

## INTRODUCTION AND PURPOSE

Marshall Skills Academy offers intermediate and degree level apprenticeships to employers covering a range of subject areas. The Skills Academy undertakes subcontracting agreements as part of its apprenticeship offer where a subcontracting arrangement will add value to the quality of its apprenticeship delivery. The Skills Academy operates its apprenticeship subcontracting arrangements in-line with the Education and Skills' Funding Agency (ESFA) apprenticeship funding rules and associated guidance for subcontracting with delivery partners. The Skills Academy operates apprenticeship subcontracting in one of two ways:

- The Skills Academy acts as the lead training provider and sub-contracts specialist training to a partner institution for delivery. The Skills Academy retains oversight of the whole apprenticeship.
- The Skills Academy acts as a subcontractor to another lead training provider for parts of the training. The lead provider retains oversight of the whole apprenticeship.

The purpose of this policy is to provide accurate and comprehensive information to external agencies and potential apprenticeship sub-contractors on how The Skills Academy procures its subcontracted services, the applicable supply chain fees and charges used and how quality will be managed and monitored. The policy aims to ensure transparency and equitability around subcontracting and the associated retained fees.

## SCOPE AND CONTEXT

This policy governs the apprenticeship subcontracting provision within The Skills Academy and applies to all ESFA funded provision which The Skills Academy subcontracts. The Apprenticeships Subcontracting Policy is a mandatory requirement for subcontracting activity. The Skills Academy operates its apprenticeship subcontracting arrangements in-line with ESFA apprenticeship funding rules and associated guidance for subcontracting.

The Skills Academy recognises that it holds full accountability for the delivery of subcontracted activity and that this cannot be assigned to subcontractors.

It is the responsibility of both The Skills Academy and their subcontractors to refer to the rules and guidance of the relevant funding agency (Education and Skills Funding Agency or relevant Combined Authority) and any future updates in all matters regarding the delivery of the contract.

## RESPONSIBILITIES

This policy is owned by The Quality & Compliance Manager for Apprenticeships. The Skills Academy's Senior Leadership Team is responsible for the approval of this Subcontracting Policy. The management of the subcontracting provision of education or training is provided through the relevant faculty who are responsible for the coordination of contract compliance under the guidance and support of the Apprenticeship Team.

## DEFINITIONS

Subcontracting within this policy refers to providers delivering education or training on behalf of The Skills Academy. This encompasses subcontractors listed on the Education and Skills Funding Agency (ESFA) 'Declaration of Subcontractors', together with any updates or subsequent listings from the ESFA or the relevant funding authority.

## FAIRNESS IN PROCUREMENT

The Skills Academy will at all times undertake fair and transparent procurement activities. Selection and procurement of subcontractors will be carried out in accordance with The Skills Academy's Procurement Policy, MPA-COM-008.

The Skills Academy will inform the Chief Executive of the ESFA in writing, about any circumstances which might lead to an actual or perceived conflict of interest.

# Policy – Subcontracting

## **DUE DILIGENCE**

The Skills Academy will undertake a robust process of due diligence when selecting potential subcontractors to ensure the highest quality of learning delivery is made available, which demonstrates value for money and has a positive impact on the experience of both Employers and Learners.

In line with ESFA Guidance, The Skills Academy will only procure the service of subcontractors who are registered on the Register of Apprenticeship Training Providers (RoATP) to deliver services to employers.

At least annually, Marshall Skills Academy will conduct a due diligence review of its subcontractors, including performance management, to ensure that the subcontracted provider continues to be able to deliver contracted services. The Skills Academy will also conduct further due diligence checks if there is any material change in the subcontracted provider that has the potential to impact on its ability to deliver subcontracted services. These include but are not limited to:

- Merger with another provider
- Change of ownership
- Change of key personnel (e.g. managers, directors, link person)
- Any issues that may raise concern about the subcontractor's ability to deliver the programme (e.g. infrequent updates, poor student progress, student or employer complaints). These will also trigger an immediate review meeting.

