

# 2019/2020 SUBCONTRACTING FEES & CHARGES POLICY

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## PURPOSE OF THE POLICY

The policy is a mandatory requirement that must be in place prior to participating in any subcontracted activity. The content of this policy has been developed in line with the current Education and Skills Funding Agency (ESFA) Funding Rules, the ESFA 'Using subcontractors in the delivery of apprenticeships' (April 2018), the AELP et al 'Best Practice Guidance for a Relationship between a Prime Provider and a Subcontractor (March 2018) and the Ofsted Common Inspection Framework.

## SCOPE

The policy applies to all subcontracted activity supported with funds supplied by the Education and Skills Funding Agency or any successor organisations, namely Apprenticeship Funding and Adult Education Budget Funding.

## RESPONSIBILITY AND AUTHORITY

In compliance with the ESFA and other agency funding rules, Yeovil College will publish its Subcontracting Fees and Charges Policy on its website and submit actual end-of-year subcontracting fees and charges to the ESFA on request. This will include subcontractors who deliver full or part-apprenticeship Frameworks or Standards.

We will operate our Subcontracting Fees and Charges Policy in line with the current ESFA funding rules as stated below:

*86. Your governing body or board of directors and your accounting officer (senior responsible person) must be satisfied that all your delivery subcontracting meets your strategic aims and enhances the quality of your learner offer.*

*You must set out the reasons for subcontracting in your published supply chain fees and charges policy to reflect your strategic aims. You must be able to evidence this, such as minutes of meetings and written sign-off.*

*87. You must not subcontract to meet short-term funding objectives.*

*88. You must only use delivery subcontractors:*

*88.1 if you have the knowledge, skills and experience within your organisation to successfully procure, contract with and manage those subcontractors and can evidence this with the CVs of relevant staff*

*88.2 who your governing body/board of directors and your accounting officer (senior responsible person) determine as being of high quality and low risk, and provide written evidence confirming this*

*88.3 If you have robust procedures to ensure subcontracting does not lead to the inadvertent funding of extremist organisations*

*89. You are responsible for all the actions of your delivery subcontractors connected to, or arising out of, the delivery of the services, which you subcontract.*

## 1. Rationale for Subcontracting

Yeovil College published its Strategic Aims annually. Of the five College Strategic Aims, the following three are connected to our strategy for subcontracting:

**Strategic Aim 2.** *Provide a high quality, innovative, relevant and responsive curriculum to meet the needs of local, regional and national priorities.*

**Strategic Aim 3.** *Maintain stable long term financial position and manage the college effectively, efficiently and innovatively in order to proactively invest and further improve facilities and learning experience for all.*

**Strategic Aim 4.** *Work effectively and innovatively with our partners to maximise all opportunities in order to provide an outstanding experience for our learners, employers and the local community.*

Yeovil College will therefore, continue to use its ESFA funding allocations and Apprenticeship Levy funding to meet its strategic aims and support local learners, employers and communities through direct delivery.

The College will continue to strategically review all subcontracting arrangements, in relation to its strategic aims, funding allocations and performance throughout the year, thereby reducing the exposure to risk of poor performance by other organisations.

The College recognises the benefits that effective subcontracting can bring in extending the range and accessibility of provision for learners and employers. The College will only subcontract where it is established that the provision is of high quality and low risk and, where the College can deliver a substantial element of the programme in line with the ESFA funding rules.

Where appropriate, the College will consider subcontracting a proportion of its ESFA allocation to a range of training providers and employers in order to meet its strategic aims and enhance the quality of its offer to learners in the following circumstances:

1. Where existing employers or learners require additional provision which is beyond our existing scope or capacity (including mandatory and regulatory qualifications and licences to practice);
2. Where an existing or new employer has requested to work with us as their single prime provider, with the expectation that the provider will need to subcontract to ensure coverage by level, sector, specialism and region;
3. Where subcontracting will allow us to build capacity in new sectors providing the potential for future direct delivery;
4. For specialist provision which the College would not otherwise be able to adequately resource.
5. At the request of a Levy paying employer.

