

## Subcontract and Fees Policy

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Policy Owner	Chief Financial Officer
Approval Level (committee)	Trust Executive Team
Applies To (job roles relevant to)	
Next Review Due	March 2024
Equality Impact Assessment	-

### 1. Policy Purpose

- 1.1. This policy outlines Lighthouse Learning Trust's (LLT) rationale for subcontracting with partners for the delivery of education and training. It also describes the Trust's approach to the selection of suitable partners and how it will manage and monitor subcontracted provision to ensure the delivery of high-quality education and training. The Trust will not undertake subcontracting to meet short term funding objectives.
- 1.2. It outlines the framework for ensuring that the strategic vision and quality standards of the Lighthouse Learning Trust are met by subcontractors.
- 1.3. The policy is a mandatory requirement that must be in place prior to participating in any subcontracting activity.
- 1.4. The content of this policy has been developed with regard to <https://www.gov.uk/government/publications/esfa-policy-on-funding-higher-risk-organisations-and-subcontractors/funding-higher-risk-organisations-and-subcontractors-policy> with the aim of ensuring that the risk involved in managing subcontracted provision is mitigated and managed.
- 1.5. The Education Skills Funding Agency defines a subcontractor as an organisation that is engaged in a contractual and legally binding arrangement with a lead provider to deliver provision ultimately funded by the Education Skills Funding Agency.

### 2. Scope of this policy

- 2.1. This policy applies to all supply chain activity supported with funds supplied by the Education Skills Funding Agency. It applies to all staff who work for the Lighthouse Learning Trust, regardless of position and contract status.

### **3. Overarching Principles**

- 3.1. Only those organisations which are able to complement existing LLT and local college provision will be invited to hold a sub-contract.
- 3.2. All subcontracted provision will meet current Education and Skills Funding Agency (ESFA) funding rules.
- 3.3. The funding that is retained by the College will be related to the costs of the services provided. These services, and the levels of funding being 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.
- 3.4. Initial due diligence checks form an essential part of the contracting process, along with annual reviews.
- 3.5. Each subcontractor will be required to abide by relevant Lighthouse Learning Trust policies and procedures.
- 3.6. If for any reason a subcontractor of Lighthouse Learning Trust cannot fulfil its training commitments, the Trust will make every effort to ensure that learners are able to complete their qualifications or training either with a college within the trust or with another provider.
- 3.7. Subcontracting performance is effectively monitored by the Trust Executive Team.

### **4. Rationale for subcontracting**

- 4.1. The Trust has a strategic aim to minimise the level of sub-contracting entered. The Trust aims to use its funding allocations to support our local students, employers, and communities through direct delivery. Minimising levels of subcontracting also reduces the exposure to risk of poor performance by other organisations.
- 4.2. The Trust will in the first instance consider direct delivery. However, the Trust recognises the benefits that effective subcontracting can bring in extending the range and accessibility of provision for students and employers and will consider subcontracting in the following circumstances:
  - Enhance the opportunities available for young people and adults.
  - Support better geographical access for learners
  - Offer an entry point for disadvantaged groups.
  - Where our existing employers or students require additional provision, which is beyond our existing scope or capacity
  - Where subcontracting will allow us to capacity-build in new sectors or territories to allow us to move to a position of direct delivery or to grow income
  - Fill in the gaps in niche or expert provision or to provide better access to training facilities, which the college would not be able to adequately resource.
  - Where the due diligence process shows the selected provider to be of high quality and low risk to the college.

## 5. Quality Assurance

- 5.1. Subcontracted activity is a fundamental part of the relevant college's provision. Quality assurance of the provision will be monitored and managed through the existing trust QA processes and procedures, as amended to fully encompass all sub-contracted activity.
- 5.2. As a minimum the Trust will carry out the following Quality Assurance measures with subcontractors:
- Desk top checks and due diligence visit for new providers
  - Annual due diligence review for existing providers
  - 2 Quality Assurance visits per year
  - 3 sample file checks – at least one will be a short-notice sample
  - Checks to ensure learner eligibility and existence
  - Observations of the teaching and learning practise.

