

University of Chester Subcontracting Policy in Relation to Education and Skills Funding Agency (ESFA) Funded Programmes

1. Introduction and purpose

The University of Chester (the University) only uses a subcontractor to complement its own delivery where a subcontracting arrangement will enhance the teaching and learning for apprentices, e.g. by partnering with an employer or a specialist provider. Additionally it uses a subcontractor for L2 English and Maths functional skills provision (the University does not deliver teaching and learning at L2). In accordance with ESFA rules, as the Lead Training Provider, the University will undertake a substantive portion of the delivery of any apprenticeship where a subcontracting agreement is in place.

2. Scope and context

This Subcontracting Policy is a mandatory requirement that must be in place prior to participating in any subcontracting activity and applies to all subcontracted provision funded by the ESFA. The content of this policy has been developed in line with Education and Skills Funding Agency (ESFA) apprenticeship funding rules and associated guidance for subcontracting with delivery partners. This includes the criteria set out in the ESFA's Funding Higher-Risk Organisations and Subcontractor's Policy.

3. Rationale for sub-contracting

The main reason that the University subcontracts higher and degree apprenticeship provision is to enhance the scope, reach and quality of our apprenticeship offer. This could include one or more of the following:

- A subcontractor is able to provide access to specialist staff or other resources that would otherwise not be available (eg. for the delivery of English and Maths functional skills)
- As a result of a collaborative partnership arrangement in which the University is the Lead Provider (eg. to meet the needs of a particular employer where the employer is a supporting provider).

In all subcontracting agreements the University retains oversight of the whole apprenticeship.

Subcontracting is agreed with employers prior to the commencement of the apprenticeship delivery and is clearly articulated in the Apprenticeship Training Services Agreement. The Commitment Statement sets out what is expected from, and offered by, the apprentice, employer, main provider and subcontractor (i.e. the roles and responsibilities), details of how all parties will work together, and contact details.

4. Fairness in procurement

The University will undertake fair and transparent procurement activities at all times. The University's Legal Services team will advise on whether a subcontracting arrangement will fall within the scope of Public Contracts Regulations 2015.

The University will inform the employer, about any circumstances which might lead to an actual or perceived conflict of interest. This will be documented in the Apprenticeship Training Service Agreement.

5. Selection, approval and monitoring of subcontractors

The University will only use delivery subcontractors who satisfy one of the following two criteria:

- They are on the published Register of Apprenticeship Training Providers and have applied by the main provider route.
- They are either the apprentice's employer, a connected company or charity as defined by HMRS and are on the published Register of Training Providers, having applied through the employer provider or supporting provider application route.

Where subcontracting arrangements falls within the scope of the Public Contracts regulations, selection of an apprenticeship subcontractor will be via a procurement process as follows:

- Putting out to tender in accordance with the Public Contracts Regulations 2015 and University legal and governance processes
- Tender scoring and shortlisting of contractors
- Delivery site assessment
- Final selection

If subcontracting arrangements do not fall within the scope of the Public Contracts Regulations 2015, procurement will be via the University's Procurement practices and with reference to ESFA requirements, including with consideration of whether the subcontractor have sufficient capacity, quality and business standing to deliver the provision that is being subcontracted.

6. Quality Assurance (QA) of delivery

The University retains responsibility for all the actions of its delivery subcontractors that are connected to, or arise out of, all the apprenticeship training and on-programme assessment that is subcontracted to them.

The University is committed to delivering high quality teaching and learning for apprentices and employers across its provision and will work with its subcontractors to review progress and manage the quality of external provision.

The University will take a risk-based approach to subcontractor management to ensure that appropriate levels of contact monitoring and quality assurance (QA) are maintained.

Some delivery partners will be existing collaborative partners of the University. The University has extensive experience in engaging in collaborative partnerships and has clear policy and procedure to identify, approve and monitor these arrangements <https://www1.chester.ac.uk/social-responsibility/academic-quality-support-services/academic-regulatory-information/quality-and>. Proposed subcontractors that are not already approved partners of the University may be also be considered for approval as a subcontractor via these arrangements.

Through this process (supplemented by any additional processes required by ESFA rules applicable at the time) the University will collect, and risk assess, information about a proposed partner or subcontractor to ensure:

- The overall rationale for a proposed subcontract fits with relevant University policies and strategy.
- The subcontractor's capacity and track record in providing high quality provision.
- Appropriate legal and financial due diligence checks.

- That there are effective monitoring and performance review procedures to oversee the subcontract in line with ESFA rules and requirements.
- There are monitoring triggers and processes to intervene and terminate subcontracts as necessary.

In addition to the University's standard collaborative partnership quality assurance processes, the following processes will be used to monitor the quality of ESFA funded subcontracted provision and actively improve quality on an on-going basis:

- An initial visit to confirm approval of appointment as a subcontractor
- Regular contract review meetings between the University and the subcontractor
- Regular planned and unplanned observation visits to check on the quality of teaching, learning, assessment and progress.