## 2. Overarching Principle

The college will only use Subcontractors to optimise the impact and effectiveness of service delivery, in line with its Strategic Aims and, to maximise the proportion of funding being spent directly on training the learner. Yeovil College will therefore ensure that:

- 2.1 Subcontractor approval shall be undertaken in a fair and transparent manner, conducting robust Due Diligence procedures on potential and existing subcontractors to ensure the highest quality of learning delivery whilst achieving value for money.
- 2.2 The college shall maintain the principles of best practice in the skills sector.
- 2.3 Attention to detail regarding risk assessment, health and safety, safeguarding and prevent duty in relation to learners safety will be paramount whilst ensuring the highest quality of learning delivery.
- 2.4 The funding that is retained by the College for Quality Assurance and Contract Management will be related to the costs of the services provided based on the Subcontractor Risk Rating matrix (Appendix A). These services, and the levels of funding being retained for them, will be clearly documented and agreed by all parties. The fee 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 only include eligible costs.
- 2.5 Where disputes with subcontractors 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. 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.

## 3. Selection and Appointment of Subcontractors

Subcontractors will only be used to complement Yeovil College delivery in line with ESFA funding rules, specific to the type of provision and the relevant funding, and will all be required to satisfy Due Diligence processes and sign a legally binding Contract.

In selecting our partner providers we will consider the following:

- Reputation – including referral from other providers or employers
- Specialism – particularly in niche provision areas
- Geographic Location – with specific support to local partners and employers
- Quality Measures – including previous recruitment, retention and success rates, Ofsted rating etc
- Finance – with reference to Credit Checks and provision of accounts for review

From 1<sup>st</sup> August 2019, all Subcontractors must be on the ESFA Register of Apprenticeship Training Providers as either a Main Provider, Employer Provider or Supporting Provider. The College will only work with Subcontractors who are confirmed as being on the Register.

## **4. Quality Assurance**

The quality of subcontracting provision will be monitored and managed through the existing College quality processes and procedures including: IAG, Teaching and Assessment Observations, Unannounced and Announced Visits, Desktop Audits, Existence and Eligibility Checks, File Audit and processing of data into the ILR.

Quality assurance will ensure 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 subcontractors attending / undertaking College CPD / training and through the Self-Assessment Report (SAR) process.

## **5. Management Fees, Contract Performance Indicators and Contract Management Support**

The core management fee charged by the College as a prime provider for legitimate management overheads for quality and contractual compliance will not exceed 20% of the Agreed Price for the Apprenticeship.

This figure represents the maximum cost that the College should incur in effectively identifying, selecting and managing all subcontracted provision. This includes the expected amount of auditing, monitoring contractual performance and compliance, and will ensure quality assurance criteria are met in line with the individual subcontractors' agreement.

The management fee includes regular, planned Contract and Compliance Meetings throughout the year and all quality assurance including, but not limited to: IAG, Teaching and Assessment Observations, Unannounced and Announced Visits, Desktop Audits, Existence and Eligibility Checks, File Audit and processing of data into the ILR, CPD and Training opportunities for subcontractor staff (including Safeguarding and Prevent training), and use of college QA paperwork, policies and procedures.

Subcontractors Risk Rated as Low will receive all required support as listed in Appendix A. This fee will increase for those Risk Rated as Medium to cover additional support and monitoring for new subcontractors of the College, particularly new Employer Providers / Supporting Providers, and any subcontractors who didn't achieve their targets in the previous academic year.

Lack of a previous track record on performance indicators, such as for Employer providers who are new organisations or who offer new provision, will not necessarily be a barrier to subcontracting however, all new subcontracted provision is subject to Governor's approval.

The quality assurance measures and associated costs will reflect the additional new risks of provision. The College may choose to take a lower management fee for business reasons which will be negotiated and agreed with the Director of Employer Engagement, Senior Management Team and Governors.

## **6. Delivery Costs and Additional Charges (Apprenticeship Subcontracting Only)**

In line with the ESFA Funding Rules, the College will ensure that all delivery is detailed in the Written Agreement with the employer at the start of the programme, specifying who will be responsible for each element of the programme including mandatory qualifications, non-mandatory qualifications and any subcontracted delivery.

Charges, per learner, will be calculated transparently and will factor into the costings the expense of funded activity that the College undertakes on behalf of the Subcontractor including, but not limited to:

- Direct delivery and/or assessment by the College on each apprentices' programme in line with the Funding Rules requirements;
- Awarding Organisation Registration and Certification charges for Mandatory Qualifications;
- End Point Assessment Organisation Fees;
- E-Portfolio Costs.

Payments to subcontractors will be made in accordance with the agreed payments schedule in the Delivery Subcontract. These payments will be reconciled against actual funding amounts calculated from the Provider Funding Report.

## **7. Publication of Information Relating to Subcontracting**

In compliance with the funding rules, Yeovil College will publish its Subcontracting Fees and Charges Policy on its website and submit actual end-of-year subcontracting fees and charges to the ESFA on request.

