

TITLE: Subcontractor Delivery Policy	REF: CP017	VERSION:5
APPROVAL BODY: Group CEO and FE&GP	DATE: 17 June 2019	REVIEW DATE: 17 June 2020
LEAD PERSON: CEO Activate Apprenticeships		
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VERSION	REVIEWER/APPROVAL	REVIEW NOTES
1. 01.10.14	Group CEO and FE&GP	Full review
2. 22.07.15	AE CEO and FE&GP	Additional responsibilities in response to SFA guidance changes
3. 04.07.16	AE CEO	Full Review
4. 23.07.17	AE CEO	Full Review
5. 17.06.19	AE CEO	Full Review

## SUBCONTRACTOR DELIVERY POLICY

### Policy Purpose

This Policy outlines the Activate Learning group's position in relation to its subcontracting provision and funding to partner organisations.

This Policy is designed to ensure:

- The provision offered by the subcontractor organisations supports the strategic objectives of the group
- That Activate Learning's mission, commitments and values are upheld by subcontractor organisations
- That our subcontracted arrangements are delivered within a robust framework which is transparent, legal and in the best interests of all parties involved
- That subcontracted provision is fit for purpose and of high quality
- That our learners receive the best service possible
- That subcontracted arrangements adhere to relevant Education and Skills Funding Agency/Education Funding Agency guidelines and to Activate Learning's relevant policies, including Equality and Diversity, Safeguarding and Preventing Extremism and Radicalisation.

### Scope

This policy applies to all subcontractors and informs all relevant parties (potential partners, Governors, Activate Learning staff, Activate Apprenticeships staff, funding bodies) of our intentions with regards to subcontracted provision.

The policy includes the fees and charges arrangements with subcontractors and only includes provision subcontracting.

This Policy is published in line with requirements set out in the Education and Skill Funding Agency Funding Guidelines 2018 to 2019.

## **Definitions**

*Accounting officer* - senior responsible person is the chief executive of Activate Learning group

*Agency* - the Education and Skills Funding Agency (ESFA)

*Funding* - the funding provided to Activate Learning by the Agency in accordance with the Funding Rules in relation to the relevant Programme and the provisions of this Agreement

*Funding Rules* - the procedures, rules and requirements from time to time as laid down by the Agency

*Learner* - a person who is enrolled and who receives the education and training comprised in a Programme from the Partner

*Provision subcontracting* - when subcontracted delivery is for teaching and learning for full or part of the delivery of a learning programme.

*Subcontractor* - is a legal entity that has an agreement with Activate Learning group to deliver education and training funded by the Agency.

## **Responsibilities**

Activate Learning and all subcontractors comply with the Agency Funding Rules and any other relevant guidance and future updates in all matters regarding the delivery of the provision.

Activate Learning holds full accountability for education and training provided to all learners under a subcontract. This includes learners funded by the Agency or through a 24+ Advanced Learning Loan. If any subcontractor fails to deliver, we will be responsible for making alternative arrangements for the delivery of education and training (and/or repaying ESFA or Loan funding).

Activate Learning will create and maintain contingency plan in place for learners in the event that:

- we need to withdraw from a subcontract arrangement
- a subcontractor withdraws from the arrangement, or
- a subcontractor goes into liquidation or administration.

Activate Learning commits to ensuring that appropriate resources are put in place in order to manage and support subcontracted provision. We will ensure that the staff working on subcontracted provision have the appropriate knowledge, skills and experience to successfully procure, contract with and manage subcontractors.

The management of subcontractor performance is based on level of approval and risk status. Activate Learning will monitor, review and evaluate in order to inform corrective, preventative and improvement actions and manage risk through contingency planning. If underperformance is identified, it will be addressed through measured and targeted action plans backed by support and development from Activate Learning.

In partnership with subcontractors, Activate Learning operates in the spirit of support, co working and transparency. Activate Learning endeavour to learn from subcontractors, recognise and share their good practice where appropriate.

