

Learning Services Worcestershire Subcontracting Policy

2022-2023

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Contents

Section 1: Introduction	2
1.1 Introduction	2
1.2 Scope.....	2
1.3 Service Objectives	2
1.4 Priorities for Learning Services Worcestershire.....	2
1.5 Educational Rationale & Business Case for Subcontracting	3
Section 2: Quality Assurance	4
2.1 Overall Responsibility.....	4
2.2 Monitoring and review requirements.....	4
2.3 Fees and Charges	5
2.4 Publication of information relating to sub-contracting	7
Section 3: Contingency Plan.....	8
Section 4: Communication and Review of Policy.....	10
Annex 1 Educational Rationale and Business Case for Subcontracting (16-19)	10
Annex 2 Educational Rationale and Business Case for Subcontracting (19+).....	11
Annex 3 Example Payment Timetables.....	12

Section 1: Introduction

1.1 Introduction

Worcestershire County Council has a prime provider relationship with the Education and Skills Funding Agency for the delivery of 16-19 Education as Study Programmes and Study Programme Traineeships, and for 19+ Education delivered under the Adult Education Budget and Advanced Learner Loans funding streams. The contracts are managed within Learning Services Worcestershire and branded as Young Adult Learning and Adult Learning respectively.

Programmes are predominantly offered at Level 2 and below, with the aim of providing high-quality learning opportunities for those residents who did not achieve 5 GCSE passes (or equivalent) at school and who are also least likely to take up further education or enter employment. In the post-COVID dynamic, there is also a focus on provision which supports wellbeing.

Learning Services Worcestershire is committed to using its allocated funding from the Education and Skills Funding Agency (ESFA) to widen participation in learning. By working in partnership, Learning Services Worcestershire is able to offer a wider choice of learning to our local community.

Any decision to subcontract with a partner organisation will be based on the availability of funding and an identified training need for learners. Most importantly, the potential partner organisation must be able to demonstrate the ability to deliver high quality learning, and that they have sound financial standing. This is evaluated through a formal procurement process.

The Service will only subcontract funding where such an arrangement will provide education and training that the Service does not have the infrastructure, community relationships or expertise to deliver itself.

1.2 Scope

This policy applies to all subcontracted partner organisations, whether through whole programme subcontracting or co-delivery.

1.3 Service Objectives

- To provide personalised learning in a supportive, safe, small-group environment
- To support local economic development through high quality education and training that leads to further skills development and sustainable careers – aligned to Worcestershire LEP priorities
- To support the council's statutory duty under the Education & Skills Act (Raising the Participation Age) to ensure appropriate provision is available to meet the needs of all 16-18 year-olds, including the most vulnerable and disadvantaged young people

1.4 Priorities for Learning Services Worcestershire

The Learning Services Worcestershire curriculum statements of intent are mapped to the Open for Business and Children and Families priorities in the Council's Corporate Plan 2017-2022.

Open for Business

Improve skill levels in the county and support the development of a skilled workforce Reduction in the percentage of 16-24 year-olds who are claiming Universal Credit

Children & Families

Strive to ensure Worcestershire provides high quality education for all young people Support our young people in achieving good attainment and realising their potential Improve the outcomes for vulnerable and disadvantaged learners Connect with local businesses and work together to prepare all young people for the world of work

Partners who subcontract with us are required to commit to the Council's ambition of ensuring all learners receive outstanding teaching, learning and skills in high quality safe and accessible learning spaces. They must also be willing to develop curricular opportunities which support the Service's statements of intent:

Intention 1: Experiencing Success

To facilitate positive experiences of learning which foster a can-do attitude and build self-belief based on exposure to success in a range of forms.

Intention 2: Transforming Destinies

To inspire engagement with new opportunities and raise awareness of future possibilities that may not previously have been considered.

Intention 3: Building Stronger Communities

To motivate learners to become self-sufficient, connected, pro-active citizens and encourage them to make positive contributions to their communities.

1.5 Educational Rationale & Business Case for Subcontracting

As a grant-funded provider, the council is no longer required to apply annually to the ESFA for permission to sub-contract funds. However, we still articulate our rationale for doing so and this can be viewed in [Annex 1 and Annex 2](#).

