



Subcontracting Policy

2019/20

Signed by Senior Leadership Team:

Chris McMahon – Executive Chairman

Jo Sellers – Operations Director

Linda Clarkson – Director of Quality & Curriculum

Ceri Halifax – Director of Finance

Ceri Halifax

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1. Scope

The policy applies to all supply chain activity supported with funds supplied by the Education Skills Funding Agency or any successor organisations.

2. Context

The policy is now a mandatory requirement that must be in place prior to participating in any sub-contracting activity. The content of this policy has been developed in line with, the ESFA Funding rules and the LSIS Supply Chain Management document.

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(ESFA).

YH Training Services Ltd (YH) has a long history of working with select sub-contractors and partners to deliver high quality teaching and learning. YH currently subcontracts with a small number of mainly established providers providing niche provision across the Yorkshire and Humber which YH does not currently provide itself. Our sub-contracted and partnership provision has included learner responsive delivery to 16-18 year old learners, apprenticeship provision, and learner responsive delivery to adult learners in a variety of settings.

Subcontractors and partners have been used to engage a variety of communities some of which have typically been underrepresented in further education across the region.

As a result of funding changes and an anticipated increase in the proportion of our curriculum that is delivered directly, YH will reduce the scale of its sub-contracted provision in 2020/21.

Because of this, YH will prioritise the engagement of sub-contractors that:

- Can demonstrate consistent delivery of the highest quality teaching and learning.
- Can facilitate a high level of progression into employment or higher learning for our learners.
- Are financially secure and can enter into a sustainable relationship with YH Training
- Have or are committed to adopting robust quality assurance and improvement processes that complement those in place at YH.

Our sub-contracted and partnership delivery is overseen by the Senior Leadership Team (SLT) and supported on a day to day basis by the Hull Area Learning Manager.

SLT will receive a regular report on the scale and mix of our sub-contracted provision through the monthly management accounts.

YH has sought to ensure sub-contractors and delivery partners are fully engaged with our teaching and learning quality assurance processes. Our sub-contracted provision has been subject to lesson observation and learner journey audits in the same way as our directly delivered programmes of study.

YH will seek to ensure that where appropriate, sub-contractors and delivery partners adopt our approach to self-assessment and quality improvement.

3. Overarching Principle

YH will use its supply chains to optimise the impact and effectiveness of service delivery to the end user.

YH will therefore ensure that:

- a. YH will at all times undertake fair and transparent procurement activities, conducting robust due diligence procedures on potential sub-contractors to ensure compliance at all levels and to ensure the highest quality of learning delivery is made available, demonstrating value for money and a positive impact on learner lives.
- b. The funding that is retained by YH 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.
- c. Where disputes between supply chain partners cannot be resolved through mutually agreed internal resolution procedures, YH 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. Signatories 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.

4. Definition of Sub-Contracting

What is a lead provider?

A lead provider is a college, training organisation or employer that has a direct contractual relationship with the ESFA.

What is a Sub-Contractor?

A sub-contractor is an organisation that is engaged in a contractual and legally binding arrangement with one or more lead providers to deliver provision that we fund. Sub-contractors may be informally called partners in the sector. However, for ESFA purposes, they are classified as sub-contractors.

5. Rationale for Sub-Contracting

YH has a strategic aim to minimise the level of sub-contracting entered into. YH aim to use its funding allocations to support our local learners, employers and communities through direct delivery. Minimising levels of subcontracting also reduces the exposure to risk of poor performance by other organisations.

YH will in the first instance consider direct delivery. However, YH recognises the benefits that effective sub-contracting can bring in extending the range and accessibility of provision for learners and employers and will consider sub-contracting in the following circumstances:

- Where our existing employers or learners require additional provision which is beyond our existing scope or capacity
- Where subcontracting will allow us to meet short term needs of learners or employers without exposing us to the risks and entry and exit costs of setting up new provision
- 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 such as 16-18 apprenticeship funding
- For very specialist provision which YH would not be able to adequately resource.

6. Quality Assurance and Improvement

The quality of the provision will be monitored and managed through the existing YH Training Quality processes and procedures.

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

All Sub-Contractors with combined contract values of over £100,000 must be approved on ROTO for AEB and ROATAP for apprenticeship delivery

As minimum YH will carry out the following Quality measures with subcontractors;

- Desk top checks and due diligence visit for new providers
- Annual due diligence review for existing providers

- Quarterly Contract Reviews and management meeting to review success rates, quality improvement, safeguarding etc
- Annual survey of learners
- Annual survey of employers (if applicable)
- Annual Learner Journey Audits to review the learner documents
- IQA Visits where provision is under our awarding body centre approval
- Self-Assessment Monitoring visits (SAMs)
- Annual audit of MIS data including enrolment forms and attendance records
- Lesson or session observations
- Staff CPD
- Risk Management activities

Risk Factor Table includes:

The typical percentage range of fees retained to manage sub-contractors, and how this range is calculated is listed below.

The rationale used to determine the level of fee retained through each sub-contract is a risk based approach.