## **CONTRACTING ARRANGEMENTS**

The Skills Academy has a standard legal agreement template for apprenticeship subcontracting and this is used/adapted for all subcontracting agreements. Agreements are signed after approval has taken place, and before the subcontracting arrangement commences. The requirements of this policy form part of that contractual agreement. It will be signed by the subcontractor and The Skills Academy. Terms and conditions will be agreed and included in the contract. The Skills Academy, Ofsted and the ESFA are granted full permission and rights to monitor the quality of training being provided and visit the subcontractor at their premises, training sites or employer's premises from which they operate.

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

In accordance with ESFA funding rules, as the lead training provider Marshall Skills Academy will undertake a substantive portion of the delivery of any apprenticeship where a subcontracting arrangement is in place.

The Skills Academy shall only use delivery subcontractors who satisfy one of the following two criteria:

- a. they are on the published Register of Apprenticeship Training Providers (RoATP) and have applied by the main or supporting application routes.
- b. they are either the apprentice's employer, a connected company or charity as defined by HMRC and are on the published Register of Apprenticeship Training Providers (RoATP), having applied through the employer-provider application route.

Serial subcontracting is not allowable under the apprenticeship funding rules. Therefore, as the lead training provider, The Skills Academy will take steps to ensure that any subcontracting arrangement it enters into with a delivery subcontractor, does not require this type of arrangement.

The Skills Academy is required to obtain an external auditor's report where the total apprenticeship contracts with delivery subcontractors exceed £100,000 in any one financial year, as set out in the ESFA Apprenticeships Funding Rules documents.

The Skills Academy is required to declare its use of delivery subcontractors to the ESFA.

Reviewed: August 2022

# Policy – Subcontracting

## QUALITY ASSURANCE AND PERFORMANCE MANAGEMENT MEETINGS

The Skills Academy is committed to delivering high quality teaching and learning for the Apprentice and Employer across its provision and will work with subcontractors to review progress and manage the quality of external provision.

All new subcontractors will be subject to an initial visit to confirm approval of appointment as a subcontractor.

In order to allow for appropriate oversight and support of quality of delivery, the following measures are currently in place to monitor subcontractors:

- Monthly performance quality reviews which include a review of the subcontractor's Quality Improvement Plans (QIPs)
- Regular contract review meetings between The Skills Academy and its subcontractors
- Regular planned and unplanned observation visits to check on the quality of Information, Advice and Guidance (IAG) teaching, learning, assessment and progress
- Announced and Unannounced compliance review visits
- Review of the subcontractor's Self-Assessment Report (SAR)
- Other ad hoc meetings, visits and discussions take place for general issues as they arise but these also form part of our relationship management and support for subcontractors and give rise to actions and interventions where appropriate

These mechanisms are designed to ensure the quality of delivery, that apprentices exist and that they are eligible for funding under the ESFA apprenticeship funding rules.

There two types of meetings which form part of the quality assurance: Quality Assurance and Performance Management meetings. Quality Assurance meetings support subcontractors to implement and maintain high quality teaching, learning and assessment. Its focus is to ensure students have a positive learning experience, allowing individuals to make individualised progress to achieve their career goals. Performance Management meetings ensure data and statutory compliance is upheld to ensure accuracy and transparency of ILR data, whilst monitoring quality assurance relating to the delivery programme(s). Quality assurance procedures are taken from the Further Education and Skills Inspection Framework and Handbook respectively Education Inspection Framework (EIF) - GOV.UK ([www.gov.uk](http://www.gov.uk)) Further Education and Skills Inspection Handbook - GOV.UK ([www.gov.uk](http://www.gov.uk)).

The scheduled Quality Assurance meetings will be held over each academic year in negotiation with the subcontractor. In addition, there can be up to three unannounced/short notice meetings equally, over the academic year. To facilitate the efficiency and accuracy of these meetings, subcontractors will be asked to provide the required information at least two weeks prior to any scheduled meetings. Specific details will be communicated accordingly.

