

# **City of Portsmouth College, Portsmouth**

## **Subcontracting (Fees and Charges) Policy**

### **Description**

This policy is to ensure that any sub-contracting activity within the College falls within the funding guidelines issued by the ESFA or Successor organisations.

The College will be responsible for carrying out due diligence processes and internal audits relating to documents control of new partners. Subcontracting fees and the charges policy will be published on the College website at the start of each academic year.

### **Purpose**

The purpose of this policy is to ensure transparency and accountability in terms of supply chain activity carried out by City of Portsmouth College, in line with the mandatory requirement that such a policy is in place. The policy is informed by all relevant funding guidance issued by the ESFA or successor organisations.

### **Scope**

This policy applies to all sub-contracted supply chain activity supported by funding from the Education Skills Funding Agency or any successor organisations.

### **Introduction**

The College recognises that sub-contracted provision can play an important role in providing a broad and flexible mix of provision for students, employers and the wider community. As such, the College will seek to engage suitable sub-contractors to enhance existing provision. The College will engage with sub-contractors who can demonstrate a high level of quality delivery through KPIs, such as timely achievement rates and retention. Sub-contractors must be successful in the College's due diligence process, which includes taking references; review of audited accounts; and ensuring that the subcontractor is recorded on Education and Skills Funding Authority (ESFA) registers. All sub-contractors engaged by the College must be registered on the RoATP or the ESFA UK Register of Learning Providers. The ESFA defines a sub-contractor as an organisation that is engaged in a contractual and legally binding contract with the prime provider to deliver provision in accordance with the guidelines published by the ESFA. Provision includes: 16-18 Study Programmes, 16-18 Apprenticeships for on-levy and levy employers; 19+ Traineeships; Adult Education Budget (AEB); National Skills Fund (NSF); and Community Learning.

The decision to engage sub-contractors to deliver learning programmes on behalf of the College is a strategic decision and takes account of the following factors:

- The strategic aims and targets of the College.
- Local, regional and national needs of employers and students.
- The breadth and mix of provision required to meet employer and learner needs.
- The current and planned capacity of the College to deliver its strategic priorities and targets.
- The strategic fit of potential subcontractors with the College's aims and targets.
- The quality of provision from sub-contractors.
- Past performance of sub-contractors.

- The financial health of sub-contractors.
- References from other organisations who work or have been working with the Training Provider.
- The Training Provider is ESF compliant.
- Government and funding agency targets, priorities and regulations.
- Satisfactory completion of the due diligence process including CCJ checks and satisfactory annual financial audit
- The sub-contractor must be registered on the ESFA's list on Register of Learning Providers
- Business plan to support the delivery of curriculum showing monthly profile of learner starts.

## **1. Overarching Principles**

The College will use its supply chains to optimise the impact and effectiveness of service delivery to the end user. The College will therefore ensure that:

- a. Supply chain management activities comply with the principles of best practice in the skills sector.
- b. The College will at all times undertake fair and transparent procurement activities, conducting robust due diligence procedures on potential subcontractors to ensure compliance with the Common Accord at all levels and to ensure the highest quality of learning delivery is made available, demonstrating value for money and a positive impact on student lives.
- c. 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. They will be proportionate to the actual services being provided.
- d. Where disputes between supply chain partners cannot be resolved through mutually agreed internal resolution procedures, the College will submit to independent outside arbitration or mediation and abide by its findings. Contract documents will require both parties to agree that the achievements of supply chains are attained through adherence to both the letter and spirit of contracts or partnerships. Both parties therefore commit that all discussions, communications, negotiations and actions undertaken to build, maintain and develop supply chains will be conducted in good faith in accordance with the Overarching Principle.
- e. The College selects subcontractors on the basis of their quality and coherence with the strategic priorities of the College taking into account the added value that the Partnership brings to the College and/or the need to meet the employer led demand within the Region. The College does not tender for such opportunities.

## **2. Rationale for subcontracting**

The College engages with subcontractors to better meet customer needs. Reasons are varied but include:

- To temporarily expand provision to meet a short-term need.
- To provide immediate provision whilst expanding direct capacity.
- Providing access to, or engagement with, a new range of customers.

- To ensure delivery intention is met where there is a recognised risk in direct provision
- To support another provider to develop capacity/quality.
- To provide niche delivery where the cost of developing direct delivery would be inappropriate.
- To support employers with a wide geographic requirement.
- To support student progression
- Enhances the opportunities available to young people and adults

### **3. Quality Assurance**

The quality of the provision will be monitored and managed through the existing college annual QA processes and procedures, as amended in order to fully encompass all sub contracted activity.

