

# Herefordshire Council Adult and Community Sub-contracting Policy 2019-22

This policy applies to all subcontracted activity supported with funds awarded by the Education and Skills Funding Agency (ESFA) for the delivery of adult and community learning. The aims of this policy are to provide existing and potential sub-contractors with information about Herefordshire Council, Adult and Community Learning Service's (ACLS) reasons for subcontracting; how we select our potential delivery partners; fees and charges, the services we provide and our terms for payment.

### **Overarching Principle**

Herefordshire Council (the council) will work with its sub-contracted providers to optimise the impact and effectiveness of adult and community learning within Herefordshire.

Supply chain management activities comply with the principles of best practice in the skills sector identified in the LSIS Supply Chain Management – best practice guided (V3 – 3.1.2013)

The council will at all times undertake fair and transparent procurement activities, conduct 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 communities and learners lives.

The funding that is retained by the council will be relative to the costs of the services provided.

Where disputes between sub-contracted partners cannot be resolved through mutually agreed internal resolution procedures, the council will submit to independent outside arbitration or mediation and abide by its findings.

### **Rationale for Sub-contracting**

The council delivers its adult and community learning provision in partnership with a range of sub-contracted providers across Herefordshire to better meet local, national and service priorities for learning and skills.

The reasons include:

- improved access to learning in rural locations as sessions are delivered in community venues across Herefordshire;
- learners with specific needs are supported better as we work in partnership with organisations that have the expertise to support their specific client group's needs;
- improved value for money as partnership organisations often supply the learning venue for free and additional support staff;
- support Community and Voluntary organisations to develop their capacity and capability to meet the needs of learners;
- respond quickly to learners or community needs.

### **Quality Assurance**

The council remains responsible for the quality of the provision. The quality is monitored and managed by ACLS through existing quality assurance management processes and framework and is subject to Ofsted Inspection. In January 2016 ACLS was inspected by OfSTED and graded 'Good' across the whole provision. Subcontractors are expected to meet the council's quality assurance standards.

## **Fees and charges**

The council retains approximately 22% 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. Functions covered by these support costs include:

### **Planning and Procurement**

- Programme planning based on local and national priorities
- Development of tenders and procurement authorisation documentation
- Development, implementation and management of ACLS 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

### **Funding and Data Management**

- Ensure the ACLS 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 ACLS funding. Manage invoices and process contract payments to sub-contractors
- Carry out on going internal audits
- Appoint and fund external auditors as per ESFA funding rules

### **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

### **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
- carry out and manage the process of Observation of Teaching, Learning 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 learner workbooks

### **Awarding Body registration**

- act as the lead provider for NOCN and retain approved centre status. Pay awarding body annual centre fees.
- Undertake Internal and external verification of NOCN qualifications
- Register NOCN examinations

### **Termly subcontractor meetings**

- disseminate changes in policy
- share and exchange good practice
- support sub-contractors in meeting and understanding ESFA, OfSTED and the council's requirements

### **Publication of information relating to sub-contracting**

The council lists all its contract opportunities on 'Supplying the South West' e-tendering portal. Organisations can register to be sent opportunities, this is a free service.

Full details of Herefordshire Council procurement policies and procedures can be found at: [https://www.herefordshire.gov.uk/info/200145/business/340/doing\\_business\\_with\\_the\\_council](https://www.herefordshire.gov.uk/info/200145/business/340/doing_business_with_the_council)

Here you will also find guidance on:

[The Supplying the South West e-tending portal](#)

Providers who express an interest in working with us to deliver adult and community 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 July 2019 to July 2022. The approved list will be open annually 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. However, the organisation will be awarded a framework contract and invited to compete and tender for adult and community learning funding on an annual basis.

### **Payment Terms**

The council will agree payment with its subcontractors based on satisfactory delivery of agreed provision and/or services and adherence to terms and conditions as set out in the contract, its appendices and associated schedules.