The Performance Management meetings are scheduled towards the beginning of each term. The Skills Academy will take a risk management approach to subcontractor management to ensure that appropriate levels of contract monitoring are maintained, therefore additional visits as required may be discussed where appropriate. In order to enable Performance Management meetings to be conducted effectively and efficiently, the subcontractor will be asked to provide the required information at least two weeks prior to any scheduled meetings. Specific details will be communicated accordingly.

Where a subcontractor permanently changes delivery staff on a programme, they should inform The Skills Academy of this change immediately and undertake a Disclosure and Barring Service (DBS) check as appropriate. Copies of the new trainer's CV and certificates should be sent to the appropriate The Skills Academy Apprenticeship Lead for approval.

A formal agenda will be distributed in advance of the meeting which will detail the meeting type. The focus of the visit will be based on The Skills Academy's data and an assessment of the information provided by the subcontractor prior to the visit taking place. The outcome of meetings will be provided to the subcontractor for their records.

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Where Contract Reviews or QA meetings highlight areas of concern, an action plan will be drawn up by the subcontractor, and agreed by The Skills Academy, to address the areas of concern. Additional meetings and QA visits will be scheduled as required by The Skills Academy until the issues have been resolved.

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

The Skills Academy will also take into account feedback, both solicited and unsolicited, from apprentices and their employer as part of its quality assurance process.

### INTERNAL POLICIES

Subcontractors are required to have robust internal policies to ensure compliance with legislative undertakings and general good practice and make certain that policies are regularly updated and effectively implemented, the requirements of which are identified in the contract. As a minimum any subcontractor will be expected to have a policy or policies covering the following topics approved at an appropriate level in the organisation, copies of which will be held by Marshall Skills Academy for Audit and Inspection purposes and made available to ESFA and Ofsted as part of their inspection and Audit regime:

- Employment law & appeals
- Data Protection (GDPR compliant)
- Health & Safety
- Equal Opportunity/Equality & Diversity
- Assessment & Internal Validation
- Safeguarding & Prevent
- Insurance:
  - Employers Liability Insurance (compulsory) = £10,000,000 any one occurrence/number of occurrences
  - Public Liability Insurance Cover = £5,000,000 any one occurrence/number of occurrences.

The Skills Academy will consider the subcontractor's quality management procedures and experience to determine whether the subcontractor will use their own or be required to use The Skills Academy's procedures.

### SUPPLY CHAIN FEES AND CHARGES

The 'Supply Chain Fees and Charges' applies to subcontractors of The Skills Academy as listed on the 'Declaration of Subcontractors' and notified to the ESFA. The Skills Academy does not normally retain a percentage of funding delivered through subcontractors for a standard subcontracting agreement.

Any retained percentage may be increased where a The Skills Academy Risk Assessment deems a Subcontractor to be a Medium or High risk, or if a higher level of administrative and management support is necessary for a particular subcontractor.

### PAYMENT

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

Payment to subcontractors will be made by BACS subject to all valid paperwork and records having been accurately submitted within the required time scale and under the terms of the Contract issued. 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 issued to subcontractors at the start of the new contract year.

The payment is calculated on data submitted to the ESFA (or relevant funding authority) by The Skills Academy in the preceding month and paid in line with Contract terms; normally within 30 days of the ILR data return and of a valid invoice having been received.

# Policy – Subcontracting

## **POLICY REVIEW AND COMMUNICATION**

The Skills Academy will review this policy and the subcontracting rationale annually. The subcontracting rationale should be amended by the 31<sup>st</sup> July each year and needs to be approved. 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 Skills Academy's website and paper copies will be made available upon request.

## **DECLARATION OF USE OF SUB-CONTRACTORS**

In line with ESFA funding rules, The Skills Academy will submit a subcontractor use declaration to ESFA at least twice each year summarising the value of any sub-contracted provision paid for in the previous period. The Skills Academy will also publish a summary of payments made to sub-contractors in the previous year on its website each year.