This Policy positions sub-contracted provision as a core part of college activity to enable continuous improvements in the quality of teaching and learning for both the College and its subcontractors. This will be achieved through the sharing of effective practice across the supply chain, for example through the Self-Assessment Report process, best practice assessment and verification.

### **4. Publication of information relating to subcontracting**

In compliance with ESFA and other agency funding rules that apply, the College will publish its subcontracting fees and charges policy and actual end-of-year sub-contracting fees and charges on its website before the start of each academic year (and in the case of actual end of year data, as required by ESFA). This will only relate to 'provision subcontracting' i.e. subcontracted delivery of full programmes or frameworks. It will not include the delivery of a service as part of the delivery of a programme (for example, buying the delivery of part of an Apprenticeship framework or outreach support).

The College will ensure all actual and potential subcontractors have sight of this policy and any other relevant documents, such as the Fees.

### **5. Communication**

This policy will be reviewed in each summer term and updated as required. It will be published on the College web site during the July prior to the start of the academic year in which it will be applied. Potential subcontractors will be directed to it as the starting point in any relationship.

The College Sub-Contracting policy is available on <https://www.highbury.ac.uk/-/media/HighburyCollege/Files/Misc-Downloads/Policies/Subcontracting-Fees-and-Charges-Policy-2021.pdf?la=en-GB>

### **6. Payment Terms**

- 6.1 Payment will be based on agreed profiles.
- 6.2 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.

- 6.3 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.
- 6.4 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.
- 6.5 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.
- 6.6 The College's payment terms are 30 days from invoice date for study programmes.

## 7. Management Fees and Charges

Standard college management fee is up to 20% of all funding drawn down against the provision to be delivered. This figure covers the total cost that the College incurs in effectively identifying, selecting and managing all subcontracted provision. This includes the minimum amount of QA activity that the College would attach to the lowest possible risk subcontractor. An outline of services provided by the College that are included in this fee is provided in Appendix 1.

### 7.1 Additional Support for Subcontractors

The precise additional support given to each sub-contractor will be negotiated with that subcontractor, but will be based on a 'risk band' approach and may include:

- Additional site visits
- Additional lesson observation
- Additional tutor support
- More rigorous verification

The risk band will be determined using the table below.

Risk Band	% To Partner	% Retained by College
High	70%	30%
Medium	80%	20%
Low	85%	15%

## 7.2 Additional charges per student

The College may also retain funding to cover the cost of any funded activity that it might undertake on behalf of the sub-contractor such as:

- Awarding Organisation fees and charges
- Hiring of facilities/equipment within/from the College
- Internal Verification
- Audit
- DBS Checks on staff
- Other charges as may be agreed

## 8. Policy Review

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

<b>Prepared by:</b>	<b>Authorised by:</b>	<b>Date:</b>	<b>Review Date:</b>	<b>Committee</b>
Chief Finance Officer	Governing Body	21 September 2021	September 2022	Governing Body



## **Appendix 1**

### **1. The College will be responsible for:-**

- a. Carry out all due diligence processes relating to new partners.
- b. Carry out all internal audits relating to document control.
- c. Lead on all internal audits relating to each and every partner organisation.
- d. Draw up and agree all contracts and amendments.
- e. Agree funding splits that provide value for money.
- f. Provide each partner with up to date SFA information.
- g. Agree communication for every partner.
- h. Agree audit dates with every partner
- i. Provide budget costs relating to expenses incurred – travel subsistence etc.
- j. Overall responsibility of ensuring every invoice submitted is accurate.
- k. Create a centralised location for all partner files.
- l. Monitoring early leavers.
- m. Monitoring achievements.
- n. Monitoring other issues.
- o. Monitoring overall performance.
- p. Monitoring finance.
- q. Agreeing monthly payments.
- r. Liaison with the ESFA.
- s. Ensure all associate paperwork is obtained in a timely manner.