This will include subcontractors who deliver full or part-apprenticeship frameworks or standards. The details will include the name and UKPRN of the subcontractor, the contract start and end dates, the type of provision, the funding received from the agency to the College, the funding paid to the subcontractor, the funding retained by the College and any funding paid by the subcontractor to the college for support or services.

The college will issue all actual and potential subcontractors with a copy of this policy and a subcontract each year. The payment terms between the college and subcontractors for timing of payments in relation to delivering provision and timescale for paying invoices and claims for funding received are included in the subcontract.

## **8. Review and Publishing of this Policy**

This Subcontracting Fees and Charges Policy will be reviewed annually in conjunction with the newest version of the Funding Rules from the Education and Skills Funding Agency or any successor organisations. This Policy will be published on the Yeovil College Website <http://www.yeovil.ac.uk/>

## **9. RELATED POLICIES, PROCEDURES, DOCUMENTS & DEFINITIONS**

**(the latest versions of all documents will be identified prior to publication)**

1. The Yeovil College Subcontract
2. Ofsted Further Education & Skills Inspection Handbook (updated March 2019)  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/782172/Further\\_education\\_and\\_skills\\_inspection\\_handbook\\_181218\\_updated\\_for\\_1\\_March\\_2019\\_final.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/782172/Further_education_and_skills_inspection_handbook_181218_updated_for_1_March_2019_final.pdf)
3. ESFA Apprenticeship funding rules for training providers (updated March 2019)  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/786465/apprenticeship\\_funding\\_rules\\_for\\_training\\_providers\\_August\\_2018\\_to\\_July\\_2019\\_version\\_2.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/786465/apprenticeship_funding_rules_for_training_providers_August_2018_to_July_2019_version_2.pdf)
4. Draft ESFA funded adult education budget (AEB): funding rules 2019 to 2020 (updated March 2019)  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/785725/AEB\\_2019-20\\_rules\\_13\\_March\\_final.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/785725/AEB_2019-20_rules_13_March_final.pdf)
5. ESFA Using subcontractors in the delivery of apprenticeships (August 2018)  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/732716/Apprenticeship\\_subcon\\_guidance.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/732716/Apprenticeship_subcon_guidance.pdf)
6. Best Practice Guidance for a Relationship between a Prime Provider and a Subcontractor (AELP et al, March 2018) <https://www.aelp.org.uk/resource-and-information-centre/resource-and-information-centre/best-practice-guide/best-practice-guidance-for-a-relationship-between-a-prime-provider-and-a-subcontractor/>



### **\*LOW RISK RATING**

Where a Subcontractor has been scored as Low Risk the Management Fee will commonly be 15%.

This includes the expected amount of auditing, monitoring and/or ensuring compliance with the individual subcontractors' agreement and for checking quality, performance and provision of the Programme.

### **\*\*MEDIUM RISK RATING**

Where a Subcontractor has been scored as a Medium Risk the Management Fee will commonly be 20%.

As a result, the Subcontractor will receive additional support in relation to the Risk Performance Indicators identified, not limited to but including:

- Increased phone and email communication and support with queries
- Additional learner performance reports
- Where required, more regular Contract Review Meetings
- More frequent audit checks and/or observations
- Higher number of learners selected for audit checks

Yeovil College will work with Subcontractors who are rated as Medium Risk as the performance indicators may have scored highly due to them being categorised as 'Not Measurable' as this is likely to indicate new provision.

The College expects the risk rating to reduce at each subsequent annual contract review as the performance indicators become measurable.


### **\*\*\*HIGH RISK RATING**

Where a Subcontractor has been scored as a High Risk the College will not agree to Subcontracting arrangements.

### **~YEOVIL COLLEGE % QUALITY ASSURANCE and MANAGEMENT FEE**

The Quality Assurance and Management Fee agreed with each Subcontractor is subject to agreement by the Director of Employer Engagement, SMT and the Governors in line with the Yeovil College Subcontracting Strategy.



