

# Subcontracting Policy

2020/21



## **Associated Risks:**

Financial -Overachieving learner numbers/allocation

Financial - College financial health and objectives not met

Financial -Under achieving learner numbers and/or funding targets

Quality – Failure to meet standards in external quality reviews

Quality – Failure to safeguard learners and to safeguarding legislation

Quality- Failure to meet retention, achievement and success targets

Finance - Failure of ATL achieving financial objectives and failure to monitor group consolidated financial performance effectively

## **1. IMPACT ON OUTCOMES FOR STUDENTS**

Appropriate and well managed subcontracting arrangements are essential to ensuring that the College only works with high quality providers that support the College's strategic aims and enhances the quality of our offer to learners.

## **2. SUB CONTRACTING PROPOSALS**

For a number of years, all Colleges have been required to annual publish their approach to sub-contracting as part of a 'Supply Chain Fees and Charges Policy'. Various high profile mishaps in this area led to the now Education & Skills Funding Agency (ESFA) amending their rules around sub-contracting in 2015/16 and tightening the conditions under which sub-contracting can be undertaken.

### **Current guidance from ESFA re Subcontracting**

#### **16-18**

- The Funding Agency has moved to include 16-18 funding subcontract arrangements within the colleges funding declaration that had previously only covered adult funding arrangements over £100k. In addition to that the interventions have been strengthened.
- All institutions receiving ESFA funding must record subcontracted provision in line with the published guidance for the school census and the individualised learner record (ILR) data returns. The ESFA publishes annually a summary of this information including the names of subcontractors and the number of students on subcontracted provision. We intend for this year to require an additional declaration in respect of subcontracting to support our monitoring

arrangements from all institutions that return ILR data in a similar way that we do for other ESFA-funded provision.

- Institutions must have a written contract with their subcontractor. It must set out the respective responsibilities of both the institution and the subcontractor. The contract must entitle the institution to exercise the management controls over the subcontractor's activity, including access by auditors appointed by either the institution or the funding body.
- The directly funded institution will usually retain part of the study programme funding to cover the cost of managing and administering the contract. The amount of funding must be proportionate to the costs, and must be determined through due diligence and risk assessment processes.
- Historically as part of the Subcontractor Declaration that we return each year we declared ATL, Babcock (declared for the first time in 18/19 due to change in requirements to include partnership as well as traditional sub-contracting), Create the Space (management training for Babcock).
- From 19/20 under the new rules the College will also now need to declare Plymouth Argyle. There is no funding threshold specified in the guidance so we should anticipate the need to declare them).

### **What steps the ESFA may take**

- The ESFA reserves the right to take a range of actions in accordance with the grant funding agreement or contract for services where institutions are not compliant with the guidance set out in this document and other relevant policy.
- The action we take can include but is not limited to:
  - where in ESFA's assessment there has been a material non compliance with subcontracting rules we reserve the right to take action with the directly funded institution. Where this is a college this may include escalating that college to formal intervention which can include the issue of a Notice to Improve
  - require the institution to make an action plan that sets out how they will improve the subcontracted provision within a specified timescale
  - remove the student numbers and associated funding from lagged funding allocations for the directly funded institution
  - require the institution to discontinue the subcontracting arrangement, either with immediate effect or from the end of the current funding year and make alternative arrangements to deliver the provision
- When directly funded institutions do not appropriately manage and monitor subcontracted delivery, the ESFA may intervene even if there are no concerns over the subcontracted provision's quality.

- It may be appropriate for institutions to make distance subcontracting arrangements for the whole of students' programmes; however, these circumstances will be rare. Schools and academies must not subcontract whole study programmes under any circumstances. We are considering whether to put in place more formal requirements for institutions to agree distance subcontracting arrangements with the ESFA in future years.

### **AEB / Apprenticeships / Adult Loans**

- When subcontracting, ESFA will require providers to:
- clearly describe, before each subcontracting relationship is agreed the reason for subcontracting and all services they will provide and the associated costs when doing so. This will include a list of specific costs for managing the subcontractor, quality monitoring activities, and for any other support activities offered by the main provider to the subcontractor
- ensure all costs are individually itemised and describe how each cost contributes to delivering high-quality learning. Providers must also explain how such costs are reasonable and proportionate to delivery of the learning or apprenticeship training
- include a breakdown of all services and costs in each subcontract

ESFA from 1 August 2019:

- revised funding rules and associated compliance measures to incorporate the requirements set out above
- implement a risk-based approach for monitoring these rules
- impose compliance measures when appropriate

These expectations will be reviewed in 18 months and the policy will be reviewed accordingly.