Section 2: Quality Assurance

2.1 Overall Responsibility

The council remains responsible for the quality of the provision. The quality is monitored and managed by Learning Services Worcestershire through existing quality assurance management processes and framework and is subject to Ofsted Inspection. In February 2019 Worcestershire County Council was inspected by Ofsted and graded 'Good' across the whole provision. Subcontractors are expected to meet the council's quality assurance standards.

2.2 Monitoring and review requirements

The Council will regularly monitor and review the Providers' eligibility to contract. The sub-contractor will therefore:

- Participate in regular and ad-hoc meetings arranged by the Council
- Give the Council access to relevant records and staff
- Submit regular and ad-hoc information, as requested within specified timescales
- Complete all data/information in the format requested
- Return all fully completed learner files at the end of the contracting period

Monitoring information required	Reporting evidence	Frequency
Renewal of legal entity and mandatory registration details	<ul style="list-style-type: none"> • As per pre-qualification questionnaire 	Annually
Nominated staff, as per 3.3.2	<ul style="list-style-type: none"> • Named staff • Staff CVs, qualifications and training records 	Annually, or if there is a change
WCC-administered DBS record	<ul style="list-style-type: none"> • Personal data to enable a DBS check to be requested for agreed personnel (usually organisation's safeguarding lead and Person(s) of Control) 	Annually
In-date policies that have been approved for the relevant academic year by the appropriate board and/or personnel for the sub-contractor	<ul style="list-style-type: none"> • Safeguarding Policy (including radicalisation risk assessment) • Safer Recruitment Policy • Building Access Policy • Health and Safety Policy • Accident Reporting Policy and records • Complaints Policy • Sustainability Policy • Data Protection Policy (including GDPR) 	Annually
Insurances as necessary for the provision being delivered	<ul style="list-style-type: none"> • Employers Liability Insurance of £5m • Public Liability Certification with a reputable company for a minimum sum of £5m • Professional Indemnity Insurance of £2m 	Annually

Evidence that learner feedback is being collected and acted upon	<ul style="list-style-type: none"> • Eg. Questionnaires and responses • Eg. “You Said – We Did” communications • Eg. Systems for anonymous reporting 	Annually
Learner outcome and progression data	<ul style="list-style-type: none"> • Accreditation results and ILR information 	Annually
Ofsted grade status	<ul style="list-style-type: none"> • Ofsted published report 	Following any inspection
Sharing of good practice	<ul style="list-style-type: none"> • Provider forum attendance and input 	Termly
Quality assurance records	<ul style="list-style-type: none"> • Eg. Awarding Body reports, Work Scrutiny, teaching & learning observations/data 	Termly

Funding is received from the ESFA on an academic year basis. Therefore, each contracting period will run from August to July and will be reviewed annually. Providers who successfully tender for specific programme delivery contracts will be required to commit to providing a service from the point of contracting up to the end of the academic year.

2.3 Fees and Charges – Community Learning Programmes

Community Learning is a cost-based funding model. Accordingly, any agreement to subcontract will be based on a financial proposal which is negotiated between Learning Services Worcestershire and the sub-contracting partner. In Community Learning, it is appreciated that the variety of provision can bring considerable variation in costs due to differences including the size of the target cohort or the need to hire premises within a specific area, etc. Therefore whilst a cost-based model is utilised, the Single Activity Matrix ([ESFA Funded Adult Education Budget Funding Rates and Formula 2022 to 2023 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/103422/ESFA_Funded_Adult_Education_Budget_Funding_Rates_and_Formula_2022_to_2023_-_GOV.UK_(www.gov.uk).pdf)) is used as a guide to consider value for money when discussing these costs.

2.4 Fees and Charges – Formula-Funded Programmes

For formula-funded programmes such as 16-19 Education and non-Community Learning activity under the Adult Education Budget, the council retains approximately 20% of the gross funding received from the ESFA for administration and management of the service.

