

Sub-Contracting: Supply Chain Retained Funding & Charges Policy 2021 – 2022

Owner: Executive Director – Commercial and Operations	Related Strategies: <ul style="list-style-type: none"> • ESFA Guidelines and Funding Rules • Sheffield City Region Mayoral Combined Authority • Apprenticeship Strategy
Relevant to: <ul style="list-style-type: none"> • External Training Providers, Employers and Stakeholders with a direct contractual relationship with ESFA • Sheffield College staff and students 	

Office Use only:

Corporate Intranet Family:	Approval Board/Committee/Group:	Approval/Re-approval Date:	Implementation Date:	Next Review Date:
Apprenticeships	Finance Employment and General Purposes Committee Executive Owner: Executive Director Commercial & Operations	23 June 2021	1 August 2021	No later than 31 July 2022

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New Policy or Substantive Policy Review

Version	Date	Policy Development Agreed by (Executive Owner)	Policy Development Author	Draft Policy Verified by	Policy Approval	Impact Assessment (if applicable)
V2	9 June 2021	Subcontracting Performance and Review Group	Head of Subcontracting	Executive Director Commercial & Operations	Governing Body	

Rationale for new or substantive policy review	Update of The Sheffield College's policy on the amount of funding it retains for management, administration and quality assurance when it subcontracts training provision
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Please make explicit if change/review relates to procedures, guidelines and associated documents only

Periodic Policy Review / Change History

Version	Date of Review / Revision	Description of Change	Reviewed By	Approved By (Executive Owner)

Communication

To be agreed by Executive Leadership Team

Announcement on hub <input type="checkbox"/>	SLT email <input type="checkbox"/>
College newsletter <input type="checkbox"/>	All staff email <input type="checkbox"/>
SLT meeting <input type="checkbox"/>	Cascade brief <input type="checkbox"/>
External website <input type="checkbox"/>	Training needed (specify who) <input type="checkbox"/>

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1. POLICY STATEMENT

This Policy outlines The Sheffield College's position in relation to its subcontracting provision and funding to Sub-contractors.

The policy is designed to ensure:

- The provision offered by the Sub-contractor supports the strategic objectives of The Sheffield College
- The Sheffield College's mission, commitments and values are upheld by Sub-contractor
- That the College's subcontracted arrangements are delivered within a robust framework which is transparent and in the best interests of all parties involved
- That subcontracted provision is fit for purpose and of high quality
- That the College's learners receive the best service possible
- That subcontracted arrangements adhere to relevant Education and Skills Funding Agency (ESFA) guidelines and funding rules and to The Sheffield College's relevant policies, including Equality and Diversity, Safeguarding and Preventing Extremism and Radicalisation.

Our sub-contracted delivery is overseen by, the CEO, Board of Governors and the Senior Management Team. Governors will receive a regular report on the scale and mix of our sub-contracted provision via Executive Director – Commercial & Operations.

2. DEFINITIONS

The ESFA 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.

What is a Main Provider?

A main provider is a training organisation or employer that has a direct contractual relationship with the ESFA. In the case of this document, The Sheffield College is the main (or lead) provider.

What is a Sub-Contractor?

A sub-contractor is a separate legal entity that has an agreement with The Sheffield College to deliver any element of the education and training funded by the ESFA. Sub-contractors may be called delivery partners or supply chain partners in the sector. However, for ESFA purposes, they are classified as sub-contractors.

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3. PRINCIPLES

The Sheffield College aims to use its funding allocations to support local learners, employers and communities through direct delivery. However, The Sheffield College 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 the College's existing scope or capacity
- where subcontracting will allow the College to meet short term needs of learners or employers without exposing The Sheffield College to the risks and entry and exit costs of setting up new provision
- where there is a gap in the College's own provision yet there is demand in the region that would not otherwise be serviced, or where there is a need to provide a national delivery service.

The reasons for working with each individual Sub-contractor will vary and will be discussed at the selection/annual renewal process and documented in the contract. If the reasons for partnership are not clear, then a contract will not be entered into.

The Sheffield College will only use Sub-contractors who are of a high quality and low risk. Selection of new Sub-contracted provision will be carried out in a way that meet The Sheffield College's strategic aims and enhances the quality of the training offer to learners.

The Sheffield College will use its supply chains to optimise the impact and effectiveness of service delivery to the employer and learner.

The Sheffield College will (if required) undertake fair and transparent procurement activities, conducting robust due diligence procedures on potential sub-contractors to ensure compliance with ESFA funding rules and guidance, and to ensure the highest quality of learning delivery is made available, demonstrating value for money and a positive impact on learner lives.