Policy Review				
Author	Position	Approved by Corporation	Approval date	Review date
M Payne	Director of Employer Engagement	Signed: 	13.06.19	June 2020

### Document Control – Revision History (Policies only)

Author	Summary of Changes	Date	Recommend to SED Y/N
Mark Bolton	Significant amendments to reflect changes in SFA funding rules to ensure robust subcontracting management framework	30.06.16	Yes
Charlotte Redfearn-Ward	Significant amendments to reflect changes in SFA/ESFA funding rules, addition of detailed rationale, selection and QA and inclusion of Apprenticeship Reform.	13.06.17	Yes
Mary Payne / Charlotte Redfearn-Ward	Significant amendments to reflect continued changes in ESFA funding rules and including changes to guidance used, update on management fee criteria, delivery costs and revised Risk Rating matrix.	08.06.18	Yes
Mary Payne	Amendments to link the policy to College Strategic Aims and update in line with current ESFA funding / audit rules and Ofsted guidance.	03.06.19	Yes

#### Initial Equality Impact Screening

Have you consulted on this policy? No

Details:

What evidence has been used for this assessment?

Could a particular group be affected differently in either a negative or positive way? Indicate Y where applicable

Group	Negative impact	Positive impact	Evidence
Age			
Disability			
Gender (incl. Transgender)			
Race (incl. Gypsy & Traveller)			
Religion or belief			
Sex			
Sexual orientation			
Marriage & civil partnership			
Pregnancy & maternity			
Other groups (see guidance)			

Please give details:

If any negative impacts are identified, are there any related policies, services, strategies, procedures or functions that need to be assessed alongside this screening? If yes, please detail below:

Should the policy proceed to a full Equality Impact Assessment? No  
If no, please give reasons: it is fully compliant with ESFA guidelines, Ofsted requirements and our own internal standards

#### Declaration

We are satisfied that an initial screening has been carried out on this policy and a full Equality Impact Assessment is not required.

We understand that the Equality Impact Assessment is required by the College and that we take responsibility for the completion and quality of this assessment

Completed by Author: Mary Payne Position: Director of Employer Engagement Date: 20.05.19

Reviewed by Safeguarding, Equality & Diversity Group: Date:

Comments from Safeguarding, Equality & Diversity Group Review:

## SUBCONTRACTOR RISK RATING

Yeovil College will use the following Performance Indicators to score each Subcontractor, for use in conjunction with the Yeovil College Subcontracting Strategy, prior to any Contract or agreeing the Management Fee:

PERFORMANCE INDICATOR	RISK RATING SCORE			
	Low 1	Medium 2	High 3	Not Measurable 3
On the Register of Apprenticeship Training Providers (RoATP) as a Main Provider, Employer Provider or Supporting Provider	Main Provider Status	Employer Provider or Supporting Provider Status	Not on the RoATP	N/A
Delivery Experience of the Subcontractor – Delivering the same or similar qualification/training to YC Contract	More than 5 Full Years	2 to 5 Full Years	Less than 2 Full Years	Not Measurable
Most Recent Ofsted or SAR Grading (SAR Grading Subject to YC Validation)	Grade 1 or 2	Grade 3	Grade 4	No Ofsted Grading or SAR Process
Previous Years Success Rates – All Qualifications (Against National Benchmark)	3% or More Above National Benchmark	Within + or = 2% of National Benchmark	More than 2% Below National Benchmark	No Previous Success Rates
Type of Provision and YC Experience of Contract Qualifications	YC Delivers or has Experience of the Same/Similar Qualifications or Learner Type/Funding Stream	YC has Previous/Current Experience of Managing Same/Similar Qualifications or Learner Type/Funding Stream	YC has No Previous/Current Experience with Qualifications or Learner Type/Funding Stream or Past Delivery of Similar EP Are Available Within Client Group	Not Measurable
YC Audit and QA Measures (Including Learner Existence Checks, Learner Eligibility, Delivery Observations etc)	Compliant and No Actions or Recommendations	Mainly Compliant, Recommendations for Improvement and Changes Implemented	Not Compliant, Recommendations for Improvement and Changes not Fully Implemented	New Provision – No Previous Audit
Paperwork and Communications (Based on, but not Limited to, the Grouped Examples Listed)	Fully Completed and Accurate Paperwork, Timely Changes and Achievements, No Out of Funding Learners, Minimal Monitoring Required, Few Queries and Responsive Communication	Generally Accurate Paperwork, Changes and Achievements Received, Some Out of Funding Learners, Monitoring Required, Some Queries and Average Communication	Inaccurate Paperwork, Changes and Achievements Not Received, Many Out of Funding Learners, Constant Monitoring Required, Many Queries and Poor Communication	New Provision - No Paperwork Received
Overall Score	Risk Rating		Yeovil College % Management Fee~	
7-11	Low*		15%	
12-15	Medium**		20%	
	High*		No Contract	