



Sub-Contracting Fees & Charges Policy 2018 / 2019

Scope

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

Context

The policy is now a mandatory requirement that must be in place prior to participating in any sub-contracting agreements for the 2018 to 2019 funding year. The content of this policy has been developed in line with Association of College (AoC) / Association of Employment and Learning Providers (AELP) and Hoxex updated Best Practice Guidance for a Relationship between a Prime Provider and a Subcontractor (March 2018) and Supply Chain Management and the Skills Funding Agency (SFA) Funding

Overarching Principle

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

The College will therefore ensure that:

- a. Supply chain management activities comply with the principles of best practice in the skills sector. In particular, they will be guided by the principles given in the AELP publication *“Supply Chain Management – a good practice guide for the post-16 skills sector” (November 2012 and subsequent iterations)* and the recently produced *“Best Practice Guidance for a Relationship between a Prime Provider and a Subcontractor March 2018”*.
- b. The College will at all times undertake fair and transparent procurement activities, conducting robust due diligence procedures on potential subcontractors to ensure compliance with the best practice guidance and Common Accord 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.
- c. The funding that is retained by the College 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. They will be proportionate to the actual services being provided.
- d. Where disputes between supply chain partners 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.

Rationale for sub-contracting

The College engages with sub-contractors to better meet customer needs. Reasons are varied but could be:

- To work with providers who effectively reach priority learners in the community and who can demonstrate positive employment outcomes.
- To temporarily expand provision to meet a short term need.
- To provide access to, or engagement with, a new range of customers.
- To support another provider to develop capacity/quality.
- To provide niche delivery where the cost of developing direct delivery would be inappropriate.
- To support employers with a wide geographic requirement.
- To extend capability and capacity to support the broader College response to local redundancy situations.

Quality assurance

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

This policy positions sub-contracted provision as a core part of college activity to enable 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 the Self-Assessment Report (SAR) process and Teaching and Learning Observations and Departmental review process.

In addition, the contract incorporates Schedules that stipulate minimum levels of performance vis-à-vis success rates (overall and timely) mirroring Middlesbrough College targets. The Schedules also include financial penalties for failure to deliver which have been introduced to further support due diligence i.e. as a deterrent and/or to incentivise performance and delivery to every learner on the subcontractor's roll (see Contract Extract Schedule 4 & 5 below).

Publication of information relating to sub-contracting

In compliance with Education and Skills Funding Agency and other agency funding rules that apply, the College will publish its sub-contracting fees and charges policy and actual end-of-year sub-contracting fees and charges on its website before the start of each Academic Year (*and in the case of actual end of year data, as required by the Education and Skills Funding Agency*).

This will only relate to 'provision sub-contracting' i.e. sub-contracted delivery of full programmes or frameworks. It will not include the delivery of a service as part of the delivery of a programme e.g. buying the delivery of part of an Apprenticeship framework or outreach support.

Provision sub-contracting lists will be agreed with local Education and Skills Funding Agency Officials prior to publication.

The College will ensure all actual and potential sub-contractors have sight of this policy once approved by the College Senior Leadership Team.

Percentage Range of Fees

- The proportion of the fees retained is based upon a nil profit margin.
- The standard college management fee is 20% for Adult Learner Responsive Classroom Based Provision and Education Funding Agency Provision and Apprenticeships and 15% – 20% for Employer Responsive Based Provision and Distance Learning Provision and is dependent upon performance.
- The range is calculated based upon the direct costs associated with the operating and quality assuring sub-contracted provision and an appropriate overhead recovery level required for these activities to recoup non direct costs incurred by the College e.g. resources of the Registry, Student Services, Finance, IT and other curriculum support activities.
- The College does not differentiate between providers regarding fees charged other than for the different types of provision delivered as identified earlier in the policy.
- The support sub-contractors will receive in return for the fees charged includes:
 - Curriculum planning advice.
 - Regular site visits.
 - Funding updates.
 - Teaching and Learning Observations.
 - Access to a named Teaching and Learning Mentor.

