

SUBCONTRACTING POLICY



Policy Group: Curriculum

Effective: July 2024

Approved: Emma Barrett-Peel, Chief Operating Officer

Responsible Officer: Louise Organ, Head of
Subcontracting

Next Renew Date: July 2025

Ref no: 8.1



GUIDANCE

Vision

Transform lives through learning

Values



PASSIONATE - We are passionate about inspiring young people, adults and our Purple People to be their best and we take pride in creating a positive learning environment to fulfil their potential.



UNSTOPPABLE - We are unstoppable in our quest for the pursuit of excellence. We are dedicated and resilient to develop ourselves and our learners.



RIGHT - We treat each other with respect and strive to do the right thing through insight, inclusion, honesty, growth and trustworthiness.



PARTNERSHIPS - We support the people surrounding us in our everyday lives, building effective partnerships with businesses, learners and all stakeholders where we can pass on our knowledge and skills to help them meet their goals.



LEARNERS - Learners are at the centre of everything we do and we are driven to provide life-changing and life-long learning for them.



EMPOWERED - We encourage our Purple People to be independent and autonomous to maximise their goals surpassing their barriers and targets. Feel it, believe it, live it.

Tone of voice

Our tone of voice takes its direct influence from our core values. We are passionate about people and learners and are driven to get the best out of everyone by understanding them. We are caring and supportive, as well as being determined and striving for growth. We talk with purpose and enthusiasm in a way that connects and empowers people.

Innovation is at the heart of Learning Curve Group and we're always thinking about what's next!

SUMMARY CHANGES

Date	Page	Details of Amendments
July 2022	All	Annual Review ready for new academic year
Jan 2023	4	Update of Funding rules including the addition of funding guidance for Skills Bootcamps
April 2023	1	Update to policy owner and responsible officer
July 2023	All	Annual Review
February 2024	All	Updated funding rule changes and changed responsible officer
July 2024	All	Annual Review ready for new academic year
March	All	In-year review

INTRODUCTION

To outline the process for engaging in a subcontractor agreement for delivery ESFA funded provision through companies within Learning Curve Group (LCG).

Applies to

LCG under their own Education Skills Funding Agency (ESFA) and/or Devolved Area Combined Authority (DACA) contracts retains ultimate responsibility for all aspects of the provision that it is contracted to deliver, including any elements that it chooses to subcontract.

Rationale

LCG will subcontract up to 25% of any particular ESFA and/or up to the maximum threshold of any Devolved Area Combined Authority funding stream to enhance the quality of our learner offer at a national level providing better geographical access and/or facilities for Learners; support an entry point for disadvantaged groups and fill gaps in niche or expert provision.

Our reasons for subcontracting are always in line with ESFA and/or the DACA guidelines and are never used to fill a short-term funding gap. The rationale is reviewed annually.

Where we are required, we will seek approval to subcontract from the ESFA and/or any DACA.

Subcontracting Fees

The Subcontracting Fees Policy is published on our website <https://www.learningcurvegroup.co.uk/key-policies> and detailed within Subcontractor contracts.

Reason for policy

It is a requirement that LCG has a legally binding agreement in place with each subcontract partners/supply chain partners. It is a requirement that the agreement must allow access on demand to subcontract partners/ Supply chain partners (SCP) premises and to all documents relating to learners funded by the ESFA and/or any DACA. LCG remain responsible for the actions arising from the subcontractor's delivery.

REF:

[24-25 Subcontracting funding rules for post-16 education and training \(excluding apprenticeships\) \(publishing.service.gov.uk\)](#)

[2024-25-Subcontracting-Policy-Part-7-1.pdf](#) (teesvalley ca.gov.uk)

[2024-25-Adult-Skills-Fund-funding-rules-Part-6-1.pdf](#) (teesvalley.ca.gov.uk)

[2024-25 WMCA Skills Programmes Funding Rules - V2](#)
[Schedule 1 - North East CA ASF Funding Rules - issued June 2024.pdf](#)

[Apprenticeship funding rules 2024 to 2025 \(publishing.service.gov.uk\)](#)