Sub-contractor payments are made within 30 days of receiving a valid invoice.

Payments will be based on the funding actually earned by each learner and may vary if the ESFA funding rates and guidance change during the period of the contract.

## **Payment Methodology**

### **Community Learning (funding model 10) provision**

Providers receive 4 profile payments within the academic year, up to the maximum value of their contract. Payments are subject to the provider meeting contract outcome milestones and mandatory contract requirements throughout the year.

### **Adult Skills (funding model 35) provision**

Adult Skills Funded learning uses the following payment profile for Providers. Provider's data returns are used to calculate actual earnings to date:

- Payment 1 Initial Year Start Payment – 30% of Adult Skills maximum contract value payable on commencement of funding agreement.
- Payment 2 - January – 20% of Adult Skills contract schedule value payable including;
  - financial reconciliation against under performance, subject to negotiation with the Council, where less than 85% of the total tutor hours profiled for Term 1 have been delivered, and failure to meet to minimum number of enrolments required.
- Payment 3 - May – 20% of Adult Skills contract schedule value payable including;
  - financial reconciliation against under performance, subject to negotiation with the Council, where less than 85% of the total tutor hours profiled for Term 2 have been delivered, and failure to meet to minimum number of enrolments required.
- Payment 4 - Year End Payment – 20% of Adult Skills contract schedule value payable on completion of contract delivery, subject to;
  - financial reconciliation against under performance, subject to negotiation with the Council, where less than 85% of the total tutor hours profiled for Term 3 have been delivered, and failure to meet to minimum number of enrolments required. Learner achievement and certification.
- 10% of Adult Skills contract schedule value payable on the Provider submitting all end of year documentation and evaluation to the Council.

Full payment model details will be included within the information supporting delivery opportunities.

## **Contingency Plan**

All learners who are provided with education under an agreement between the council's ACLS and a subcontracting organisation remain the responsibility of the Council.

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

The ACLS mitigates risk by:

- commissioning local providers;
- commissioning provision for local needs;
- setting funding maximums for community learning provision.

In the event of the following the ACLS will be responsible for making alternative arrangements for delivery of education and training:

- Herefordshire Council needs to withdraw from a subcontracting arrangement, or;
- a subcontractor withdraws from the arrangement, or;
- a subcontractor goes into liquidation or administration.

In the event that a contract is terminated by a sub-contractor, 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 sub-contracted providers or those on the ACLS Approved Provider List. If this is not possible, we will explore options with other local FE providers or take the provision from the sub-contractor in-house for the remainder of the contract period where resources permit.

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.

	<b>Contingency</b>	<b>Change Factor</b>	<b>Action required</b>	<b>Team Member/s responsible</b>
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.	ACL Contract Manager/ACL Manager
2	Another Herefordshire Council Subcontractor takes over the provision.	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	Ensure that changes for learners are minimised as far as possible.  The subcontractor who is now going to support the learners will need to have their funding agreement increased to accommodate the additional learners.  Liaise with the awarding body regarding changes.	ACL Contract Manager  ACL Programme Support Officer  ACL Contract Manager

		5) If accredited, the awarding body informed.	The MIS system will need to be updated with the changes.	
3	In-house delivery ensuring continuity of learning.	All of above in 2 plus Employ temporary qualified tutor (s) (with an enhanced DBS)	Ensure that changes for learners are minimised as far as possible.  Liaise with the awarding body regarding changes.  The MIS system will need to be updated with the changes.  HR /Payroll set up  Tutor induction	ACL Manager
4	Engage additional Providers to meet services need/s	Open Provider Framework	Follow/comply with Herefordshire Councils full procurement process	ACL Manager

#### Communication and Review of Policy

Policies, including this document, changes to policies, and the consequences of those changes are discussed at termly meetings with providers, contract reviews and emails.

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. This policy will be published on Herefordshire Council's [Adult and Community Learning](#) webpage.