### **2. MIS will be responsible for:-**

- a. Making monthly claims to ESFA for starts, on programme payments and completions.
- b. Claiming all Apprenticeship framework/qualification completions.
- c. Providing funding calculations relating to each partner.
- d. Providing termly ILR data to share with other funding partners.
- e. Ensuring that all students are registered with the awarding body within six weeks of start date

### **3. Exams will be responsible for:-**

- a. Claiming individual components of the frameworks
- b. Claiming NVQ completions that are registered through the College centre.
- c. Carrying out spot checks relating to any exams
- d. Ensuring that invigilation is carried in accordance with awarding body requirements
- e. Ensure that copies of all student certificates are copied and retained.

### **4. The Contract Manager will be responsible for:-**

- a. Student interviews/feedback
- b. Verification of portfolio evidence
- c. Observation of student activities on site
- d. Validation of schemes of work
- e. Validation of assessment
- f. Internal verification – formative and summative or the checking of same
- g. Evaluating course reviews

- h. Evaluating student and employer feedback
- i. Carry out a minimum of one lesson observation per teacher, per partner per year and provide feedback in a written format.
- j. Provide assistance to partners in completing their SAR that feeds into the College SAR.
- k. Provide feedback on the SAR
- l. Include partner staff in any relevant training relating to delivery, assessment, verification, teaching, inspection etc
- m. Ensure that all partner staff is included in any relevant safeguarding

**5. Functional Skills (where this is part of the provision) will be responsible for:-**

- a. Student interviews/feedback
- b. Verification of portfolio evidence
- c. Observation of student activities on site
- d. Validation of schemes of work
- e. Validation of assessment
- f. Internal verification – formative and summative, or the checking of same

**6. HR will be responsible for: -**

- a. Ensuring all enhanced Disclosure and Barring Service (DBS) checks are completed and any outcome causing concern is shared with the appropriate partner - the costs of which will be deducted from the funding received.
- b. Ensure all associate documentation is retained

**7. During audit all college staff will:**

- a. Evaluate objectively, be impartial and inspect without fear or favour
- b. Evaluate provision in line with frameworks, national standards or requirements
- c. Base all evaluations on clear and rigorous evidence
- d. Have no connection with the provider that could undermine their objectivity
- e. Report honestly and clearly, ensuring that judgments are fair and reliable
- f. Carry out work with integrity, treating all those they meet with courtesy, respect and sensitivity
- g. Try to minimise the stress on those involved in the audit
- h. Act in the best interests and well-being of service users
- i. Maintain purposeful and productive dialogue with those being audited, and communicate judgments clearly and frankly
- j. Respect the confidentiality of information, particularly about individuals and their work
- k. Respond appropriately to reasonable requests
- l. Take prompt and appropriate action on any safeguarding or health and safety issues in accordance with college policies
- m. When conducting interviews, internal auditors must explain that, if requested, they will make every effort to protect the origin of the individual's comments when using them to form judgments.
- n. However, internal auditors should also make clear that in some circumstances, it may not be possible to guarantee the interviewee's anonymity. For example, other factors may make it easy to identify which individual has shared particular evidence.

- o. Internal auditors also have a duty to pass on disclosures that raise safeguarding issues, and/or circumstances where serious misconduct or potential criminal activity or fraud may be involved.
- p. Therefore, internal auditors should make it clear that it may not be possible to guarantee confidentiality if an interviewee raises an issue that internal audit are obliged to report.



## Appendix 2

### Estimated Level of Funding Paid and Retained for Subcontractors in 2021/22

Subcontractor	UKPRN	Programme Type	Funding to be Earned (est)	Funding to be retained (Est)	Funding to be Paid (Est)	% withheld
Pompey in the Community	10031111	16-18 Study Programme	£114,700.00	£22,940.00	£91,760.00	20%
Realise/Everything Training Consultants	10062707	19+ Apprenticeship (Employer on App Service)	£1,800.00	£360.00	£1,440.00	20%
HaHa Training Ltd	10037678	16-18 Apprenticeship (Employer on App Service)	£179,714.87	£35,942.97	£143,771.90	20%
HaHa Training Ltd	10037678	16-18 Apprenticeship Non-Levy Contract (procured)	£9,497.36	£1,899.47	£7,597.89	20%
HaHa Training Ltd	10037678	19+ Apprenticeship (Employer on App Service)	£71,787.98	£14,357.60	£57,430.38	20%
HaHa Training Ltd	10037678	19+ Apprenticeship Non-Levy Contract (procured)	£14,669.28	£2,933.86	£11,735.42	20%
Soccer Scholar Academy	10089593	16-18 Study Programme	£253,409.08	£176,001.08	£77,408.00	0%