

## Sub-Contract and Fees Policy

|                                    |                         |
|------------------------------------|-------------------------|
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| Version Number                     | 1.1                     |
| Policy Owner                       | Chief Financial Officer |
| Approval Level (committee)         | Trust Executive Team    |
| Applies To (job roles relevant to) |                         |
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| Equality Impact Assessment         | -                       |

### 1. Policy Purpose:

- 1.1. This policy outlines Lighthouse Learning Trust’s rationale for sub-contracting 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 sub-contracted provision to ensure the delivery of high-quality education and training. The Trust will not undertake Sub-contracting 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 sub-contracting 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 sub-contracted provision is mitigated and managed
- 1.5 The Education Skills Funding Agency 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 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 (LLT), regardless of position and contract status.

### **3. Overarching Principles**

- 3.1 All proposals to enter into a sub contracting arrangement must be approved by the Trust Board
- 3.2 Renewal of existing sub contract arrangements must be approved by the Trust Board
- 3.3 Only those organisations which are able to complement existing LLT and local college provision will be invited to hold a subcontract.
- 3.4 All sub contracted provision will meet current Education and Skills Funding Agency (ESFA) funding rules.
- 3.5 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
- 3.6 Initial due diligence checks form an essential part of the contracting process, along with annual reviews.
  
- 3.4 Each subcontractor will be required to abide by relevant Lighthouse Learning Trust policies and procedures.
- 3.5 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.
- 3.6 Subcontracting performance is effectively monitored by the Trust Executive Team.

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

- 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 sub-contracting can bring in extending the range and accessibility of provision for students and employers and will consider sub-contracting 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 sub-contracting 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 Sub-contracted 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 sub-contractors:
- 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 Sub-Contractors

- 6.1 Existing sub-contractor partners will undergo an annual due diligence review
- 6.2 All potential new partners will be assessed for suitability using a rigorous and robust due diligence process. This will include a due diligence visit to the delivery premises.

The methodology for the due diligence assessment is outlined in **Appendix 1**. Selection of partner providers will have regard to 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 sub-contractor 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 sub-contractors 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
- Subcontractor is listed on the Register of Training Organisation (RoTO) (required)
- Subcontractor advises us of the total value of sub-contracts 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 sub-contracting

6.3 As part of our due diligence process we will risk assess all potential sub-contractors. This will take into all relevant account matters revealed by the Due Diligence process . The risk assessment will be carried out following the guidelines in **Appendix 2**

## 7. Fees and Charges

- 7.1 The typical percentage of retained fees for contracts with subcontractors is 20%. This will fund the administration, 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 2**, Sub Contractor 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 The annual contract document will set out the maximum amount of funding available to each subcontractor.
- 7.5 No subcontractor will be given access to funding until due diligence has been completed and the proposed award of contract has been approved by the Trust Board, 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.
- 7.6 Subcontractors will receive sufficient funding for the duration of each learner programme

## 8. Payments to Sub-Contractors

- 8.1 The Trust will forward to the sub-contractor 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 sub contractor will be calculated. The Trust will provide a Purchase Order for the agreed amount. The sub-contractor 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 sub-contractors within 30 days of receiving a valid claim for payment that has been submitted in accordance with the terms of the individual sub-contractor agreement.
- 8.2 Sub-contractors 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

1. 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

## Document History

| Version | Purpose / Change | Author | Date |
|---------|------------------|--------|------|
|         |                  |        |      |

## Appendix 1 – Sub Contractor Due Diligence Assessment Matrix

The Trust will score each matter as follows:

| Due Diligence Assessment Matrix |     |        |      |
|---------------------------------|-----|--------|------|
| Criteria                        | Low | Medium | High |
|                                 | 0   | 1      | 2    |

