

Apprenticeship Provision Subcontracting Policy

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UNIVERSITY OF
WINCHESTER

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Description	
<p>The purpose of this policy is to set out how the university operates its apprenticeship contracting arrangements in line with the Education and Skills Funding Agency (ESFA) apprenticeship funding rules and associated guidance for subcontracting with delivery partners.</p> <p>A summary of changes to this document appears on page 1.</p>	

SUMMARY OF CHANGES

This list summarises the changes since 2022/23. The date confirms when the changes were implemented.

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1. Introduction and Purpose of the policy

The University of Winchester offers higher and degree apprenticeships to employers covering a range of subject areas. The university undertakes higher and degree apprenticeships with the intention that we will deliver the entire content of the programme ourselves. However, we recognise this may not always be possible. The University of Winchester will therefore consider subcontracting training provision that is specialist or otherwise beyond our existing scope or capacity.

The University undertakes subcontracting agreements as part of its apprenticeship offer where one or more of the following aims are to be met:

- To enhance opportunities for learners
- To enhance delivery through partnership with a subcontractor
- To ensure the highest quality of learning is provided
- To close gaps in niche expert provision
- To support diverse training needs of employers and learners

1.1 This policy defines the framework under which the University of Winchester will subcontract Education and Skills Funding Agency (ESFA) funded higher and degree apprenticeship provision. It states the key factors that the University will consider prior to entering a legally binding contract with an apprenticeship delivery subcontractor.

1.2 This policy is written in accordance with:

- The ESFA funding and performance management rules and associated guidance for subcontracting with delivery partners.
- The University's Financial Regulations and Sustainable and ethical Procurement Policy.

1.3 The University operates apprenticeship subcontracting where the University acts as the lead training provider and subcontracts specialist training to a partner institution for delivery. In all cases the University retains oversight of the whole apprenticeship.

1.4 The purpose of this policy is to provide clear and accurate information to potential subcontractors on how the University procures its subcontracted services regarding apprenticeship delivery including financial arrangements and how quality will be managed and monitored.

1.5 This policy is executed in accordance with the overarching Procurement Policy and Procedures of the University and the Procurement Strategy.

2. Scope of the policy

This policy applies to all ESFA apprenticeship provision which the University subcontracts.

2.1 The University recognises that Subcontracting Policy is a mandatory requirement for apprenticeship subcontracting activity.

2.2 The University operates its apprenticeship subcontracting arrangements in accordance with ESFA apprenticeship funding rules and associated guidance for subcontracting.

- 2.3 The University recognises that it holds full accountability for the delivery of subcontracted services.
- 2.4 It is the responsibility of both the University and their subcontractors to refer to the rules and guidance of the ESFA and any future updates in all matters relating to delivery of the contract.

3. Guiding principles of the policy

- 3.1 The Centre for Degree Apprenticeships (CfDA) will conduct transparent and robust due diligence procedure on potential subcontractors to ensure compliance with the applicable funding rules and policy intent.
- 3.2 The process of identifying a subcontractor and overseeing their delivery will be carefully monitored to ensure quality and best use of available funds.
- 3.3 The University will undertake fair and transparent procurement activities with funding claimed and retained by the University of Winchester clearly documented and agreed by all parties.

4. Definitions

The following definitions are extracted from ESFA regulation and guidance documentation.

“Subcontract” An agreement entered into between the Training Provider and a Subcontractor for the purposes of engaging the Subcontractor to deliver part of the services on behalf of the Training Provider.

“Subcontracting” Any delivery to an Apprentices programme of learning by a separate legal entity. It does not matter if this is by a third party recruited to deliver on site (travel to teach), online learning or whether it is described as a service.

“Subcontractor” A separate legal entity or an individual (not an employee) that has an agreement (called a Subcontract) with the Training Provider to deliver any element of the Training the Department funds. A separate legal entity includes but is not limited to companies in the Training Provider’s group, other associated companies and sole traders. An individual could include a person who is a sole trader, self-employed, a freelancer or someone who is employed by an agency, unless those individuals are working under the Training Provider’s direct management and control in the same way as your own employees. This does not include relationships between the Training Provider and other third parties providing services such as marketing.

5. Responsibilities

This Policy is owned by the Pro-Vice Chancellor with responsibility for the University’s apprenticeship provision. The University’s Executive Leadership Team is responsible for the approval of this Subcontracting Policy. They are also responsible for contact compliance supported by guidance from the University’s Centre for Degree Apprenticeships (CfDA), Quality Office, Director of Finance and Procurement Services.