## 6. How we select and appoint our subcontractors

- 6.1. All partners go through a rigorous and robust due diligence process and in selecting our partner providers, we will consider the following:
- Reputation
  - Specialism – providers may offer niche provision where there are few alternatives
  - Geographic location – where possible we will support local partners
  - Quality measures – based on a range of measures including Ofsted rating, success rates, track record etc.
  - Responsiveness – how readily the provider can meet the needs of our students and employers
  - Safeguarding and Prevent Duty agendas – how the subcontractor conforms to these requirements and ensures all students are protected and safe
  - Modern Slavery – the College is committed to ensuring that there is no modern slavery within its own business and supply chain. All subcontractors will be expected to comply with the College's Modern Slavery Policy which is currently in development
  - Potential conflicts of interest
  - Disclosure and Barring Service (DBS) checks on all subcontracting staff related to the contract
  - If the subcontractor is listed on the Register of Training Organisation (RoTO) and/or the Register of Apprenticeship Training Providers (RoATP) and the total value of subcontracts that they hold
  - Lack of a track record, such as providers who are new organisations, or who offer new or immature provision will not necessarily be a barrier to subcontracting
  - However, the quality assurance measures and associated costs will reflect the additional risks of new provision. Following initial selection, the Trust will undertake a desk-top due diligence check of potential partners. This will be

followed by a due diligence visit to the delivery premises prior to contracts being issued

- Existing subcontractor partners will undergo an annual due diligence review.
- 6.2 As part of our due diligence process we will risk assess all potential subcontractors following guidelines in Appendix 1

## **7. Fees and Charges**

- 7.1 The typical percentage of retained fees for contracts with subcontractors is 20%. This will fund the administration, the leadership and management time to ensure quality is delivered and to improve the provision if required. The Trust will also deduct any costs associated with delivery of any education to the learners.
- 7.2 The level of retained fee will be determined in accordance with Appendix 1, Subcontractor Quality and Risk Assessment Matrix
- 7.3 Appendix 3 sets out the activities which are included in the standard contract management, and covered by the retained funding element, along with the specific additional costs that will be charged for managing the quality monitoring and support activities, which contribute to the delivery of high-quality learning
- 7.4 All subcontracts entered by Lighthouse Learning Trust or Colleges within the Trust will be signed for by the Chief Executive Officer.
- 7.5 The annual contract document will set out the maximum amount of funding available to each subcontractor.
- 7.6 Any contract proposing to award more than £90,000 to a single subcontractor has to be approved by the Trust Board.
- 7.7 Any change to a subcontractor's agreement which means that their funding in one year would exceed £90,000, must be approved by the Trust Board.
- 7.8 No subcontractor will be given access to funding until due diligence has been completed and a contract of agreement has been signed by the Chief Executive Officer of the Lighthouse Learning Trust and a senior representative of the subcontracting organisation.
- 7.9 Subcontractors will receive sufficient funding for the duration of each learner programme

## **8. Payments to Subcontractors**

- 8.1 The Trust will forward to the subcontractor the ESFA Funding Report for each college for the preceding month's activity. This will form the basis on which the amount due to the subcontractor will be calculated. The Trust will provide a purchase order for the agreed amount. The subcontractor will submit an invoice for the agreed % of the funding value as per the directions on the purchase order. The Trust will make payments to subcontractors within 30 days of receiving a valid claim for payment that has been submitted in accordance with the terms of the individual subcontractor agreement.
- 8.2 Subcontractors will be required to provide the Trust with an assessment of the financial contribution that it makes relating to the provision, to assist the Trust with its assessment of value for money.