4. SCOPE AND LIMITATIONS

In selecting delivery partners, the College will consider the following:

- Reputation – providers may be referred to the College by employers or other providers
- Specialism – providers may offer niche provision where there are few alternatives
- Geographic location – where possible the College 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 learners and employers
- Safeguarding and Prevent agendas – how the provider conforms to these requirements and ensures all learners are protected and safe.

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- Modern Slavery – All providers will be expected to comply with The Sheffield College’s Modern Slavery policy or have an equivalent in place.
- Potential conflicts of interest.
- If the Sub-contractor is listed on the Register of Training Organisation (RoTO) or Register of Training Providers (RoATP) & the total value of sub-contracts that they hold.
- Track record, providers who are new organisations, or who offer new or immature provision will not necessarily be a barrier to sub-contracting.
- How the quality assurance measures and associated costs will reflect the additional risks of new provision.

Existing delivery partners will undergo an annual due diligence review. Full details of the desktop checks, due diligence visit and annual due diligence review checks are included in the Table of costs.

5. RESPONSIBILITIES

The sub-contractor is responsible for:

- Providing information requested by The Sheffield College as part of the Due Diligence process.
- Providing the requested documentation to enable The Sheffield College to make a judgment as to the suitability to enter into a sub-contracted arrangement. The documentation must be updated regularly and/or at The Sheffield College’s request for the duration of the contract.
- Ensuring learners are eligible for funding in accordance with ESFA Funding Rules (and, where appropriate, European Social Fund (ESF) funding rules).
- Informing The Sheffield College of any changes of ownership of the organisation, management structure, loss of centre accreditation and/or direct claim status.
- Providing details of any accidents or dangerous occurrences affecting learners or the learning environment.
- Providing details of any Safeguarding issues.
- Providing details of entry onto RoATP and maintaining its registration.
- Providing details of Matrix Accreditation and maintaining or gaining accreditation.
- Providing an annual Self-Assessment Report.
- Submission of learner enrolments, registers and completion of documentary evidence in a timely manner and with minimal errors or omissions.

All learners provided with education and training under a Sub-contract with The Sheffield College remain the responsibility of The Sheffield College, in accordance with the ESFA Funding Rules. This means that The Sheffield College must monitor and manage the risk around quality of provision, learner experience, success rates, audit and any failure to adhere to contractual requirements by the sub-contractor. This is a significant factor in our sub-contracting strategy.

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All Providers wishing to be a sub-contractor of the Sheffield College should fully familiarise themselves with the ESFA Funding Rules (and, where appropriate, ESF funding rules) and ensure their systems and processes enable full compliance. The Sheffield College will carry out funding-assurance checks (outlined elsewhere in this policy) and sample file checks to ensure that sub-contractors are complying with the Funding Rules.

Sub-contractors must inform & encourage learners and employers benefitting from this contractual arrangement of the requirement to participate in The Sheffield College Quality Monitoring activities and surveys when required. They may also be required to participate in an Ofsted inspection as and when The Sheffield College is subject to one, and should be made aware of this at the outset.

Sub-contractors must supply The Sheffield College with the required ILR data in a prompt manner. All information must be fully completed and checked for accuracy before sending to the College.

The Sheffield College and, if necessary, the ESFA (or their nominated representatives) must be given reasonable access to the Sub-contractor's premises and documentation for the purposes of quality assuring the training delivery falling under the scope of the sub-contract.

It is the sub-contractors' responsibility to provide suitably qualified and competent staff for the delivery of the qualifications and training under a sub-contract arrangement from the College. The Sheffield College will require evidence of staff qualifications and experience.

Sub-contractors must inform The Sheffield College if they discover any irregular financial or delivery activity in their organisation including:

- Non-delivery of training when funds have been paid.
- Sanctions imposed by an awarding organisation.
- An inadequate Ofsted grade.
- Complaints or allegations by learners, staff or other relevant parties.
- Allegations of fraud.

Sub-contractors must not use any funding earned under a sub-contract from the College to make bids or claims from any European funding on their own behalf or on behalf of The Sheffield College.

There can be no 2nd level sub-contracting, under any circumstances. All delivery must be carried out by the sub-contractor's own competent staff.

Data Protection

Sub-contractors 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. Sub-contractors 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.

