

# Subcontracting Supply Chain Fees and Charges Policy 2023-24

DRAFT

## Overview

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 document control of new partners. The subcontracting fees and charging 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 the 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 (ESFA) or any successor organisations.

The policy applies to all subcontracted provision supported with the funds supplied by the ESFA. The Subcontracting Policy is a mandatory requirement for subcontracting activity from 1 August 2020. The policy's content has been developed to comply with the ESFA Funding Rules as set out in ESFA subcontracting guidance.

## Introduction

City of Portsmouth College has no immediate plans to expand the numbers of subcontractors that it works with and where needed will seek to address identified skills gaps through the extension of its own provision, unless requested by the ESFA or the Local Enterprise Partnership (LEP), to increase the number of subcontractors to fill a strategically important skills gap. The purpose of this policy is to provide accurate and comprehensive information to external agencies on how the College procures its subcontracted services and the pricing framework used.

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
- 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
- Government and funding agency targets, priorities and regulations
- Satisfactory completion of the due diligence process of Learning Providers
- Business plan to support delivery

## 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:

- Supply chain management activities comply with the principles of best practice in the skills sector.
- 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.
- 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.
- 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.
- 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 meet the needs of identified skills gaps.
- To provide immediate provision whilst expanding direct capacity.
- To provide 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 requirement.
- To support student progression.
- To enhance the opportunities available to young people and adults.

### **3. Fairness in procurement**

The College will at all times undertake fair and transparent procurement activities. The College has no immediate plans to extend its subcontracted provision. However, should the need to increase the number of subcontractors be identified, future opportunities will be advertised and procured in accordance with the College's Procurement Policy.

The College will inform the ESFA in writing, about any circumstances which might lead to an actual or perceived conflict of interest.

### **4. Due diligence**

The College will undertake a robust process of due diligence when selecting potential subcontractors to ensure the highest quality of learning delivery is made available which demonstrates value for money and has a positive impact on learner lives. Potential partners must complete and submit the prequalification questionnaire at the expression of interest stage.

Through this process, the College will test the robustness of the provider to assess and mitigate any potential risk to the College that the provider may not be able to uphold the ESFA's requirements. This will include a review of financial robustness of the provider and their legal status and monitoring processes.

The College's due diligence process includes taking references; review of audited accounts; and ensuring that the subcontractor is recorded on ESFA registers. All sub-contractors engaged by the College must be registered on the RoATP or the ESFA UK Register of Learning Providers.

### **5. Quality assurance**

The quality of the provision will be monitored and managed through the existing College annual Quality Assurance (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 (SAR) process, best practice assessment and verification.

### **6. 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.

## **7. 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 the College website.

## **8. Payment terms**

Payment will be based on agreed profiles.

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.

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.

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.

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.

The College's payment terms are 30 days from invoice date for study programmes.

## **9. Management fees and charges**

The standard College management fee/ charge 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.

### **9.1 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%

## 9.2 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

## 10. Policy review

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

Prepared by:	Authorised by:	Date:	Review Date:	Committee
Deputy CEO and Deputy Principal Curriculum and Quality	Governing Body	July 2022	July 2023	Governing Body
Vice Principal Information Services	Governing Body	July 2023	July 2024	Governing Body

## Appendix 1

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

- Carrying out all due diligence processes relating to new partners.
- Carrying out all internal audits relating to document control.
- Leading on all internal audits relating to each and every partner organisation.
- Drawing up and agree all contracts and amendments.
- Agreeing funding splits that provide value for money.
- Agreeing communication for every partner.
- Agreeing audit dates with every partner.
- Providing budget costs relating to expenses incurred – travel subsistence etc.
- Overall responsibility of ensuring every invoice submitted is accurate.
- Creating a centralised location for all partner files.
- Monitoring early leavers.
- Monitoring achievements.
- Monitoring overall performance.
- Monitoring finance.
- Agreeing monthly payments.
- Ensuring all associate paperwork is obtained in a timely manner.

### 2. MIS will be responsible for:

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

### 3. Exams will be responsible for:

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

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

- Student interviews/feedback.
- Verification of portfolio evidence.
- Observation of student activities on site.
- Validation of schemes of work.
- Validation of assessment.
- Internal verification – formative and summative or the checking of same.
- Evaluating course reviews.
- Evaluating student and employer feedback.
- Carry out a minimum of one lesson observation per teacher, per partner per year and provide feedback in a written format.
- Provide assistance to partners in completing their SAR that feeds into the College SAR.
- Provide feedback on the SAR.

- Include partner staff in any relevant training relating to delivery, assessment, verification, teaching, inspection etc.
- Ensure that all partner staff is included in any relevant safeguarding.

#### **5. HR will be responsible for:**

- 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.
- Ensure all associate documentation is retained.

#### **6. During audit all College staff will:**

- Evaluate objectively, be impartial and inspect without fear or favour.
- Evaluate provision in line with frameworks, national standards or requirements.
- Base all evaluations on clear and rigorous evidence.
- Have no connection with the provider that could undermine their objectivity.
- Report honestly and clearly, ensuring that judgments are fair and reliable.
- Carry out work with integrity, treating all those they meet with courtesy, respect and sensitivity.
- Try to minimise the stress on those involved in the audit.
- Act in the best interests and well-being of service users.
- Maintain purposeful and productive dialogue with those being audited, and communicate judgments clearly and frankly.
- Respect the confidentiality of information, particularly about individuals and their work.
- Respond appropriately to reasonable requests.
- Take prompt and appropriate action on any safeguarding or health and safety issues in accordance with college policies.
- 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.
- 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.
- 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.
- 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 2023/24

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	£162,000	£32,400	£129,600	20%

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