- Training e.g. enrolment, Additional Learning Support, Equality & Diversity and Safeguarding (including Prevent Agenda).
- Quality Improvement guidance.
- Skills updating sessions for delivery staff.
- Sharing of 'Good Practice'.

Payment Terms

Payment dates within the Academic Year will be negotiated and agreed between the subcontractor and the College with a final balancing payment in the following Academic Year. The subcontractor submits an invoice to the College in line with agreed payment dates. Valid invoices will be paid within 30 days of the invoice date.

Communication

This policy will be reviewed in each summer term and updated as required. It will be published on the College web site during the July prior to the start of the Academic Year in which it will be applied. Potential sub-contractors will be directed to it as the starting point in any relationship.

Data Protection

Subcontractors will be required to warrant that [with effect from 25 May 2018] 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. Subcontractor will be required to indemnify and keep indemnified the College against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by the College arising out of or in connection with this warranty.

Contract Extract

Schedule 4

Apprenticeships

Background

The Apprenticeship qualification success rate is a measure of the quality of the Apprenticeship programmes that a provider ran in a particular academic year.

Qualification success rates are used to identify provision that falls below the minimum quality standards.

The Apprenticeship qualification success-rate methodology has two qualification success-rate measures – the ‘overall’ qualification success rate and the ‘timely’ qualification success rate.

Definitions

Timely and Overall Qualification Success Rates are defined by the Education and Skills Funding Agency as follows:

- **The timely qualification success rate** is based on the planned end year of an Apprenticeship framework. The Apprenticeship frameworks considered for the 2017/2018 timely qualification success-rate measure are those with a planned end date up to 31 July 2018 and for 2018/2019 those with a planned end date up to 31 July 2019. In the timely qualification success-rate measure an Apprenticeship framework is counted as achieved if the achievement date is:
 - on or before the planned end date; or
 - no more than 90 days after it.
- **The overall qualification success rate** is based on the hybrid end year (the actual end year or the planned end year of an Apprenticeship framework, whichever is later). The Apprenticeship frameworks considered for the 2017/2018 overall qualification success rates are those that either ended or were planned to end in the academic year ending 31 July 2018 and for 2018/2019 those that either end or are planned to end in the academic year ending 31 July 2019.

We use these qualification success rates to formally assess whether a provider meets minimum quality standards.

Minimum Standards of Performance

1. The Provider hereby warrants that it will deliver Apprenticeship Training with Timely & Overall Success Rates as determined in Schedule 5.
2. In the event that the Provider fails to achieve the Timely Qualification Success Rates and or the Overall Qualification Success Rates as set out in Schedule 5 to this Agreement, Middlesbrough College may:
 - a. withhold any and all monies relating to the provision of training for any and all apprentices who fail to achieve their Apprenticeship Framework in a Timely Manner which is defined as being on or before the planned end date or no more than 90 days after it.
 - b. require at its absolute discretion repayment of any monies in whole or in part paid to the provider for the provision of training for any and all apprentices who failed to achieve their Apprenticeship Framework in a Timely Manner which is defined as being on or before the planned end date or no more than 90 days after it.

IN WITNESS whereof the Parties have caused this Agreement to be executed on the day and year first before written.

for and on behalf of [INSERT NAME OF PROVIDER]

.....
Signature
Name (Print).....
Date:

for and on behalf of [INSERT NAME OF EMPLOYER]

.....
Signature Position
Name (Print).....
Date:.....

Schedule 5

Minimum Standards of Performance

	Timely Success Rate		Overall Success Rate	
	2017/18	2018/19	2017/18	2018/19
Full Framework	78%	80%	78%	80%
Functional Skills: English	95%	95%	95%	95%
Functional Skills: Maths	95%	95%	95%	95%
Functional Skills: ICT	95%	95%	95%	95%

for and on behalf of [INSERT NAME OF PROVIDER]

.....
Signature
Name (Print).....
Date:

for and on behalf of [INSERT NAME OF EMPLOYER]

.....
Signature Position
Name (Print).....
Date:.....