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Quality Assurance

Sub-contracted activity is a closely monitored part of The Sheffield College's provision. The quality of the provision is monitored and managed through the College's Quality Assurance processes and procedures, in order to fully encompass all sub-contracted activity.

This policy positions sub-contracted provision as a part of The Sheffield College's activity to enable continuous improvements in the quality of teaching and learning for both The Sheffield College and its sub-contractor(s).

This will be achieved through the sharing of effective practice across the supply chain, for example through the Self-Assessment Report process.

As a minimum The Sheffield College will carry out and provide the following Quality Assurance and support activities with sub-contractors:

- Administration of Learner and employer surveys
- Administration of MIS, Audit and ILR services
- Desk top checks and due diligence visit for new providers
- Annual due diligence review for existing providers
- 3 Quality Assurance visits per year, (of which at least 1 will be a short-notice visit if possible), and will include face to face interviews with learners and staff. Visits will be announced.
- 3 sample file checks – at least one will be a short-notice sample.
- Checks to ensure learner eligibility and existence.
- Observations of advice & guidance, assessment and teaching and learning practise.
- Bi-annual review of the formal Subcontracting Agreement (Legal review)

The Sheffield College seeks to ensure sub-contractors and delivery partners are fully engaged with the College's teaching and learning quality assurance processes. The College's sub-contracted provision is subject to lesson observation in the same way as the College's directly delivered programmes of study. The College will seek to ensure that where appropriate, sub-contractors and delivery partners adopt the College's approach to self-assessment and quality improvement and are involved with its self-assessment and quality improvement activities.

The Sheffield College will provide a programme for each visit as follows:

- Visit agenda/Report Template
- Quarterly Quality Assurance visits
- Monthly progress update meetings where agreed
- Annual survey of learners
- Annual survey of employers
- Monthly audit of learner data including enrolment forms and attendance records
- Monthly review of learner documents including tracking records, reviews and ILPs
- Bi-annual review of the sub-contractor success rates, self-assessment process and Quality Improvement Plan.

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Adult Education Budget (AEB) and 16-19 Study Programme Funding Terms

For Adult Education Budget (AEB) funding and 16-19 Study Programme Funding, The Sheffield College will agree with the Sub-contractor the monthly profile amount and further agree quarterly budgetary targets that are expected to be achieved. The Sheffield College will manage the Sub-contractor period allocation within the context of the whole of The Sheffield College prime contract and if necessary, vary the profile to meet the requirements of the ESFA Funding Rules and the published ESFA Performance Management rules that currently apply. Where a Sub-contractor does not achieve the quarterly profiles, The Sheffield College may adjust the remaining profiles for that Sub-contractor.

Apprenticeship Funding Terms

For Apprenticeship subcontracting under ESFA Funding Rules, the Employer needs to approve:

- the use of named Sub-contractors
- the scope of the subcontracted provision i.e. is it for the delivery of an apprenticeship programme in full or in part
- the amount of funding that the College is allowed to retain for the administration and quality assurance of the subcontracted provision

For Apprenticeship subcontracting the amount of funding retained by The Sheffield College may vary depending on what is agreed with the employer.

6. IMPLEMENTATION ARRANGEMENTS

Sub-contracting – Supply Chain Fees and Charges Structure

General Terms

The policy includes the fees and charges arrangements with Sub-contractors.

The funding retained by The Sheffield College is related to the costs of the services provided. These services, and the levels of funding 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.

The Sheffield College will receive all the funding for subcontracted delivery through the payment mechanisms of the ESFA. A proportion of that will then be passed to the Sub-contractor in accordance with the 'funding terms' section that follows.

The Sheffield College will agree a retained funding and charges structure with each Sub-contractor that recognises the full extent of the subcontracted provision.

The standard college percentage of retained funding is 15% of all funding drawn down against the provision to be delivered. This figure represents a reasonable contribution towards the cost that the College incurs in effectively identifying, selecting and administering all subcontracted provision.

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This figure represents the minimum cost that the College should incur in effectively implementing the due diligence processes, procedures and activities required ensuring all criteria are met in line with the ESFA funding rules and guidance.

This figure also includes the minimum amount of quality assurance (QA) activity that Sheffield College would attach to the lowest possible risk sub-contracted partner. An increased percentage of funding above the standard 15% is retained if the Sub-contractor is deemed to be of higher risk as shown in the Weighted Risk Table.