The implementation of the revisions to the AEB and apprenticeship funding rules applied to new learner, or apprentice starts from 1 August 2019. These expectations will be reviewed in 18 months.

The implementation of the revisions to the AEB and apprenticeship funding rules applied to new learner, or apprentice starts from 1 August 2019. We realised there would be an implementation period to allow providers to adjust to the changes and to

revise their contracts with their subcontractors. The implementation period of the revised rules applied as follows:

- From 1 August 2019 for new learner and apprentice starts where a new subcontract is yet to be agreed and entered into, and
- By 30 November 2019 for new learner and apprentice starts where revised subcontracts are required

This means that from 1 December 2019, these revised subcontracting rules applied to all new learner or apprentice starts.

The College annually commissions an external assurance review of controls over subcontracting, due to the Coronavirus pandemic this will be postponed along with other ESFA audit requirements until later in the year. The full report and certificate will be presented to Audit Committee once audit has been confirmed and completed.

The College currently has three subcontractors, two of which the College has worked with for a number of years and one newer arrangement entered into during 2018/19:

- ATL – Subsidiary Company,
- Plymouth Argyle Football in the Community Trust,
- Create the Space –new this year and a contract wholly for the delivery of Babcock Management training.

For transparency, the College also declares its partnership arrangement with Babcock PLC.

It is confirmed:

- All subcontracting undertaken meets College strategic aims centred on employability, enterprise, key strategic / sectoral priorities for the city and travel to learn area, are specifically sector work based academies addressing skills gaps and enhances the quality of our offer to learners. For example, Achievement Training Limited provides a number of employability programmes (including work based academies) which are highly valued by JobCentre Plus and help address skills gaps particularly in the Health & Social Care sector. The Argyle Community Trust has a long history of running education provision from the highly successful Football Scholarship Programme to foundation provision supporting NEETs to enter the world of work or further training. Create the Space are leadership and management specialists who work to build manager capability and confidence and develop the mindsets that drive innovation and leadership behaviour. The contract with Create the Space is wholly delivered to Babcock employees.

- The College will only wish to work with partners that are of a high quality and low risk. Achievement Training Limited are graded 'Good' by Ofsted, and are on the RTO. As a wholly owned subsidiary of the College, ATL is very low risk. Plymouth Argyle Football in the Community Trust has a long and well established track record for its education programmes across all stages (primary, secondary and further and higher study). The Argyle Community Trust successfully applied for its place on the RTO two years ago. Create the Space is approved by the Institute of Leadership and Management (ILM) and the Chartered Management Institute (CMI) and is an approved provider for Apprenticeship provision on the RTO.
- The College has staff within its finance, legal and MIS teams with appropriate knowledge, skills and experience to successfully procure, contract with and manage subcontractors. A legally binding contract is in place for subcontractors and includes requisite terms set out in the funding guidance; contracts are reviewed and renewed annually.
- Subcontractors are robustly managed and monitored to ensure that high-quality delivery is taking place that meets and is compliant with the specific funding requirements for each programme. The quality of the provision will be monitored and managed through the existing College Quality Assurance processes and procedures and compliance with all Quality Assurance processes is expected.
- As part of the approval for retention of ATL as a separate subsidiary company in 2009, the prevailing Agency was advised in writing that the Company Directors would be senior members of College staff, and that the two organisations would continue to sub-contract as they had done for the last decade. The shares of the Company are held by City College Plymouth Corporation and staff received no remuneration as part of their Directorship. Approval was obtained by the then Regional Director.
- Through the College's established systems and processes for PREVENT, we have robust procedures in place to ensure that subcontracting does not lead to the inadvertent funding of extremist organisations.
- It is acknowledged that all learners who are provided with education and training under a subcontract remain College responsibility; no differentiation is made between funded learners or those with Advanced Learning Loans.
- Through the IAG process, any learners and employers supported through subcontracting arrangements are made aware of the respective roles and responsibilities of the College and the company.
- The College has contingency plans in place to support learners in the event of certain circumstances. These are well developed having previously provided support to ESFA and learners / employers when subcontracting arrangements between other organisations in our travel to learn area have failed. The College has received written thanks from ESFA for its work during those challenging times.
- The College does not use subcontracting to meet short-term funding objectives.