The contributory risk factors that would result in differences in fees charged for, or support

- Type of customers to be engaged provided
- Previous track record
- Quality Improvement processes
- Success levels
- Type of provision to be undertaken
- Contract duration

The risk bands will be used to allocate YH charges. Risk factors are given a score so that each sub-contractor is aware of why they are in a particular band, this process will be used to give sub-contractors an incentive to improve and thus reduce the risk band that they fall in. For example, higher risk sub-contractors will be allocated less funding but receive more monitoring and support.

7. Communication

This policy will be reviewed in each summer term and updated as required.

8. The Fees and Charges Risk Factor Table

Due to the additional requirements on apprenticeship delivery, specifically the need to monitor the receipt of compulsory employer contributions and the need to monitor the delivery of 20% off the job training, our management fee is as follows:

For established providers with at least 3 full years delivery our standard fee is **17.5%**

This will be reduced if the following applies:

Apprenticeships:

- *If achievement rate equivalent to national rate for sector or 70% as a minimum , minus 2% = 15.5%*
- *Use of eportfolios – 1% = 14.5%*
- *Use of electronic files – 1% = 13.5%*
- *Satisfactory compliance – 1% = 12.5%*

AEB:

- *If achievement rate at 85% at least, minus 2% = 15.5%*
- *Employment progression minimum of 35%, minus 1% = 14.5%*
- *Use of electronic files – 1% - 13.5%*
- *Satisfactory compliance, minus 1% = 12.5%*

16-19 young people:

- *If achievement rate at 70% at least, minus 2%= 15.5%*
- *Positive progression of at least 70%, minus 1% = 14.5%*
- *Use of electronic files, minus 1% = 13.5%*
- *Satisfactory compliance, minus 1% = 12.5%*

Therefore for established providers there is an opportunity for the standard management fee to be only **12.5%**.

Further charges to cover additional costs may be added to the standard fee to cover the cost to YH of any additional support that YH deems necessary to ensure the quality of teaching and learning and the success rates of any sub-contracted provision. Additional cost is determined using a weighted table of risk factors. The table is available to all actual and potential sub-contractors. It is designed to ensure that the cost of any additional support provided to a subcontractor is covered through the funding retained. Additional costs will be re-calculated and negotiated each year at contract renewal, giving sub-contractors the opportunity to reduce their fees through continuous improvement. This approach will allow Resources to focus support where and when it is needed.

See Annex 2

9. Additional Support for Sub-Contractors

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 and audits

The risk band will be determined using the table in annex 2.

10. Additional Charges per learner

YH 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 YH
- Internal Verification
- Off the job training for learners if applicable

11. Termination of contract and variances

If for whatever reason the sub-contractor wishes to terminate the agreement with YH, they can do so by serving 3 months' notice to YH. However, the subcontractor will not be entitled to transfer the financial value of its subcontract with YH to another lead provider.

If YH identifies any issues or any aspects of the contract that the sub-contractor is not following, these will be discussed with them and a necessary action plan will be drawn up, which will hopefully lead to the necessary improvements. The action plan will provide a maximum of 3 months for any issues to be rectified. If they have not been rectified by the end of this period, then YH will have to give serious consideration to serve notice on the sub-contractor to terminate the contract and this notice period to terminate the contract will last for 3 months. YH will of course offer any necessary help and guidance to ensure there are no non-compliance issues. Where appropriate YH may impose sanctions on the sub-contractor, for example suspending all new starters.

If YH is informed by the ESFA that they must terminate the subcontract, then this would be carried out under ESFA guidance.

YH reserve the right to not re-contract with any of our existing providers where any provider has failed to meet due diligence requirements and/or is deemed as high risk.

Where the subcontracting is failing to meet the contract value and therefore an underspend is projected YH reserve the right to reduce the contract value at any point. Any variance to increase an existing contract must be made in writing to YH.

The request should include:

- A description of the proposed provision

- The numbers of learners
- Value of the variance
- A description of the delivery
- Quality assurance measures

Annex 1 – Due Diligence Checks

Sub-Contracting Requirements

Due Diligence documents required for desktop assessment	Notes / Resources Actions
Copy of latest set of audited accounts	To be reviewed by Managing Director & Director of Finance
Full names of all Heads / Trustees / Senior Managers	Complete company house check
Copy of most recent Ofsted report	Require grade 1 -2
Copy of most recent Self-Assessment Report (SAR) – where applicable	Require grade 1 -2
CVs for all staff delivering training / assessment	To be reviewed by Operations Director and Director of Quality and Curriculum
Copy of contract of employment / evidence of contract of employment for all staff delivering training/assessment	To be reviewed by Operations Director and Director of Quality and Curriculum
DRB numbers for all staff delivering training /assessing	To be reviewed by Operations Director
Copy of staff certificate for the member (s) of staff responsible for training/assessing	To be reviewed by Operations Director and Director of Quality and Curriculum
Copy of Health & Safety Policy	To be reviewed by Operations Director
Copies of risk assessments	To be reviewed by Operations Director
Copy of Risk register for Prevent	To be reviewed by Operations Director & Lead safeguarding officer
Copy of Crisis management Plan	To be reviewed by Operations Director
Copy of Employers/Public/ Occupiers liability insurance certificate	Minimum £10 million for Employers Liability Insurance £5 million for Public Liability Insurance. Certificate to be in date.
Evidence of Initial Advice & Guidance (IAG) and IAG Policy	
Copy of Complaints procedure	To be reviewed in line with YH policy
Copy of equality and diversity procedure	To be reviewed in line with YH policy
Copy of Safeguarding Policy	To be reviewed in line with YH policy
Copy of Mission Statement	To be reviewed in line with YH policy