## **DUTIES WITHIN MARSHALL SKILLS ACADEMY**

Nominated members of staff with strategic lead responsibility for subcontracting:

- General Manager of Marshall Skills Academy

Nominated members of staff with responsibility for procurement of subcontractors:

- Head of Operations Supported by Head of Early Careers

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

- Managed by Quality & Compliance Manager, Apprenticeships
- Supported by Apprenticeship Manager

Policy Approval:

- The Skills Academy General Manager

## **CONTINGENCY PLANNING**

If for any reason, financial or otherwise, a subcontractor is unable to continue delivery either temporarily or permanently; The Skills Academy will work with the subcontractor to ensure the continuity of delivery for learners enrolled on Apprenticeship provision appropriate to the circumstances. The subcontracted provider is required to notify Marshall Skills Academy 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 required programmes

In these circumstances, The Skills Academy will conduct an immediate contract review and reserves the right to seek alternative provision of services to ensure continuity for learners. Options may include, but are not limited to:

- Delivery at The Skills Academy, or other appropriate, premises
- Delivery using The Skills Academy staff
- Transfer of delivery to an alternative subcontractor

## **POLICY SIGN-OFF AND OVERSIGHT**

This policy is owned and approved by Marshall Skills Academy's Senior Leadership Team.

Oversight of application of the policy will be achieved by:

- An annual schedule of planned QA and contract review visits will be produced each year and reported to The Skills Academy's Senior Leadership Team. The Quality Manager (Apprenticeships) will provide an update report to each Education Inspection Framework Oversight Group on the following:
  - Planned QA visits Contract reviews conducted against the schedule
  - Unplanned QA visits Contract reviews conducted against the schedule arising from any issues

## Policy – Subcontracting

- Any risks or issues identified and mitigating action taking place
- Updates on any previously reported issues
- Any changes to the planned reviews for the rest of the year.

### EDUCATIONAL RATIONALE

The Skills Academy currently sub-contracts a minimal amount of delivery for the 8 apprenticeships we offer, the rationale for subcontracting is clear, we only subcontract where we do not have the capability to deliver ourselves or, delivery at our location is at detriment to the learner.

Marshall Skills Academy currently deliver the level 6 Aerospace Engineer apprenticeship to Marshall ADG learners, we subcontract out the degree element of the programme as we do not have the capability or the required accreditations to deliver this. We use Blackpool and The Flyde College as they are the only University accredited to deliver this qualification. The other mandatory qualifications contained in the apprenticeship standard are delivered by Marshall Skills Academy.

We also have learners from Marshall Fleet Solutions registered on the Refrigeration Air Conditioning & Heat Pump Engineering Technician Apprenticeship, all of this apprenticeship is delivered by Liverpool College, we have chosen Liverpool College as MFS Technicians are spread throughout the UK and Liverpool is the most central area for learners to attend class on block release with better access to training facilities

By offering the sub-contracting this delivery we are ensuring that we are providing learners the maximum opportunity to complete their Apprenticeship. The Skills Academy works closely with its sub-contractor to monitor performance and progression of learners and to ensure adequate support is in place for the attainment of these qualifications.

### AUDIT

Audits will be undertaken with the subcontractor, throughout the life of the contract. These will be completed both at the subcontractor's premises and at the Skills Academy's premises. Risk ratings on their paperwork completion will determine the quantity of the student files audited, for example, low risk – 20%-40%, medium risk - 40%-75% and high risk – 75%-100%.

- An audit of paperwork will be completed at a percentage rate decided by the risk rating of the subcontractor at their premises and at the Skills Academy's premises. This will support compliance with the Education and Skills Funding Agency and the quality of delivery to our learners.
- An audit of paperwork held by the Skills Academy at a percentage rate decided by the risk rating of the subcontractor to support compliance with the Education and Skills Funding Agency and quality of provision delivered.
- A data audit will be completed to ensure accuracy of the Individualised Learner Record.
- A financial record audit will be completed for Apprenticeship students starting after May 2017 to ensure compliance with the Education and Skills Funding Agency Funding Rules. Action plans with allocated risk bandings will be completed to report findings to the subcontractor. There is an expectation that these are actioned within one month unless otherwise agreed.