Weighted Risk Table

Funding Element Retained for Sub-Contractor Administration and Quality Assurance			
Volume	Low Risk	Medium Risk	High Risk
Under £50,000	15%	20%	25%
£50,000 -£100,000	15%	20%	25%
Over £100,000	15%	20%	30%

In deciding whether to enter a Sub-contracting arrangement, both parties should consider the use of this checklist, and scoring system, to support the decision to enter into a subcontracting arrangement. This checklist helps form part of the sub-contractor due diligence process for the College

The activities that are included as standard within the College’s base retained funding of 15% are listed in **Annexe 1 – Table of Costs**.

Further charges to cover additional costs may be added to the base 15% to cover the cost to The Sheffield College of any additional activity that the College deems necessary for it to undertake to ensure the quality of teaching and learning and the success rates of any sub-contracted provision.

Where The Sheffield College is required to undertake additional activities beyond normal administration processes or deliver a part of a qualification or Apprenticeship Framework and/or Standard, an increased percentage of funding to be retained by Sheffield College will be agreed with the Sub-contractor.

Payment terms between The Sheffield College and Sub-contractors

For any payments to be made to the Sub-contractor, the Sub-contractor must conform to the terms of the contract and provide the required paperwork, data and information for The Sheffield College to make a successful claim via its Individual Learner Record (ILR) to the relevant funding agency.

Sub-contractors are paid for the learning activity delivered the previous month subject to meeting contractual requirements and in the case of apprenticeship subcontracting subject to approval of Levy funds on the Apprenticeship Service.

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The Sub-contractors are required to produce an invoice following the confirmation of amount to be paid by The Sheffield College. Alternative payment conditions may operate, following discussions with the Sub-contractor, depending on the contract delivery model and contract delivery time.

For apprenticeship activity, when the apprentice has undertaken all the activity relevant to the apprenticeship, including completing all elements of the End Point Assessment (EPA) the total negotiated costs of the EPA will be paid from the 20% completion payment and any remaining balance will be passed over to the Sub-contractor.

The Sheffield College 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.

Sub-contractors receive detailed monthly payment information, showing the Supply Chain Fees and Charges withheld and the funds that are being paid to Sub-contractor to ensure transparency.

All Sub-contractors are set up as suppliers on The Sheffield College's finance system. The payment is made to the Sub-contractor via BACS.

Funds due to the Sub-contractor may be held back with terms highlighted in the contract if the Sub-contractor fails to adhere to terms of contract (including where there is poor quality of delivery), and escalation processes will be followed.

The Sheffield College reserves the right to withhold a proportion of due payments to the delivery Sub-contractor if evidence of recent learner contact is missing or poor provision is identified. Monies will be released when appropriate evidence is received. Where funding claims cannot be substantiated, The Sheffield College will adjust or reclaim any funds and, where required, make an appropriate repayment to the Education and Skills Funding Agency.

In agreement with both parties, variations to the contract may be issued during the contract period. The variation may relate to, for example:

- Changes in the retained funding dependent on the level of support required
- Changes to the volumes of learners and funding
- Changes to the range and scope of provision delivered by the subcontractor.
- Changes to ESFA funding rules and apprenticeship rules and guidelines

7. MONITORING AND REVIEW

The Subcontracting Performance Monitoring & Management Group reporting to the Executive Director- Commercial & Operations, is responsible for implementing compliance of the policy.

The Executive Director - Commercial & Operations on behalf of the Executive is responsible for the administration of the policy and for approving variations to the policy for specific

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Sub-contractors where required, provided that the variations are within the overall policy framework. The Subcontracting Committee of the College is responsible for ratifying any variations.

Publication of the Policy

This policy is communicated and discussed with all our current and potential supply chain partners and is published on the Sheffield College public area of the website. The policy can be accessed via this link: <http://www.sheffcol.ac.uk/about-us/public-documents>

8. SUPPORTING/RELATED DOCUMENTS

- ESFA Funding Rules
- Supply Chain Management: A good practice guide for the post-16 skills sector

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Table of Costs

Annexe 1

The Sheffield College will receive all the funding for subcontracted delivery through the payment mechanisms of the ESFA. A proportion of that will then be passed to the Sub-contractor in accordance with the 'payment terms' section.

To determine the value of the funding retained, The Sheffield College will work with the Sub-contractor at the due diligence and contract stage to compile a list of services and products that will be provided to support quality delivery.

These will be broken down into three main headings:

- Managing the Sub-contractor (including management contract meetings, compliance visits and review meetings either on site or via online conference call facilities e.g. Skype, due diligence, and contingency planning)
- Production of compliant funding returns (incorporating exam, and data collection and return costs)
- Quality monitoring activities (including staff development activities, teaching observations, staff and student reviews and feedback.