6. Using Subcontractors in the delivery of apprenticeships

As the main Training Provider, the University of Winchester will:

- Directly deliver all or part of the apprenticeship programme
- Agree the use of subcontractors with employers at the start of an apprenticeship
- Maintain the relationship with the employer
- Carry out due diligence checks on potential delivery subcontractors
- Enter into a written agreement with subcontractors
- Ensure no second or third-level subcontracting takes place
- Obtain an annual report from an external auditor should the total apprenticeship contract exceed the value of £100,000 in any one financial year
- Take responsibility for the quality of all aspects of delivery and carry out regular quality assurance checks of their subcontractor provision
- Provide delivery sub-contractor declarations in line with ESFA dates and provide updates where arrangements or circumstances change in year.

7. Due Diligence

- 7.1 The University will complete a robust process of due diligence when selecting potential subcontractors to ensure high quality of learning delivery, which demonstrates value for money and positively impacts both learners and employers.
- 7.2 In line with ESFA Guidance, the University will procure the service of subcontractors from those who are registered training providers.
- 7.3 The University will conduct a due diligence of its subcontractors, including performance management at least annually, to ensure that the subcontracted provider continues to deliver contracted services.
- 7.4 The University will also conduct further due diligence in the subcontracted provider if there is an identified material change that may impact on its ability to deliver subcontracted services for example change of ownership.
- 7.5 Necessary steps will be taken to investigate any risk warnings, legal notices, overdue statutory accounts or any actual or perceived conflicts of interest.
- 7.6 The University's Apprenticeship Programme Board will review findings from initial due diligence and risk assessment checks to establish key performance indicators are being met. Outcome may vary frequency of monitoring activities as described in section 9 below.
- 7.7 In its decision to award, the University will evaluate against the following criteria:
- Capacity – evidence of delivery of applicable provision, including recent inspection ratings/outcomes.
 - Quality – the offer of added value to training and assessment, including learning support arrangements.
 - Cost – the agreed price represents value for the funding claimed.

8. Process Outline and Accountability

The process for identifying, appointing, and managing a delivery subcontractor is outlined below.

- Define requirements and selection criteria Apprenticeship Manager

- Identify potential subcontractors with relevant experience Apprenticeship Manager
- Inform subcontractors of Apprenticeship Subcontracting Policy Apprenticeship Manager
- If required, initiate formal tendering exercise Apprenticeship Manager, Procurement Team
- Initial review of subcontracted delivery proposals Apprenticeship Manager
- Due diligence completed satisfactorily and on file Contracts and Compliance Lead
- Complete Risk Assessment and submit to Apprenticeship Programme Board Contracts and Compliance Lead
- Identification of KPIs and performance management frequency in Quality and Monitoring Plan Apprenticeship Programme Board
- Contractual paperwork issued, completed satisfactorily and on file Dean of Apprenticeships / Contracts and Compliance Lead
- Record Quality and Monitoring Plan activities Apprenticeship Manager / Dean of Apprenticeships
- Performance Management Reviews Apprenticeship Manager / Dean of Apprenticeships
- Annual Review Apprenticeship Programme Board

9. Contracting Arrangements

- 9.1 The University has a standard legal agreement template for apprenticeship subcontracting and this is used for each subcontracting agreement.
- 9.2 Agreements are signed after approval has taken place, and before the subcontracting arrangement commences.
- 9.3 It will be signed by the subcontractor and the university.
- 9.4 The requirements of this policy form part of that contractual agreement.
- 9.5 Terms and conditions will be agreed and included in the contract.
- 9.6 The University and other key stakeholders, such as Ofsted and the ESFA, have permission to monitor the quality of the training including visiting the subcontractor at their training sites, premises from which they operate.
- 9.7 The University retains responsibility for the actions of our delivery subcontractors that are connected to, or arise out of, the apprenticeship training and on-programme assessment that is subcontracted to them.

- 9.8 Where a subcontracting arrangement is in place the University will undertake a substantive portion of the delivery of any apprenticeship, this in accordance with ESFA funding rules.
- 9.9 The University will declare its use of delivery subcontractors to the ESFA.
- 9.10 The contract will include a termination clause in the event of poor performance.

10. Monitoring the Policy

All UK universities must follow the QAA Code of Practice for the assurance of academic quality and standards in Higher Education. Compliance with this policy will be monitored by the University of Winchester's Centre for Degree Apprenticeships and reported annually through our University of Winchester Internal Quality Systems.

The policy and procedures will be reviewed annually, to ensure that they meet ESFA compliance.

