

# Subcontracting Policy

## 2021/22

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## 1. Procurement Process

Where appropriate Warrington & Vale Royal College will contract with other parties to deliver programmes and activities funded by the Education & Skills Funding Agency. The organisations with which it will contract will be subject to the requirements of the Subcontracting Policy and procedure.

### Aim

To define the basis on which any subcontracting arrangements will be procured, managed and monitored.

### Objectives

- To define the procurement, selection and recruitment procedures for potential subcontractors including due diligence (financial and quality) requirements.
- To define the expectations for teaching, learning and assessment.
- To develop and implement an effective approach for the quality assurance of subcontracted performance for all aspects of the learner journey.
- To define the reporting and monitoring requirements for the duration of the contract to measure against national benchmarks and contract requirements.
- To further develop and improve teaching and learning and the sharing of best practice.
- To define the principles, management fees and payment arrangements for subcontracted provision.
- To define the interventions that the college may take in managing subcontracted provision.

## 2. Scope

This policy relates to all subcontractors of Warrington & Vale Royal College who must comply with its requirements, supported by funding from the Education and Skills Funding Agency (ESFA), Office for Students (OfS) or any successor organisations.

## 3. Responsibility

The Assistant Principal – Quality and MIS will be responsible for the day-to-day implementation of the Subcontracting Policy and will inform all subcontractors of the policy.

## 4. Rationale for subcontracting

The purpose of this policy is to ensure transparency and accountability in terms of Subcontractor supply chain activity carried out by Warrington & Vale Royal College. The policy is informed by the AOC/AELP Common Accord, the LSIS Supply Chain Management document and all relevant funding guidance issued by the ESFA, HEFCE or successor organisations.

Subcontracting opportunities are advertised on the College's website, alongside a copy of this policy. The College requests expressions of interest for any opportunities, at which point the potential subcontractor is required to review this policy as a basis for agreeing the proportion of funding.

Upon commencement of the subcontracting process, Warrington & Vale Royal College will consider a business case proposal to ensure that the subcontracting will be in the best interests of all parties.

The College engages with subcontractors to better meet customer needs. Reasons for subcontracting are to:

- Temporarily expand provision to meet a short term need.
- Provide immediate provision whilst expanding direct capacity. This might include working with subcontractors to explore and learn about new frameworks or sectors prior to investment in resources.
- Provide access to, or engagement with, a new range of customers.
- Ensure delivery intention is met where there is a recognised risk in direct provision.
- Provide niche delivery where the cost of developing direct delivery would be inappropriate.

Warrington & Vale Royal College will ensure that:

- Delivery is in the best interests of learners and employers.
- Delivery has a clear strategic fit with our mission, objectives and values.
- There is sufficient expertise within the College to quality assure the provision.
- There is sufficient staff resource in support areas to administer the processes.
- The Subcontractor is approved by our due-diligence process.
- There is sufficient funding available within the College's funding contracts.
- The Subcontractor agrees to work within the terms of the contract.

### **5. General Principles**

Warrington & Vale Royal 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:

- Supply chain management activities comply with the principles of best practice in the skills sector.
- Undertake fair and transparent procurement activities, conducting robust due diligence procedures on potential subcontractors to ensure compliance with the 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.

- The funding retained by the college is 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.