The value retained is the amount required to fund the cost of effectively identifying through open and competitive tendering, selecting and managing all sub-contracted provision, and covers the support that is necessary to ensure quality of teaching, learning and assessment and high success rates and learner satisfaction. The proportional breakdown is as follows:

Element	Proportional %
Contract Management and Monitoring Visits	22%
Funding and Data Management	14%
Planning and Procurement	17%
Quality Assurance	28%
OTLA and Tutor Continued Professional Development	6%
Audit	3%
MIS subscription	8%
General Resources	1%

Functions covered by these support costs include:

2.3.1 Planning and Procurement

- Programme planning based on local and national priorities
- Development of tenders and procurement authorisation documentation
- Development, implementation and management of Learning Services Worcestershire provider framework
- Assessment of due diligence information
- Tender and procurement process, evaluation and award of contracts
- Contract negotiation and agreement
- Setting up contracts and payments

2.3.2 Funding and Data Management

- Ensure Learning Services Worcestershire is compliant and implements ESFA policy, rules and regulation
- Develop and produce documentation in accordance with the requirements of ESFA
- Purchase and maintain a specialist Management Information System.
- Collect data, ensure compliance, eligibility of learners, record on Management Information System and submit accurate and timely Individual Learner Records (ILR) and funding returns to ESFA
- Manage the Learning Services Worcestershire funding. Manage invoices and process contract payments to subcontractors
- Carry out on going internal audits
- Appoint and fund external auditors as per ESFA funding rules

2.3.3 Regular Monitoring Visits

- Manage the contract
- Review performance against contract targets
- Review quality assurance processes
- Course monitoring
- Provide ongoing support to develop provision and remedy any issues

2.3.4 Quality Assurance

- Manage provision in accordance with quality standards set out by OfSTED and ESFA
- Act as lead for OfSTED inspections including support and preparation for OfSTED inspections
- Support the process of Observation of Learning, Teaching and Assessment
- Manage the self-assessment process and produce self-assessment report and quality improvement plan
- Manage and monitor the quality improvement plan
- Collect and collate learner feedback on the quality of provision and submit to the funding agencies as required
- Organise and deliver tutor and provider training
- Review and agree course proposals, schemes of work and learning plans

2.3.5 Where Required: Awarding Body registration

- Act as the lead provider for Awarding Organisations and retain approved centre status. Pay Awarding Organisations annual centre fees.
- Undertake Internal and external verification of qualifications
- Register examinations

2.3.6 Termly subcontractor meetings

- Disseminate changes in policy
- Share and exchange good practice
- Support subcontractors in meeting and understanding ESFA, Ofsted and the council's requirements

2.5 Publication of information relating to sub-contracting

The council lists all its contract opportunities on the “In-Tend” e-tendering portal. Organisations can register to be sent opportunities.

Full details of Worcestershire County Council procurement policies and procedures can be found at: [Business and Contract Opportunities | Worcestershire County Council](#)

Providers who express an interest in working with us to deliver post-16 learning will be invited to undertake a market entry pre-qualification process based on financial and technical assessments. The process includes due diligence questions on capacity and capability.

Each organisation that meets the criteria will be accepted onto an approved list of providers for the period indicated in the relevant DPS. The approved list will be open continually for new applicants to apply. The council reserves the right to undertake due diligence with providers on the approved list at any point and will carry out annual financial checks.

Acceptance onto the approved list does not mean that an organisation will be awarded funding.

Section 3: Contingency Plan

All learners who are provided with education under an agreement between Worcestershire County Council and a subcontracting organisation remain the responsibility of the Council.

The Council follows robust pre-contracting processes and procedures to ensure the quality and stability of potential subcontracting organisations.

The Council mitigates risk by:

- commissioning local providers
- commissioning provision for local needs
- setting funding maximums

In the event of any of the following, Learning Services Worcestershire will be responsible for making alternative arrangements for delivery of education and training:

- Worcestershire County Council needs to withdraw from a subcontracting arrangement
- A subcontractor withdraws from the arrangement
- A subcontractor goes into liquidation or administration

In the event that a contract is terminated by a subcontractor, continuity of learning and minimum disruption to learners is of paramount importance.

When confirmation of withdrawal from the contract is received in writing, we will seek to fund alternative provision from other subcontracted providers or those approved on the Dynamic Purchasing System. If this is not possible, we will explore options via direct delivery or with other local FE providers.

We will try our best endeavours to re-locate current learners in comparable local provision, in order to ensure that the learners are not disadvantaged, are safeguarded and receive good value for money.