Subcontract Management Activities		
Cost Item	Minutes spent on activity in a year	Cost £
Lead Provider MIS system (proportional)	60 per learner	£45.00
Contract Preparation	120 per contract	£90.00
Audit Preparation	90 per contract	£67.50
Due Diligence	150 per contract	£112.50
Invoice Payments	390 per contract	£292.50
Monitoring, Performance & Management Meetings	780 per contract	£585.00
Performance Board Reviews	240 per contract	£180.00
Partnership Operational Meetings	420 per contract	£315.00
Quality Monitoring Activities		
Cost Item	Minutes spent on activity in a year	Cost £
Data Management	15 per learner	£11.25
Ofsted Management	180 per contract	£135.00
Quality Assurance Visits	240 per contract	£180.00
Lesson Observations	120 per contract	£90.00
Lesson Observation Feedback	60 per contract	£45.00
Mileage Claims – (per mile)		0.45
Travel Time in Work Hours	960 per contract	£720.00
Remote Sampling of Progress	120 per contract	£90.00
Other Support Activities		
Cost Item	Minutes spent on activity in a year	Cost £
ILR work	30 per learner	£22.50
Examination Fees (EPA)	15 per learner	£11.25
Examination Entry Administration	15 per learner	£11.25

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The above administration and quality assurance activities are included as standard and are covered by the College's standard retained funding element (15%)

The sub-contractor may incur the following charges if additional activity is required to address poor performance or reduce risk: These are reviewed on an annual basis.

Additional Costs

Activity	Cost to sub-contractor
Pre-Contract Processes	
Additional due diligence investigation, e.g. to investigate financial records or take additional references	£45 per hour
Produce action plan as a result of unsatisfactory due diligence checks or visits	£45 per hour
Additional due diligence visit to monitor improvements	£45 per hour
Additional due diligence visit to additional delivery locations	£45 per hour plus transport costs
MIS Processes	
Produce action plan as a result of unsatisfactory submission of Learner enrolment paperwork	£45 per hour
Additional investigation, e.g. to investigate inaccuracy of program information being submitted which has led to input errors	£45 per hour
Additional investigation, e.g. to investigate inaccuracies in the Calculating of fees due to previous prior learning not being considered and reconciling and adjusting payments made	£45 per hour
Undertaking further visits to undertake Data-match checks with Sub-contractors to ensure accuracy of Data Entry	£45 per hour plus transport costs
Quality Assurance Processes	
Additional Quality assurance visits and lesson/assessor observations	£45 per hour plus transport costs
Additional review of the sub-contractor provision within the college self-assessment process and Quality Improvement Plan	£45 per hour
Returning enrolment forms or other documents due to incorrect completion (10% threshold)	Normally no charge but continued non-compliance will incur non-compliance letter charge
Non-compliance letter from College Business Development Manager for Sub-contracting requiring improvement	£45
Compliance Visit processes	
Two quarterly partner meetings to disseminate information and share good practice.	£45 per hour
Annual Partner conference.	£45 per hour
Updates on changes to funding guidance.	£45 per hour
Monthly upload reports.	£45 per hour
Regular success rate reports.	£45 per hour

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Opportunity to collaborate on other projects	£45 per hour
Minimum of quarterly contract management meetings.	£45 per hour
Contract Management review meetings	£45 per hour

Quality Assurance Processes	
Self-assessment report (if not produced to a satisfactory standard by sub-contractor)	£45 per hour
Quality Improvement Plan (if not produced to a satisfactory standard by sub-contractor)	£45 per hour
Quality assurance – site visits	£45 per hour plus transport costs
Quality assurance – remote (desk top review)	£45 per hour
Contract Management review meetings	£45 per hour
Additional survey of learners	£250 + external survey costs
Additional survey of employers (if applicable)	£250 + external survey costs
Providing consultancy support (Head level)	£65 per hour
Independent observations of Teaching, Learning and Assessment, and portfolio audits.	
Opportunity for Peer Audit and Peer Review of quality assurance systems	

The following costs will apply to additional activities which the college may undertake where it is not being provided by the Sub-contractor; these additional costs will be reflected in the % of funding retained by the College.

Service	Cost
Registration of learners on college centre with awarding bodies	Cost + 10%
Certification of learners from awarding body	Cost + 10%
Certification of apprentices with ACE/IFA	Cost + 10%
Internal verification	To be agreed depending on provision
Providing consultancy support (Head level)	£65 per hour