## 6. The subcontracting process

### 6.1 Procurement and Recruitment Procedures

#### Procurement

- To subcontract with the college all sub-contractors with subcontracts totalling £100,000 and above must be entered on the Register. In the case of apprenticeships, the provider must be listed on the the Register of Apprenticeship Training Providers (RoATP) regardless of contract value. All lead providers and subcontractors must register on the UK Register of Learning Providers (UKRLP) annually and hold a valid UKPRN to be eligible to receive funding or a Loans Facility, either directly or through a subcontracting arrangement.
- When appointing subcontractors Warrington & Vale Royal College will take steps to avoid conflicts of interest, and will tell the Chief Executive of the ESFA, in writing, about any circumstances (for example, common directorships) which might give rise to an actual or perceived conflict of interest. The college will not proceed to award the contract without the Chief Executive of the Education & Skills Funding Agency's permission in writing.
- Subcontractors that are not listed on the Register of Training Organisations will not be appointed if they already hold contracts with an overall value of £100,000 or above per academic year with one or more directly funded providers, or if the subcontract from the college would take the total value of contracts over £100,000. In such cases, the subcontractor must be listed on the Register before the college will enter into a subcontracting agreement.
- Warrington & Vale Royal College remain ultimately responsible for all provision that is sub-contracted and will make sure that learners and employers supported through subcontracting arrangements know about the college and the subcontractor's roles and responsibilities in providing the learning.
- Warrington & Vale Royal College will have a legally binding contract with each subcontractor and will only award contracts for delivering funded provision to legal entities. If the legal entity is a registered company, it must be recorded as 'Active' on the Companies House database.
- Warrington & Vale Royal College will not award a contract to a legal entity if:
  - it has an above average risk warning from a credit agency
  - it has passed a resolution (or the court has made an order) to wind up or liquidate the company, or administrators have been appointed, or
  - its statutory accounts are overdue.

- Rigorous Due diligence is conducted for each potential subcontractor using information requested via the Subcontractor Full Due Diligence Form. Financial due diligence is conducted by the Finance Director and Quality related due diligence is conducted by the appropriate contract manager. Due diligence is refreshed on an annual basis for each subcontractor.

Information requested complies with ESFA and OfS funding requirements with information provided on the contract values held across all partners and the college must be informed of any additional contracts that may affect the current funding threshold and also of any financial irregularity that arises.

Subsequent checks may also be conducted if appropriate including the acquisition of references, additional documentation and could include a due diligence visit to the subcontractor site. Each subcontractor is risk rated (high/medium or low) with the outcomes shared at the Subcontracting Management Meeting for review and agreement to proceed. The final decision and approval to subcontract is made by a member of ELT.

## **6.2 Expectations for teaching, learning and assessment**

Subcontracted partners will be expected to meet Warrington & Vale Royal College's quality assurance standards. The quality of the provision is monitored and managed through existing quality improvement processes with the College's Self-Assessment Report/Quality Improvement Plan process ensuring continuous improvement in all parts of the learner journey. Subcontractor must conduct business in compliance with the spirit of the OFSTED Education Inspection Framework (EIF).

The Subcontractor contract abides with the ESFA funding rules of 2020/21. Subcontractor performance will be monitored on an on-going basis. If underperformance is identified, interventions will be put in place and the level of this intervention will be proportionate to the risk to the learner and to funding from the ESFA. Failure to provide an acceptable standard of training will result in more formal compliance procedures which may and can result in the contract being terminated.

### IAG and induction

Subcontractors must-

- Ensure a robust process is in place to deliver and monitor high quality IAG, including the use of initial assessments to ensure the right learner is enrolled on the right course according to their individual needs and ability.
- Ensure a comprehensive induction is completed by every learner and recorded appropriately within the ILP.
- Ensure any additional learning support needs are actioned and recorded appropriately.

### Teaching, learning and assessment

Subcontractors must-

- Ensure all courses have their content defined within a scheme of work and all sessions planned using appropriate lesson/session plan documentation.

Documentation should be consistent with the requirements of Warrington & Vale Royal College.

- Ensure teaching and assessment is mapped to the specification of the awarding body and complies with its requirements.
- Ensure teaching, learning and assessment is of a high quality and enables learners to maximise their attainment in a timely manner through detailed, timely and constructive feedback.
- Ensure staff are appropriately trained and engage with continuous professional development to enhance the quality of teaching, learning and assessment.
- Ensure progress reviews are completed in accordance with Warrington & Vale Royal College requirements.
- Ensure all contact with learners is recorded to comply with ESFA, OfS and IfA regulations.
- Ensure all facilities and resources are 'fit for purpose' and comply with all current Health and Safety Legislation.