If a learner has paid a course fee to the provider, there is an expectation that it will be reimbursed pro-rata by the provider. Providers are also required to co-operate fully with us to cause minimal disruption to learners and assist with the implementation of any contingency plan proposed.

	Contingency	Change Factor	Action required
1	Termination of existing subcontracting arrangement	Learners need to be placed with a new provider	Identify suitable new provider Check with the learners that they are happy with that option Prepare and process contracting documents
2	Another Worcestershire County Council Subcontractor takes over the provision	<ol style="list-style-type: none"> 1) Course timetables/time frames may need to be amended 2) Course tutor may change 3) Course venue may change 4) Additional cost may be incurred 5) If accredited, the awarding body informed 	<p>Ensure that changes for learners are minimised as far as possible</p> <p>The subcontractor who is now going to support the learners will need to have their funding agreement increased to accommodate the additional learners</p> <p>Liaise with the awarding body regarding changes</p> <p>The MIS system will need to be updated with the changes</p>
3	In-house delivery ensuring continuity of learning	All of above in 2 plus Employ temporary qualified tutor (s) (with an enhanced DBS)	<p>Ensure that changes for learners are minimised as far as possible</p> <p>Liaise with the awarding body regarding changes</p> <p>The MIS system will need to be updated with the changes</p> <p>HR /Payroll set up</p> <p>Tutor induction</p>
4	Engage additional Providers to meet services need/s	Conduct Market Engagement	Follow/comply with Worcestershire County Council's procurement process

Section 4: Communication and Review of Policy

This policy is published on the Worcestershire County Council website. It is also available to view within the Council's procurement processes, and as part of contract management with contract holders.

Policies, including this document, changes to policies, and the consequences of those changes are discussed at termly meetings with subcontractors, during contract reviews and via email.

This policy will be reviewed annually by academic year to account for changes to delivery and funding rules issued by the ESFA, and any emerging local priorities.

Annex 1

Educational Rationale and Business Case for Subcontracting (16-19)

The Council's local intelligence and data reporting has identified that, despite the availability of 16-19 provision locally, there is a significant proportion of our young adult population who opt out of these opportunities and struggle to find meaningful education which meets their complex needs and circumstances and the council has identified that there is no specific Independent Training Provider (ITP) within our locality delivering foundation level study programmes to vulnerable young adults who are experiencing chaotic lives and at risk of becoming NEET. We are therefore seeking to form partnerships with small, independent training providers who can help extend the reach of our service, specialise in this area of work either with us or on our behalf, utilise small venues set in the heart of communities, create small-group learning environments and prioritise pastoral support, so that the Council is able to meet its duty to ensure appropriate provision for the full range of needs found in our communities.

Worcestershire County Council does not currently have easy, geographically-dispersed, cost-effective access to the range of physical resources needed to facilitate hand-on learning experiences which can engage our risk-of-NEET cohorts with active programmes that minimise theoretical input and focus on experiential learning.

We therefore seek subcontracting partners with the ability to resource a curriculum offer that can deliver this to work with us on both fully-subcontracted and co-delivered models so that we can draw on the varied strengths of providers across our region and combine them with those of the Council itself. Whilst our core focus is on provision for Worcestershire residents delivered within the Worcestershire border, we also welcome registrations from organisations operating close to our borders, so that we can work cooperatively with neighbouring authorities and work within their borders if there is a strategic reason for us to do so.

As the lead provider, we define the intentions for the programme and provide the appropriate leadership, guidance and local intelligence to support our subcontracted partners to develop opportunities which meet this intent. We also provide financial and quality assurance, oversee performance management and administer all the relevant data reporting for the successful operation of the programme.

Whilst subcontractors share responsibility for the recruitment and engagement of appropriate young adults, we also utilise our corporate partners and referral agencies to evaluate learner need and

signpost to appropriate provision. In situations where learners have needs that can be supported by corporate partners, we also facilitate referrals to the appropriate services and initiate wrap-around support.

Annex 2

Educational Rationale and Business Case for Subcontracting (19+)

The vast majority of the council's 19+ Adult Education Budget offer is provided under a direct-delivery model. However, the council reserves the right to subcontract in situations where a potential benefit to communities is identified.