## **9. Data protection**

- 9.1 Subcontractors will be required to warrant that they shall comply with the General Data Protection Regulation 2018 and all United Kingdom legislation implementing it

and shall not cause the College to be in breach of such provisions. Subcontractors will be required to indemnify the College against all liabilities, costs, expenses, damages and losses, and all other professional costs and expenses suffered or incurred by the College arising out of or in connection with this warranty

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## Appendix 1 – Sub Contractor Quality and Risk Assessment Matrix

The College will score each performance indicator as follows:

Performance Indicator	Risk Rating Score			
	Low	Medium	High	Not Measurable
	1	2	3	3
No of years delivery experience of the sub-contractor	More than 5 full years	2 to 5 full years	Less than 2 full years	
Previous years success rate	3% or more above benchmark	Within + or = 2% of benchmark	More than 2% below benchmark	No previous delivery record
Ofsted or SAR grading	Grade 1	Grade 2	Grade 4	No Ofsted grading
Type of provision	Provision judged to be low risk, e.g. something that the Trust has experience of delivering	Provision judged to be Medium risk e.g. Trust experience in managing this type of delivery	Provision deemed to be high risk e.g. distance learning or difficult client group	No self-assessment process
Trust audit and QA measures	Compliant and no actions or recommendations	Mainly compliant but recommendations to improve	Not compliant and actions required to improve	No previous audit as new provision

Overall Score	Risk Rating
5 – 7	Low
8 – 12	Medium
13 – 15	High

Funding Element Retained for Sub-Contractor Management			
Volume	Low Risk	Medium Risk	High Risk
Under £50,000	20%	20%	We do not contract
£50,000 -£100,000	20%	20%	We do not contract

Over £100,000	20%	20%	We do not contract
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## Appendix 2 – Fees and Charges Structure

The table sets out the individually itemised, specific costs that will be charged for managing the quality monitoring and support activities, which contribute to the delivery of high-quality learning.

Activity	Cost to subcontractor
<p><b>Pre-Contract Processes – Subcontractor Management</b> including</p> <ul style="list-style-type: none"> <li>• Senior management support including working with agencies to seek clarification on national policy</li> <li>• Vice Principal Finance and Resources reviews due diligence and finalises sub-contract documentation</li> <li>• Working with funding bodies to secure adequate future funding</li> <li>• Resolution of partner queries, contract reconciliation meetings</li> <li>• Annual contracting process including due diligence and issuing of contracts</li> <li>• Co-ordination of internal and external audit</li> <li>• Submission of subcontractor declaration twice per year</li> </ul>	4%
<p><b>MIS and Finance Processes – Support Costs</b> including</p> <ul style="list-style-type: none"> <li>• Data input by admissions to set up students on the college system</li> <li>• ILR enrolment and ongoing data management of students</li> <li>• Ensuring audit compliance including collation and presentation of evidence for internal and external audit purposes</li> <li>• Learner existence and eligibility audits</li> </ul>	7%
<p><b>Quality Assurance Monitoring</b> including</p> <ul style="list-style-type: none"> <li>• Termly Quality Monitoring Meetings</li> <li>• Co-ordination of self-assessment process</li> <li>• Co-ordination and analysis of satisfaction surveys including learner and employer</li> <li>• Monitoring of observations of teaching, learning and assessment</li> </ul>	7%

<ul style="list-style-type: none"> <li>• 8 weekly reviews with the learner and the employer to monitor progress through all aspects of provision including subcontracted elements</li> <li>• Director of Learning reviews all learners progress, intermediary between learner and subcontractor</li> <li>• Director of Learning reviews learners completion status and liaises with sub-contractor to ensure timely completion</li> </ul>	
<p><b>Finance</b> including</p> <ul style="list-style-type: none"> <li>• Processing of purchase orders, invoices and payments pertaining to subcontracted provision</li> </ul>	<b>1.5%</b>
<p><b>Other support Activities</b></p> <ul style="list-style-type: none"> <li>• Student Services support, access to Learning Resources Centre (LRC) etc.</li> </ul>	<b>0.5%</b>

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