### Quality Assurance

Subcontractors must-

Ensure a robust process is in place to quality assure their provision including:

- audits of all documentation to include: ILPs, progress reviews, H&S
- analysis of learner and stakeholder feedback
- audits of learner work including checks on progress, assessor feedback and internal quality assurance
- analysis of customer complaints
- complete an annual self-assessment report and quality improvement plan in the format required by Warrington & Vale Royal College by September 2019.

### Safeguarding

Subcontractors must have-

- Clear priorities for safeguarding and promoting the welfare of learners, explicitly stated in strategic policy documents.
- A clear commitment by senior management to the importance of safeguarding.
- A clear line of accountability and defined roles and responsibilities within the organisation for safeguarding.
- Recruitment and human resources management procedures that take account of the need to safeguard learners, including arrangements for appropriate checks on new staff and volunteers.
- Safe working practice which staff/volunteers have read and understood.

- Procedures for dealing with allegations of abuse against members of staff and volunteers, including a Named Senior Manager to whom allegations and concerns are reported.
- Arrangements to ensure that all staff undertake appropriate training, and keep this up-to-date by refresher training at regular intervals; and that all staff, including temporary staff and volunteers who work with learners, are made aware of the establishment's arrangements for safeguarding and their responsibilities.
- Safeguarding policy and related policies (as appropriate to specific circumstances), and procedures consistent with those in use by Warrington & Vale Royal College.
- Arrangements to work effectively with other organisations to develop safeguarding practice, including arrangements for sharing information.
- Appropriate whistle-blowing procedures and procedures which enable issues about safeguarding to be addressed.

### Policies and procedures

Subcontractors must have the following policies and procedures in place which are maintained, reviewed and updated regularly:

- Equality and Diversity
- Safeguarding and PREVENT
- Health and Safety
- Data Protection Policy (GDPR compliant)
- Document Retention
- Environmental Sustainability
- Staff Recruitment and Development
- Disciplinary and Grievance Policy
- Quality Assurance

### **6.3 Quality Assurance of Subcontracted provision**

Warrington & Vale Royal College will quality assure subcontracted provision through the following processes-

Rigorous due diligence using the Expression of Interest requirements, with each subcontractor subsequently coded and rated according to levels of risk.

Review of documentation received including-

- Feedback from contract managers on the performance of the subcontractors at the monthly Subcontracting Management Meeting.
- Annual self-assessment report and quality improvement plan updated in year.
- Audits.
- Interviews with staff and learners.
- External scrutiny reports.



Contract monitoring visits with a minimum of three per academic year.

Unannounced Observation of teaching & learning and assessment in accordance with the subcontracting calendar.

Inclusion in QDP stakeholder feedback surveys.

## **6.4 Reporting and Monitoring Requirements**

### Subcontracting Management Meeting

The Warrington & Vale Royal College Subcontracting Management Meeting will meet monthly, chaired by the Assistant Principal – Quality and MIS with key members of staff present representing finance, quality and MIS.

The purpose of the group is to oversee all aspects of subcontracted provision, review each subcontractor performance against monthly reports and data and identify any under/over performance against contract. Resulting actions are agreed by the group with an opportunity to share any audit/visit outcomes and discuss any subsequent concerns. The group is also a platform for initial discussions for new subcontracted provision.

### Identification of under/over performance against contract and resulting action

A discussion between Warrington & Vale Royal College and the subcontractor will take place as a result of under or over performance against contract value to determine future action which could include

- Variation to contract (increase or decrease)
- Payment to contract value and terms only

Continued under/over performance against the contract terms as specified in the contract could include

- Contract termination

### Reporting

- Warrington & Vale Royal College will provide a fully completed Subcontractor Declaration Form twice annually and must also update and return the Subcontractor Declaration Form if the subcontracting arrangements change during the year.

## **7. Management Fees**

Warrington & Vale Royal College retains a management fee from all subcontracted partner organisations, with this ranging from 10% to 30%. The fees charged reflect the cost of the procurement process and the management of the contracts.

The exact mix and level of support for each Subcontractor will vary depending on the needs of the individual Subcontractor and will include:

- Quality management systems.