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## UNSATISFACTORY COMPLIANCE OR QUALITY

An unsatisfactory audit in either quality or Compliance may result in additional procedures being put in place for both the subcontractor and the Skills Academy, or termination of the contract. Noncompliant subcontractors will undergo intensive monitoring until satisfactory progress is made. This could include the following.

- A high-risk banding with review meetings held monthly until the Academy is satisfied that the subcontractor is no longer high risk.
- Completion of a development plan for the subcontractor to address issues arising in their quality and compliance.
- Suspension of recruitment until the subcontractor has taken actions to meet compliance.
- Implementation of a programme of support for the subcontractor to aid with the delivery of the development plan.
- Withdrawal of contract and recovery of funding.

## ANNUAL DUE DILIGENCE REVIEW

An Annual Due Diligence Review will be undertaken with the subcontractor prior to the renewal of a contract. This will be undertaken during the summer term before the commencement of the Academic year. A Renewal form will be completed by the subcontractor and submitted to the Quality & Compliance Manager for review.

## REVIEW

- An updated financial report will be requested to confirm the financial position of the subcontractor.
- Company house records will be accessed to clarify the position of the company and directors.
- Review Renewal document against the circumstances and criteria stated in the Funding Higher Risk organisations and Subcontractors Policy.
- The UK Register of Learning Providers (UKRLP), the Register of Training Organisations and the Register of Apprenticeship Training Providers will be checked to ensure the subcontractor is still registered.
- Updated Subcontractor's policies will be reviewed by The Skills Academy to ensure the quality of their delivery and their commitment to student health & safety, equality and diversity, prevent and safeguarding.
- Updated certificates and CV's will be checked for the delivery teams.
- Updated evidence and certificates will be checked to identify that staff have received training on equality & diversity, prevent and safeguarding and DBS will be checked for any new staff.
- A Quality assurance meeting/review will be held by the Quality & Compliance Manager with
  - the subcontractor at their premises to discuss the Marshall Skills Academy and Education and Skills Funding Agency compliance requirements prior to commencement of delivery.

This will include:

- the identification of the ESF poster and insurance documentation
- the Subcontracting Policy, will be communicated and discussed with the subcontractor prior to the issue of a contract.
- On completion of all due diligence checks, the Approval Checklist will be completed
- to identify if the subcontractor was successful and recommended for sign off by the Subcontracting Manager.
- The Approval Checklist will be reviewed by the General Manager, Marshall Skills Academy, before final sign off.
- On approval from the General Manager, a contract will be raised that identifies the period of the contract, which will be no longer than one Academic Year, services to be provided, financial agreements and contractual requirements.
- The contract will be signed by the Quality & Compliance Manager, Marshall Skills Academy.
- Any amendments required to the Subcontractor, a self-declaration form will be reported to the Education and Skills Funding Agency accordingly in line with the contractual requirement to update them at their request.
- The Subcontractors commitment to safeguarding, prevent and equality and diversity must be issued to all of our students at their induction to the programmes delivered.

# Policy – Subcontracting

## SUBCONTRACTOR APPROVAL CHECKLIST

Subcontractor \_\_\_\_\_

Initial Tender Process

Description	Date Requested	Date Received	Comments
Subcontractors sought			
Applications for Tender			
Tenders Reviewed			
Invitation to Due Diligence			

Signed \_\_\_\_\_ Date \_\_\_\_\_

Description	Date Actioned	Date Reviewed	Comments
Initial meeting with Provider			
Due Diligence Form Reviewed			
Financial Report/Company House Information			
Reference Requests			
Register of Training Organisations Confirmation			
Register of Apprenticeship Training Providers Confirmation			
Check list of declared subcontractors			
Valid UKPRN Number			
Review of all policies, CV's, DBS Information & Additional Supporting Documents			
Quality Meeting			
Approved by Marshall Skills Academy			
Contract Issued			
Self-Declaration Submitted to ESFA			
Amendments to Self-Declaration submitted to ESFA			