Copy of Data Protection and Privacy Policy (GDPR)	To be reviewed in line with YH policy
Copy of Awarding Body Centre Approval – where appropriate	To match qualifications being delivered
Copy of most recent External Verifiers Reports where appropriate	To be reviewed for serious issues

The Sub-Contractor will provide the following:

Required during Funding Year	Frequency / Due by
Return signed contract and appendices	Before 1st August / start of delivery programme
Deliver the Programme (s) in accordance with YH arrangements	In line with the YH timetable
Self-Assessment Reports in line with the YH requirements	In line with the YH timetable
Signed and fully completed enrolment form/ILR for each learner; (Copy of recent benefits, residency evidence etc to be kept on file)	Within 3 weeks of the course commencing
Full registers or contact records	Checked on audit.
Withdraw any learners who have missed more than 4 consecutive weeks	Within 1 month after missing 4 consecutive weeks
Copies of achievement certificates as soon as received from the Awarding Body including ACE certificates	As Soon as received – ACE certificate to be received no later 3 months after learner achievement date
Copies of all EV reports	Checked on Audit
Feedback questionnaires from learners	In line with the YH timetable
Raise invoices per agreed payment amounts and schedule	Per agreed schedule

Annex 2 – Quality Assurance Measures

YH will score each performance indicator as follows:

Performance Indicator	Risk Rating Score			
	Low	Medium	High	No Measurable
	1	2	3	3
Delivery experience of the sub-contractor	More than 3 full years of this type of provision	1-2 full years of this type of provision	Less than 1 full years of this type of provision	No experience
Previous years success rate	Apprenticeship 75%	Apprenticeship 70%	Apprenticeships less than 70%	No previous delivery record
	AEB – 85%	AEB – 75- 84%	AEB- Less than 75%	
	16-19 -70%	16-19 – 60-69%	16-19 – less than 69%	
Accuracy of SAR and Ofsted or SAR grading	Grade 1 or 2	Grade 2 -3	Grade 4	No Ofsted Grading
Safeguarding (Including Prevent risk register)	Provision deemed to be low risk all policies and procedures in place, staff CPD current	Medium risk eg Some development required	Provision deemed to be high risk – Insufficient controls in place to safeguard learners and staff	No policies and procedures in place
Policies and procedures identified in Due Diligence	Up to date policies and procedures as identified in the Due diligence check list	Some policies need to be updated	Not all policies and procedures are in place	No policies and procedures in place.
Contract 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
Learner Journey Audit and QI measures	Grade 1/2 with very good QI and good action planning	Grade 2/3 with some QI measures	Grade 3 with actions to improve QI	Grade 4 QI requires improvement

Overall Score	Risk Rating	Fees
5-7	Low	12.5% - 17.5%
8-18	Medium	20%- 25%
19-24	High	30%

Annex 3 – Fees and Charges Structure

The following activities are included in the standard contract management and covered by the retained funding element;

Activity	Number/Frequency included in standard retained funding element
Pre-Contract Processes	
Due diligence desk top checks	1 at set-up
Due diligence visit 1 per site	up to 3 sites
Annual due diligence	1 per year
Issuing standard sub-contract agreement	1 per year
MIS Processes	
Issuing YH document templates and forms to be used by the subcontractor	As and when amended
Agreeing use of sub-contractor templates and forms (if at least as good as YH documents)	1 per year
Entering learner data and amendments onto PICS (MIS)	All
Entering attendance data and reconciling with ILR	All
Calculating fees due and processing payments received	All
Data-match checks with other main contractors with whom the subcontractor works	All
Quality Assurance Processes	
Quality assurance visits and lesson/assessor observations	At least 2 per year
SAM meetings	At least 1 per year
Annual survey of learners (in addition to your own surveys)	1 per year
Annual survey of employers (if applicable) (in addition to your own surveys)	1 per year
Annual audit of MIS data including enrolment forms and attendance records	1 per year
Learner Journey Audits - Review of learner documents including tracking records, reviews and ILPs (in addition to your own)	1 per year
Annual review of the sub-contractor provision within YH Self-Assessment process and Quality Improvement Plan	1 per year
Sub-contractor staff to attend YH CPD activity	As required

The below will be implemented from August 1st 2019.

The following rates will apply to additional services which Resources may provide for the subcontractor;

Service	Cost
Registration of learners on YH approval with Awarding Bodies	Cost + 10%
Certification of learners from awarding body	Cost + 10%
Certification of apprentices with ACE	Cost + 10%
Internal verification	To be agreed depending on provision
Providing consultancy support (Senior level)	£70 per hour