11. Quality Assurance Monitoring Plan

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

- 11.1 To allow for appropriate oversight and support of quality of delivery, the following measures are in place to monitor subcontractors:
- Quarterly subcontractor performance quality and management reviews between the University and its subcontractors
 - Learner Progress Reviews
 - Lesson Observations
 - Internal and National Learner Surveys
 - Announced/Unannounced Provider Visit to test compliance
 - Ad-hoc meetings to discuss issues as they arise, to give rise to actions and interventions where appropriate.
- 11.2 A record of quality and monitoring activities will be maintained.
- 11.3 Where Contract Reviews or Quality Assurance meetings highlight areas of concern, an action plan will be drawn up by the subcontractor, and agreed by the University, to address the areas of concern. Additional meetings will be scheduled to resolve issues within an agreed timeframe. Where issues are not resolved within the agreed timeframe, they will be escalated to the University Apprenticeship Programme Board.
- 11.4 Review of effectiveness of subcontracting reflected in our Self-Assessment Report (SAR).
- 11.5 Quarterly reporting to Apprenticeship Programme Board.

11.6 Annual reporting to the University's Executive Leadership Board.

12. Internal policies

As a minimum any subcontractor will be expected to have a policy or policies covering the following topics, copies of which will be held by the University of Winchester for Audit and Inspection purposes and made available to the ESFA and Ofsted for inspection and audit purposes.

- Data Protection (UK GDPR compliance)
- Data Security
- Quality Assurance
- Assessment and Internal Moderation (as appropriate)
- Safeguarding and Prevent (as appropriate)
- Equality of Opportunity and Equality Diversity
- Health and Safety
- Insurance:
 - Employers Liability Insurance (compulsory) = £5,000,000 any once occurrence/number of occurrences.
 - Public Liability Insurance Cover = £5,000,000 any once occurrence/number of occurrences
 - Professional Indemnity Insurance Cover = £5,000,000

13. Support Services and Associated Costs

13.1 The University will be responsible for:

- Learner administration – recruitment, enrolment, eligibility checks, ILR data
- Audit compliance – contractual paperwork, apprentice evidence pack
- The relationship with the employer
- Quality assurance of subcontracted provision

13.2 The University will provide support with:

- Sharing of good practice
- Learner communication
- Handling of learner and employer feedback

13.3 Fee for subcontracted services is captured in the University's Subcontracting Contract

13.4 Details of the apprenticeship training, including subcontracted delivery, are set out in the Commitment Statement / Training Plan. A breakdown of costs is provided to Employers in the

Financial Schedule.

13.5 Fees retained for the administration and management of subcontracting.

The University retains responsibility for the quality assurance, administration, and management of subcontracted provision.

In some cases, the University will retain some of the delivery costs to manage, administrate and quality assure a subcontracting arrangement. Where this is the case, associated costs will be identified within the subcontracting agreement and subcontractors provided with an itemised breakdown of the costs.

The management fees are individually negotiated with each subcontractor and are agreed between each party in advance of the commencement of the subcontracting arrangement.

Typically, the management fees cover the provision of:

- Initial due diligence of proposed subcontractors
- Annual quality monitoring audit including progress review and action planning, and visits (where appropriate and possible)
- Support for subcontractors, coordination of activity, for example, tracking of learners (level 2 maths and English) and facilitation of and attendance at meetings.
- Administration of funding and payments in relation to subcontracting.

For each of these activities, a set number of hours are allocated against each against a staff category, to arrive at a total cost per annum.

14. Payment Terms

14.1 Payment terms and timings are set out within the individual Apprenticeship Subcontract.

14.2 The payment is calculated on data submitted to the ESFA by the University in the preceding month and paid in line with Contract terms: within 30 days of the ILR data return and of a valid invoice having been received.

15. Contract Termination and Intervention

15.1 **Contract Intervention** will occur if data indicates that the provider is at risk of delivering poor quality provision against some or all quality and supplementary indicators, following management conversations. The University will:

- Agree with the subcontract provider agreed objectives to achieve within a fixed period.
- Withhold or suspend payment of fees to subcontractor.

15.2 **Contract termination**

This intervention will occur if data indicates that the subcontracting provider remains at continued risk of delivering poor quality provision against some of all quality and supplementary indicators, following management conversations. This may be needed when a provider has failed to meet

their agreed improvement targets against the quality indicator or demonstrate that they are unable to improve within a reasonable timescale.

Immediate termination clauses will reflect severe impacts on delivery, risk or reputational damage to the university.

16. Policy Changes Review Schedule

This policy is subject to annual review by the Apprenticeship Programme Board to ensure it meets the relevant funding agency rules and regulations.