improvement
- Additional lesson observations.
- Additional tutor and administrative support.
- Additional compliance and monitoring visits
- Direct or indirect management of delivery.

A breakdown of the core and additional support and management costs will be agreed with the sub-contractor during contract negotiation, and included in their contract. This breakdown will include:

- Funding retained for quality assurance and oversight.
- Funding retained for administrative functions such as data returns.
- Funding retained for mandatory training delivered to subcontractor staff.
- Clawback for under delivery or other reasons.
- How each cost is reasonable and proportionate and contributes to delivering high quality learning.

## 8. Agreements with Sub-contractors

- 8.1. All sub-contractors must have signed a legally binding written contract.
- 8.2. The Group will not subcontract GLA-funded provision to any subcontractor, or materially amend the level of such sub-contracting, without the prior written approval of the GLA.
- 8.3. The Group will advertise on the ESFA's Contracts Finder all sub-contract opportunities funded by the ESFA above a minimum threshold of £25,000.
- 8.4. Prior to any sub-contract being signed, the Group will complete a comprehensive due diligence process including financial, quality, staffing, modern slavery, health & safety and exam board approval checks. No sub-contractor will be engaged if they have received an adverse risk warning from a credit agency, if their most recent accounts are overdue, or if they are in a process which could lead to them entering administration or being wound up.
- 8.5. For sub-contractors in receipt of an aggregate value of ESFA funding for delivering education and training that totals £100,000 or more for each funding year, the Group will share the results of its checks with the ESFA, which will then undertake its own checks. Where the value is £500,000 or greater, the ESFA will carry out additional financial health checks directly with the sub-contractor.
- 8.6. When signing the sub-contract, the Group signatory must also sign to the effect that he/she is satisfied the proposed sub-contractor is high quality and low risk.
- 8.7. All sub-contractors must be legal entities.
- 8.8. The sub-contract will specify that the sub-contractor must meet the relevant funding bodies' regulations, and will include any contract terms specifically required by the funding bodies. The funding body will have the right to enforce the terms of the sub-contract, to visit the sub-contractor's premises and to access all relevant documents. Double funding is not permitted. No second-level sub-contracting will be permitted without the written permission of both the Group and the funding body.
- 8.9. All learners funded by the GLA are required to complete the London Learner Survey as a condition of funding/enrolment, and to demonstrate that they have done so before they receive their ID card.
- 8.10. The Group will audit sub-contracted learning to ensure the programmes and learners meet the evidence requirements of the relevant funding regulations. These audit visits will check learner existence, eligibility and attendance and education, health & care plans, and will include short-notice visits and interviews with staff and learners.
- 8.11. The Group will not sub-contract whole programmes of 16-18 provision.
- 8.12. The Group will not engage brokers to recruit students.
- 8.13. The Group will only normally sub-contract GLA and ESFA activity to sub-contractors who deliver niche provision to learners in the same geographical catchment area that the Group draws from. 'Distant' sub-contracting will only be considered if there is a strong rationale, for example a single employer over a large area, and with the permission of the funding body. However, funding body permission for distant sub-contracting is a contractual requirement for 16-18s, but not for adults.
- 8.14. In any case where we hold both a sub-contract and an associated arrangement with a sports club providing specialist input, the Group will hold the contract with the sports club directly.

8.15. The Group will require all GLA and ESFA funded sub-contractors to declare the details of all other GLA and ESFA sub-contracts they hold to enable the determination of the 'lead provider'.

8.16. The mix and level of support for each subcontractor, and any additional support and associated charges, will be itemised in the contract.

## **9. Payment Arrangements**

9.1. The Group's standard payment terms is 30 days from invoice date subject to satisfactory validation checks, which will be carried out in a timely fashion without undue delays.

9.2. For any funding to be generated, sub-contractors are required to submit enrolment and achievement evidence by a certain cut off dates. This is to ensure that the data is processed by the Group in time for the monthly ILR return.

## **10. Contingency Plans**

10.1. The Group at all times takes full responsibility for the sub-contracted learners; they are Group learners and the Group is responsible for their health and safety, the quality of the teaching and all other aspects of their learning. The Group must ensure the learners know this. If the sub-contractor fails to deliver, the Group will be responsible for making any necessary alternative arrangements.

The Group will take action in the event that:

- It needs to withdraw from a sub-contract arrangement
- a sub-contractor withdraws from the arrangement, or
- a sub-contractor goes into liquidation or administration.

10.2. These events are uncommon but not unknown. In the event of one of them, the Group will, within 7 days, make plans to execute the action needed, protect the interests of the learners and inform the funding body. These plans may include one or more of the following:

- Emergency discussions with the sub-contractor and/or the funding body
- Offer the learners direct provision with the Group.
- Offer the learners transfer to another sub-contractor.
- Take over the sub-contractor's staff and premises.
- Identify a project manager and necessary Group resources.
- Write to the sub-contractor to formally terminate the contract, with reasons.
- Write to the funding body to advise them of the change.
- Commission the Group's auditors to investigate the issues
- Invoke the Group's Disaster Recovery Plan if the impact is great.

10.3. If required by the GLA or ESFA, the Group will commission external assurance from an auditor in respect of its sub-contracting controls for funded provision.

10.4. Sub-contracted provision is regarded as high risk, and aspects of sub-contracted delivery will be included in the Group's Internal Audit programme each year.

## **11. Policy Review and Communication**

11.1. This policy will be reviewed in each summer term, updated as required and approved by governors. It will be published on the Group's website prior to the start of the academic



year in which it will be applied. Following approval by the senior management team and governing body the policy will be discussed with all current and potential sub-contractors during contract negotiations.

11.2. The rationale in s4.1 above is also hereby approved by governors. It will be published on the Group's web site in compliance with funding requirements.

11.3. The Group will declare to the GLA and ESFA its funded sub-contractors twice a year, in the format and to the timescale required by them. Actual end-of-year sub-contracting fees and charges will be published on the website in compliance with funding requirements. Governors will receive a report on subcontracting twice a year.

## **12. Implications**

### *12.1. Financial Implications*

This policy sets out the financial and compliance arrangements in relation to the Group's appointment of sub-contractors.

### *12.2. Equality Implications*

The impact of subcontracting on the employment, delivery or use of services by individuals with protected characteristics is varied, depending on factors including the subcontractor's organisation, location, employment policies, subjects delivered and learner recruitment processes. The impact on learners is assessed through the Group's self-assessment process. Contractual terms set out the requirement for the subcontractor to have a full range of Equality & Diversity policies.