Reasons for Activate Learning to maintain the subcontracted provision are:

- Delivery of niche provision
- To widen the range and scope of provision offered by Activate Learning in terms of engagement, retention and progression opportunities
- To contract expert teaching and resources in a cost effective manner
- To support delivery of Agency contract
- To increase learner and employer engagement between the organisations
- To deliver provision which engages hard-to-reach learners (e.g. Not in Employment , Education or Training - NEETs) with the ultimate aim of progression into mainstream provision
- To respond to meet stakeholders demands (Learners, Employers and Community)
- To meet levy paying employers demand for delivery.
- To capacity build both organisations in order to respond to new projects and priorities
- To develop and support small local training providers

Activate Learning will only use subcontractors who we determine are of a high quality and low risk. Procurement of new subcontracted provision will be carried in a way that meets Activate Learning's strategic aims and enhances the quality of offer to learners. As per Activate Learning Subcontracting Procurement, Contracting and Monitoring, Reporting procedures, Activate Learning's Governing Body and Activate Learning's Accounting Officer will be regularly informed of all subcontracting activity, including new subcontracts proposed.

Activate Learning do not subcontract to meet short-term funding objectives.

### **Activate Learning's contribution to improving own and subcontractor's quality of teaching and learning**

Subcontractors are supported by Activate Learning to maintain the same high quality standards expected across all aspects of delivery.

Activate Learning approach to ensuring the quality of subcontracted provision is set out in the following key steps:

1. Requesting the complete quality assurance policies, processes and procedures that the subcontractor implements to ensure the quality of their provision.
2. Collecting and examining the output from the above measures – this may include internal and external quality assurance reports, lesson observations, learner and employer feedback, programme reviews and improvement plans, staff CPD records, etc.
3. Validating the quality data received by implementing quality checks and procedures across the subcontracted provision, including our own lesson observations and quality check visits carried out by subject specialist staff, employer and learner feedback surveys, interviews with subcontractor staff etc.

Activate Learning will further contribute to quality assurance by:

- Ensuring that subcontractors are included in the Activate Learning quality process
- Providing subcontractors with a key contact at Activate Learning for any issues relating to the contract delivery
- Holding regular contract review meetings with subcontractors to performance manage quality and to mitigate any risks related to the provision. The contract reviews will be followed by developmental action plans that build the capacity of the provider to offer the best services to learners
- Working with subcontractors to respond to the employer and student feedback to improve experience
- Identifying and sharing the best practise to improve learners' experience
- Sharing resources and providing learner access to Activate Learning facilities, including online learning resources
- Providing staff development opportunities for subcontractor staff.

### **Fees and charges**

This management fee is deducted from the ESFA rate based on the funding income received. There are two typical fee structures :

1) A fixed fee plus a percentage between 15% and 25% and is dependent on:

- The level of additional support required by the subcontractor over and above the management, administration and quality obligations of Activate Learning
- Risk Rating on a particular subcontractor (Medium or High rating as a result of Risk Assessment will incur higher management fee)

2) Where partial delivery is bought procured.

If exceptional services are provided to the subcontractor, there will be a separate fee charged above core management fee based on usage (such as Internal Verification, access to externally provided resources (Guroo, Smart Assessor etc.).

The core fee is calculated to cover management of subcontracted delivery such as:

- Designated contact for subcontracted delivery
- Dealing with partner queries
- Advice and support related to national agencies and funding bodies
- Preparation of the contract agreement
- Collecting and updating due diligence
- Performance management and contract review meetings
- Paperwork templates for student enrolments
- Paperwork checks and audit compliance
- Monitoring of learner progress
- Quality and compliance monitoring
- Coordinating self-assessment processes
- Administration support to process the data
- Data submission via the Activate Learning Individual Learner Record (ILR)
- Managing additional schemes related to provision (e.g., Incentive payments)
- Management of funding, finances and reconciliation
- Managing audits and inspections (from funding and quality assurance bodies, etc.)
- Preparation and processing of payments
- Monthly payment information with transparent calculations to detail both the funding claimed by Activate Learning and the payment passed to the subcontractor.