|  |   |  |   |
|--|---|--|---|
| <b>Reputation</b>                            | Little or no independent or third party evidence  | Some independent evidence, including existing or recent sub contract references  | Comprehensive independent evidence, including recent sub contract references  |
| <b>Specialism</b>                            | No specialism in the selected subjects/ qualifications  | Some evidence of specialism in the selected subjects/ qualifications   | Strong evidence of specialism in the selected subjects/ qualifications  |
| <b>Track record</b>                          | No track record in sub contracting  | Less than 2 years sub contract, or more than 2 years but in mainly different subjects  | More than 2 years sub contract, in all the relevant subjects  |
| <b>Geographic location</b>                   | Provider cannot give assurances as to where learners will be recruited from   | local learners within 10 mile radius of college locations will be supported  | Predominantly local learners within 5 mile radius of college locations will be supported  |
| <b>Quality measure 1- Ofsted rating</b>      | Good  | Good in all relevant categories  | Outstanding   |
| <b>Quality measure 2- Success rates data</b> | Relevant qualifications below National Rate   | Relevant qualifications on National Rate   | Relevant qualifications above National Rate   |
| <b>Quality measure 3- Track record</b>       | <ol style="list-style-type: none"> <li>1. Returns – majority non timely</li> <li>2. Significant Lesson Observations below Good</li> <li>3. Majority QIP actions below standard</li> <li>4. Learner Voice data below Good</li> </ol> | <ol style="list-style-type: none"> <li>1. Returns – majority timely</li> <li>2. Majority Lesson Observations Good or better</li> <li>3. Majority QIP actions on target</li> <li>4. Majority Learner Voice data Good or higher</li> </ol> | <ol style="list-style-type: none"> <li>1. Returns -all timely</li> <li>2. All Lesson Observations Good or better</li> <li>3. All QIP actions completed and impact demonstrated</li> <li>4. All Learner Voice data Good or higher</li> </ol> |

|   |  |   |   |
|---|--|---|---|
| <b>Responsiveness</b>   | Limited rationale and limited objective evidence responding to needs of local students and employers   | Reasonable rationale for, and some independent evidence of, responding to needs of local students and employers | Clear rationale for, and strong independent evidence of, responding to needs of local students and employers  |
| <b>Safeguarding and Prevent Duty</b>  | <b><i>Inadequate evidence of compliance in terms of policies, records, Single Central Records-score automatically disqualifies the provide from being considered as a sub contract partner</i></b> | Strong evidence of compliance in terms of policies, records, Single Central Records                             | Strong evidence of compliance in terms of policies, records, Single Central Records, and strong evidence of Safeguarding & Prevent being carried out effectively day to day |
| Disclosure and Barring Service (DBS) checks on all subcontracting staff related to the contract | <b><i>Inadequate evidence of compliance automatically disqualifies the provide from being considered as a sub contract partner</i></b>   | Acceptable evidence of compliance   | Strong evidence of compliance   |
| Modern Slavery  | <b><i>Inadequate evidence of compliance automatically disqualifies the provide from being considered as a sub contract partner</i></b>   | Acceptable evidence of compliance   | Strong evidence of compliance   |
| <b>Conflicts of interest</b>  | <b><i>Evidence of significant conflict of interest in accordance with ATH automatically disqualifies the provide from being considered as a sub contract partner</i></b>                           | Potential sub contractor gives assurances that it has no conflicts of interest                                  | records produced to allow the trust to assess that there is no evidence of conflicts of interest for either organisation  |

|   |   |                     |
|---|---|---------------------|
| <b>Sub contractor registered on UK Register of Learning Providers</b>                   | Sub contractor must be registered in order to be considered as a potential sub contract partner | Registered yes/ no? |
| <b>Total value of existing sub contracts held by the potential sub contract partner</b> |   |                     |
| <b>Overall Score</b>  | <b>Due Diligence Rating</b>   |                     |
| 0 - 8   | Low   |                     |
| 8 – 16  | Medium  |                     |
| 16 – 24   | High  |                     |

## Appendix 2 – 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, eg 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 |
|-------------------|-----|-----|--------------------|

### Appendix 3 – 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 sub contractor |
|--|------------------------|
| <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> | <p><b>4%</b></p>       |
| <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>  | <p><b>7%</b></p>       |
| <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> <li>• 8 weekly reviews with the learner and the employer to monitor progress through all aspects of provision including subcontracted elements</li> </ul>  | <p><b>7%</b></p>       |

|   |             |
|---|-------------|
| <ul style="list-style-type: none"> <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> |