The wider Skills and Investment Service at the Council leads on a number of community education projects that are delivered via programmes with finite funding. Examples of reasons that subcontracting might be considered at 19+ include:

- Sustaining short-term projects which have been successful and whereby continuation will continue to capacity build within the Voluntary & Community Sector
- Initiating new projects to build capacity within the Voluntary & Community Sector
- Improving access to learning in rural locations
- Provision of services for learners with specific needs
- Improved value for money through partnership working

Each need is assessed on its own merits and we consider seeking subcontracting partners with the ability to resource a curriculum offer that can deliver this to work with us on both fully-subcontracted and co-delivered models so that we can draw on the varied strengths of providers across our region and combine them with those of the Council itself. Whilst our core focus is on provision for Worcestershire residents delivered within the Worcestershire border, we also welcome registrations from organisations operating close to our borders, so that we can work cooperatively with neighbouring authorities and work within their borders if there is a strategic reason for us to do so.

As the lead provider, we define the intentions for the programme and provide the appropriate leadership, guidance and local intelligence to support our subcontracted partners to develop opportunities which meet this intent. We also provide financial and quality assurance, oversee performance management and administer all the relevant data reporting for the successful operation of the programme.

Whilst subcontractors share responsibility for the recruitment and engagement of appropriate learners, we also utilise our corporate partners and referral agencies to evaluate learner need and signpost to appropriate provision. In situations where learners have needs that can be supported by

corporate partners, we also facilitate referrals to the appropriate services and initiate wrap-around support.

Annex 3

Example Payment Timetables

Example 1 – Learner joins at the start of the month

Process	Date
Application form reviewed, eligibility agreed and learner interviewed by provider. Learner and provider agree to enter induction and learner begins qualifying period.	2 nd August
Qualifying period activity undertaken (as outlined in contract). Personal data, educational history, initial assessment results, intended programme of learning, etc. submitted to WCC for validation on a regular basis (weekly, where appropriate).	To 12 th September
Qualifying date reached	13 th September
Final pieces of starter paperwork submitted to WCC, including confirmation that learner remains on-programme and has passed the qualifying period	By 15 th September
ILR file uploaded to ESFA	6 th October
Invoice passed to finance for payment	By 13 th October
Payment made: Starter payment First monthly instalment	Within 30 days
Time from learner interview to Day-30 payment	Approx. 14 weeks

Example 2 – Learner joins in the middle of the month

Process	Date
Application form reviewed, eligibility agreed and learner interviewed by provider. Learner and provider agree to enter induction and learner begins qualifying period.	16 th August
Qualifying period activity undertaken (as outlined in contract). Personal data, educational history, initial assessment results, intended programme of learning, etc. submitted to WCC for validation on a regular basis (weekly, where appropriate).	To 26 th September
Qualifying date reached	27 th September
Final pieces of starter paperwork submitted to WCC, including confirmation that learner remains on-programme and has passed the qualifying period	By 15 th October*
ILR file uploaded to ESFA	4 th November*
Invoice passed to finance for payment	By 11 th November
Payment made: Starter payment First monthly instalment	Within 30 days

Time from learner interview to Day-30 payment	Approx. 17 weeks
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* IMPORTANT: In this situation, if the evidence had been flowing through and validated on a regular basis during the qualifying period, meaning that only confirmation of retention on the already-agreed programme was required between 15th and 27th September, it may be feasible to process the learner in time for the ILR upload on 6th October, rather than waiting for the November upload.

Example – ILR Data Collection Timetable 2022/23

Month	Evidence to WCC	ILR Upload	Invoice passed for payment
August	N/A	N/A	N/A
September	N/A	N/A	N/A
October	15 th September	6 th October	13 th October
November	14 th October	4 th November	11 th November
December	15 th November	6 th December	13 th December
January	15 th December	6 th January	13 th January
February	16 th January	6 th February	13 th February
March	13 th February	6 th March	13 th March
April	16 th March	6 th April	13 th April
May	13 th April	5 th May	12 th May
June	16 th May	6 th June	13 th June
July	15 th June	6 th July	13 th July
August	14 th July	4 th August	11 th August
September	31 st August	14 th September	21 st September