- Certification and registration with awarding bodies if required.
- Management Information Services and data control advice.
- The extent to which the college contributes to improving the quality of teaching and learning through:
  - CPD Opportunities and planned training and development.
  - Teaching, Learning and Assessment observations and coaching.
  - Safeguarding, British Values, Prevent and Equality and diversity support.
- Audit of learning/visit evidence as requested.
- Audit of management systems and delivery
- Safeguarding of Young People and Vulnerable Adults procedures.
- Health and Safety compliance.
- Policy development.
- Support with Funding Rules compliance.
- Regular national updates regarding funding and policy guidance.

Not all Subcontractors are charged the same management fee with the differences in fees being dependent upon the level of support required, the experience of the Subcontractor, their target learners; their track record, published achievement rates and the level of risk as determined by the due diligence process.

Subcontracting which is risk rated as HIGH as identified by the Subcontracting Management Meeting will be subject to the College's Intervention Policy. As part of the implementation of this policy period payments may be suspended, reduced or stopped depending on the outcome of audits or investigations.

## 8. Payment Arrangements

Payments are made on a monthly basis by the end of the following month.

Following validation of the evidence in the ILR return, the College will make the appropriate payment to the Subcontractor based on the level of income calculated by the validation process in that month less the agreed management fee. Payments are made by BACS.

Warrington & Vale Royal College expects that the Subcontractors will fully engage in the assessment of accuracy of payments and they therefore have the responsibility to review their monthly remittance advices to identify any inaccuracies.

## 9. Intervention Process

To enable the college to take corrective action where a subcontractor is assessed as being of risk. The outcome of any intervention is to enable the effective completion of any subcontracted learners.

Intervention is required if a subcontractor:

- Fails to provide suitable evidence of learning and progress in a visit to support the funding claim.
- Fails to submit evidence as part of an audit or investigation commissioned by the college
- Gives cause for concern regarding a breakdown of trust.
- Fails to comply with reasonable requests for information.
- Demonstrates poor or declining achievement rates based on learner progress updates

In any of the circumstances above the subcontractor will be deemed to be of HIGH RISK and a Notice of Concern will be issued.

### Stage 1 – RISK ASSESSMENT

During this stage no further payments will be made to the subcontractor. The subcontractor will be required to provide a sample of evidence to support learning, visit or review activity for the learners selected. The sample may range from 25% to 100%.

<b>Outcome</b>	<b>Evidenced by</b>	<b>Intervention</b>
Evidence satisfies the requirements of the ESFA funding Guidance	Sampled evidence is 100% compliant with guidance	Funding Reinstated – Subcontractor Intervention Ceases
Evidence does not fully meet the requirements of the ESFA funding guidance	Sampled learner evidence is not fully compliant	Implement Stage 2 - Intervention Action
Evidence is wholly unsatisfactory in meeting the ESFA funding guidance	Sampled evidenced is non-compliant	Implement Stage 3 – Termination of Contract

### Stage 2 - INTERVENTION ACTION

Warrington & Vale Royal College will work with the subcontractor on a range of support measures. The funding proportion paid to the subcontractor will reduce by a further 15% to cover the costs of such intervention. The support measures will be agreed with the subcontractor and may include:

- Increased monitoring and audit activity
- Increased support visits
- Further audits to check that learning/visits are taking place.

### Stage 3 – TERMINATION OF CONTRACT

In the event that the evidence of learning provided by a subcontractor does not provide confirmation that learners are actively engaged in learning, the College will make arrangements to terminate this contract as per section 10 of this Subcontracting Delivery Agreement. Learners currently enrolled will remain the responsibility of the College and will continue with their learning.

## 10. Contingency for Termination of Contract

The College will enable the completion of learners where a subcontractor's contract has been terminated. The college will assess the best option, from those listed below, for completing the learners:

- Deliver the remaining programme as a prime provider using college employees or self-employed consultants.
- Seek a suitable alternative partner to deliver the remaining programme as a new or extended subcontracting arrangement.

The college will assess the best method based on variables such as employer location, learner location, the proportion of the programme left to complete.

The college will ensure learners are not negatively impacted where a subcontractor's contract has been terminated and will ensure learners are able to complete their qualification.