All subcontractors must agree to this schedule of meetings and QA visits prior to being awarded contracts.

Where contract reviews or QA visits highlight areas of concern the subcontractor will draw up an action plan to address the areas of concern, which must be agreed by the University. Additional meetings and QA visits will be scheduled as required by the University until the issues have been resolved. If an issue cannot be resolved within eight weeks of the issue being identified the University reserves the right to reallocate apprentices to a new provider to ensure timely achievement of Functional Skills qualifications.

The University also considers feedback from apprentices in its quality assurance of a subcontractor.

7. Internal policies

Subcontractors must have the following policies and procedures in place which are to be maintained, reviewed and updated regularly:

- Staff Recruitment and Development
- Data Protection (GDPR compliant)
- Health & Safety
- Equality & Diversity
- Safeguarding & Prevent
- Insurance:
 - Employer's (compulsory) Liability Insurance = £10,000,000 any one occurrence/number of occurrences.
 - Public Liability Insurance Cover = £5,000,000 any one occurrence/number of occurrences.

8. Fees and charges

The University retains a nominal fee from the total funding for each apprentice for the management of subcontracted activity. These fees are reviewed annually and are adjusted as appropriate.

The management fees are individually negotiated with each subcontractor and detailed in Schedule 1 of the Subcontracting Agreement.

The costs cover the provision of:

- Administration

- Quality Assurance
- MIS function relating to the submission of funding claims to the ESFA
- Provision of management meetings

The subcontractor will be responsible for meeting the costs associated with the registration of candidates with awarding bodies, examination and re-examination fees out of the funds agreed with the University.

Non-standard charges may be applied to other subcontracting agreements in the future where cost savings can be mutually identified and agreed between the subcontractor and the University.

Employers are provided with an itemised breakdown of costs within the Apprenticeship Training Services Agreement including:

- The apprenticeship training and / or on-programme assessment that the University will directly deliver;
- The amount of funding the University will retain for its direct delivery;
- The apprenticeship training and / or on-programme assessment that each delivery subcontractor will contribute to the employer's apprenticeship programme;
- The amount of funding the University will pay each delivery subcontractor for their contribution;
- The specific amount of funding the University will retain to manage and monitor each delivery subcontractor;
- The specific amount of funding the University will retain for each other support activity it will provide to each delivery subcontractor;
- The specific amount of funding the University will retain for the monitoring it will undertake to ensure the quality of the apprentice training and / or on programme assessment it has contracted each delivery subcontractor to carry out;

A detailed description of how the funding retained for each activity contributes to delivering high quality training and how the funding retained is reasonable and proportionate to delivery of the apprenticeship training will also be included.

9. Payment

Payment to subcontractors will be made within 30 days of the invoice being received, subject to all necessary paperwork and records having been submitted within the required timescale. A checklist of key dates and deadlines for the paperwork to be received for inclusion in the return to the Education Skills Funding Agency will be provided. Payment details are also included in the contract Schedules which are issued to subcontractors at the start of the new contract year.

10. Declaration of use of subcontractors

In line with ESFA funding rules, the University will submit a "Subcontractor Declaration" to the ESFA at least twice each year. The declaration summarises the value of any subcontracted provision paid for in the previous period.

The University will also submit a declaration to the ESFA if its subcontracting arrangement should change during the year.

11. Duties within the University of Chester

Nominated members of staff with strategic lead responsibility for subcontracting:

- Pro Vice-Chancellor (Student Experience)
- Pro Vice Chancellor (Research and Innovation)

Nominated members of staff with responsibility for procurement of subcontractors:

- Procurement Manager
- Academic Lead for Apprenticeships

Nominated member of staff with responsibility for performance management of subcontractors:

- Academic Lead for Apprenticeships

12. Contingency planning

The subcontracted provider is required to notify the University immediately if there are any changes that may cause a risk to the contracted delivery. These include, but are not limited to:

- The possibility of the provider ceasing to trade
- Poor Ofsted inspection
- Poor ESFA audit
- Other significant changes that affect the ability of the subcontractor to deliver the required subcontracted provision

In these circumstances, the University will conduct an immediate contract review and reserves the right to seek alternative provision of services to ensure continuity for learners. Any such change will be recorded in the Apprenticeship Training Service Agreement with the employer.

13. Policy review and communication

The University will review this policy annually. Any changes to the policy will be communicated to existing subcontractors at the contract management meetings. The policy will be discussed with new subcontractors prior to their engagement. An up-to-date copy of this policy will be posted on the University's website and paper copies will be made available upon request.

14. Policy Sign Off

Signed on behalf of the University of Chester's Strategic Executive Team on 25/10/2021 by the Pro Vice-Chancellor (Research and Innovation)