Signed \_\_\_\_\_ Date \_\_\_\_\_



# Policy – Subcontracting

## SUBCONTRACTOR RENEWAL CHECKLIST

Subcontractor \_\_\_\_\_

Description	Date Actioned	Date Reviewed	Comments
Due Diligence Form Reviewed / High Risk Policy Check			
Financial Report/Company House Information			
Register of Training Organisations Confirmation			
Register of Apprenticeship Training Providers Confirmation			
Check list of declared subcontractors			
Valid UKPRN Number			
Review of all policies, CV's, DBS Information & Additional Supporting Documents			
Quality Meeting			
Approved by Marshall Skills Academy			
Contract Issued			
Self-Declaration Submitted to ESFA			
Amendments to Self-Declaration submitted to ESFA			

Signed \_\_\_\_\_ Date \_\_\_\_\_

# Policy – Subcontracting

## SUBCONTRACTOR DUE DILIGENCE FORM

Subcontractor \_\_\_\_\_

<b>What is your subcontractors UK Provider reference Number (UKPRN)?</b>	
<b>What is the legal name of your subcontractors organisation?</b>	
<b>If they trade under a different name, what is their trading name?</b>	
<b>What is their UK registered business address?</b>	
<b>What is their company number?</b>  <b>Enter NA if they are not registered with Companies House</b>	
<b>If registered with a charity commission or regulator, enter their Charity Registration Number</b>	
<b>What's the legal status of their organisation?</b>	Choose an item.
<b>How long have they been actively trading?</b>	Choose an item.
<b>What type of organisation are they?</b>	Choose an item.
<b>How would you classify their organisation?</b>	Choose an item.

### Person/s in control

<b>Who is in control of their organisation? Full name</b>	Insert at annex A
<b>Enter their partner organisations name</b>	Insert at annex A

### Your subcontractors financial health

Please check the appropriate box (if you check 'A' you must upload the most recent set of financial evidence to Document exchange, see guidance for further details):

- A. my subcontractors value of ESFA funding for delivering education and training totals £500,000 or more
- B. my subcontractors value of ESFA funding for delivering education and training totals is below £500,000 and my subcontract with them would not take the total value of such subcontracts to £500,000 or more

### Subcontractors primary contacts

Reviewed: August 2022

# Policy – Subcontracting

<b>Title</b>	
<b>First name</b>	
<b>Last name</b>	
<b>What's their business email address?</b>	
<b>What's their contact number?</b>	

## Your declaration

<b>Are you authorised by your organisation to submit your return?</b>	Choose an item.
<b>Is the information provided in your return suitable, true and accurate?</b>	Choose an item.
<b>Have all parties named in your return given consent to the use of their personal information?</b>	Choose an item.
<b>Can you provide additional information to the ESFA within 5 days of the request date?</b>	Choose an item.
<b>Do you accept that the ESFA may use information it already holds, gets from other government departments or which is already in the public domain to validate your answers?</b>	Choose an item.
<b>Do you consider any of the information provided in your return to be 'commercial in confidence'?</b>	Choose an item.

## Declaration and signatures

By signing on this page I confirm all of the following:

- I confirm that I have read and understood the [Subcontracting funding rules for ESFA funded post-16 funding \(excluding apprenticeships\) 2021 to 2022](#) and [ESFA policy on funding higher risk organisations and subcontractors](#) when undertaking due diligence checks
- I confirm that I have carried out financial health checks. This is to ensure your subcontractor's financial performance and ability to meet ongoing financial commitments in line with our published guidance [ESFA financial health assessment](#)

<b>First name and last name</b>	
<b>Signature</b>	
<b>Date (DD/MM/YYYY)</b>	