- To provide a financial service to collect employer contributions and access levy funding.

The management fee will be reviewed and is open to negotiation with each subcontractor. The agreed value will be confirmed within the signed contract between both parties.

### **Adult Education Budget and Subcontractors**

Activate Learning may allow approved partners to deliver some training which falls under the Adult Education Budget entitlement that Activate Learning has been allocated for the academic year.

- An additional contract would be issued to the partner to specifically cover the Adult Education Budget, and include details around contract length, terms, amount of learners, fees and charges, and anything else required that is covered throughout the Activate Learning subcontracting policy.
- Due Diligence will be performed to make sure partner can deliver on behalf of activate learning and any documents requires as part of the ESFA subcontract guidelines and AEB management rules 2018-19 will be followed
- All learners will be subject to enrolment and any check necessary to confirm eligibility, added to ILR and at least one observation from Activate Learning will be performed on the partner delivery of courses that fall under the Adult Education Budget

### **Levy Paying Employers and Subcontracting**

Activate Learning may subcontract part of the levy paying apprenticeship programme to partners in accordance with ESFA guidelines:

- Main providers deliver the apprenticeship but partners can deliver elements towards the apprenticeship and specialist training that main provider cannot provide.
- Funding will be set up between employer and main provider on Digital Apprenticeship Service and the partner will be paid appropriate funds each month in line with current subcontractor payment structures.

### **Contract**

All subcontractors are required to agree and sign a contract prior to delivery of any provision. The contract clearly defines the roles and responsibilities for Activate Learning and the subcontractors from the outset of the partnership.

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 management fee 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

### **Payment terms between Activate Learning and subcontractors**

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

Subcontractors are paid by the end of the calendar month for the learning activity delivered the previous month subject to meeting contractual requirements and subject to approval of levy funds on the Apprenticeship Service. The subcontractors are required to produce an invoice following the confirmation of amount to be paid by Activate Learning. Alternative payment conditions may operate, following discussions with the subcontractor, depending on the contract delivery model and contract delivery time.

Subcontractors receive detailed monthly payment information, showing the management fee withheld and the funds that are being paid to subcontractor to ensure transparency.

All subcontractors are set up as suppliers on Activate Learning's finance system. The payment is made to the Subcontractor via BACS.

Funds due to the subcontractor may be held back with terms highlighted in the contract if training provider fails to adhere to terms of contract, and escalation processes will be followed.

### **Transparency**

Activate Learning will publish data on the actual level of funding paid and retained for each of the subcontractors in each contractual year. This data will be published within 30 days of the ILR closing.

As a minimum, the following will be included in the published supply-chain fees and charges:

- Name of the subcontractor.
- UKPRN number of the subcontractor.
- Contract start and end date.
- Type of provision (for example, 16-18 Apprenticeships, 19+ Apprenticeships, classroom learning, workplace learning).
- Funding received from the funding agencies to Activate Learning for provision delivered by the subcontractor in that academic year.
- Funding Activate Learning has paid to the subcontractor for provision delivered in that academic year.
- Funding Activate Learning have retained in relation to each subcontractor for that academic year.
- If appropriate, funding subcontractors have paid to Activate Learning for services or support Activate Learning have provided in connection with the subcontracted provision.
- Activate Learning will publish this information on fees and charges alongside the Subcontracting Policy to allow all supply-chain fees and charges information to be viewed in context.

### **Timing for policy review**

This Policy is to be reviewed annually. It will be reviewed and signed by Activate Learning governing body and Activate Learning's Accounting Officer.

### **Dissemination**

The Policy is available for current and potential subcontractors to view on Activate Learning website [www.activatelearning.ac.uk](http://www.activatelearning.ac.uk) .

Potential subcontractors are requested to read the Policy as part of due diligence for subcontracting arrangements with Activate Learning.

**Disclaimer**

Activate Learning reserve the right to amend the subcontracting arrangements at any time in accordance with the terms and conditions contained in the subcontract agreements.

**References**

ESFA Funding Rules 2018 to 2019

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