This document sets out the subcontracting funding rules that apply to all providers of education and training who receive AEB, DACA, apprenticeship, skills bootcamps and 16 to 19 funding from Education and Skills Funding Agency and Levy Employers, there are still instances where a specific rule, or subsection of a rule is only applicable to a specific funding stream. Where this is the case, there are a series of annexes applicable to each individual funding stream. The annexes should be referred to in the context of that specific individual funding stream. Common terminology has been adopted across all funding streams; a glossary of terms has been included at the end of this document. Although this document represents a comprehensive set of subcontracting funding rules across the AEB, DACA, apprenticeship, skills bootcamps and 16 to 19 funding streams it should be viewed in context of the wider funding rules for each individual funding stream and that of Levy Employers. These rules form part of a series of documents that are relevant to subcontracting and subcontractors. Continuing apprenticeship provision follows the appropriate year of funding rules and follows the same subcontracting management arrangements.

Providers should also familiarise themselves with the requirements in relation to subcontracting in ESFA Education and Skills Conditions of Funding and/or Education and Skills Contracts for Services and the Subcontracting Standard.

REF:

<https://www.gov.uk/government/publications/providing-external-assurance-on-subcontracting-controls>

[DfE external document template \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

POLICY

LCG must ensure that it meets the terms and conditions of their funding agreement with the Chief Executive of the ESFA for all provision regardless of whether it is subcontracted, LCG will need to be satisfied that the subcontracting arrangements meet funding requirements and the Subcontracting Standards and if necessary, engage a third party.

The key elements to be satisfied are but not limited to:

- Learners are enrolled on appropriate programmes.
- Eligibility of all learners
- Apprenticeship employers/work placements are aware of their role and are able to support the apprentice/learner in line with funding rules and levy requirements.
- Funding is not used to inadvertently fund extremist organisations.
- There is a written learning agreement and commitment statement, entered into at the time of enrolment, prepared and agreed with each learner that reflects the outcome of the learners' initial guidance and assessment.
- A learning programme and its means of delivery have been clearly outlined, agreed and recorded (ILP)
- There are arrangements for assessing the progress of individual learners.
- Second level subcontracting is not permissible and any engagement with a third party will be direct.
- Learners are not funded by another organisation.
- There is no conflict of interest.

- Procedures exist for LCG to regularly monitor the delivery of programmes provided in their name and there is sufficient evidence to allow LCG to review subcontractors' performance against the Education Inspection Framework and Funding Guidance

Selection Process

It is the responsibility of LCG to satisfy itself that the SCP has been selected fairly and has sufficient capacity, capability, quality and business standing to deliver the provision that it is being subcontracted to deliver. To satisfy itself of this LCG will consider a number of factors, which include whether the SCP:

- Has been selected through a fair, open and transparent due diligence process and has been judged to be of a suitable risk and quality.
- Has satisfactory financial health and registered as active with Compliance House, if a registered company they must be low or very low risk.
- Has no unsatisfied county court judgements against it
- Has disclosed all contracts it holds and has held with the ESFA and in the case of terminated agreements, the reasons for the termination of agreement.
- Is registered as a training provider.
- Has disclosed the names of its Directors, Secretary and Senior Managers together with details of their previous appointments, particularly with organisations who hold or have held funding agreements with the range of funding bodies stated above.
- Has sufficient capacity to deliver its commitments under the subcontract agreement without adversely affecting its liability to meet its other commitments?
- Has robust employer placements available for learners on traineeship programmes?
- Complies with health and safety legislation and has carried out health and safety risk assessments covering the proposed subcontractor learners.
- Has declared to LCG all reportable injuries, diseases and dangerous occurrences covered by RIDDOR regulations over the last three years together with the actions they have implemented to prevent reoccurrences.
- Complies with legislation on employment (including the use of volunteers)
- Complies with legislation on migration, safeguarding and equality and diversity.
- Complies with data protection legislation (including the notification of the information)
- Has systems to ensure compliance with the ESFA and/or DACA requirements for data collection, processing and retention of records, where applicable?
- Has appropriately qualified and trained staff and other resources to deliver the subcontracted provision effectively from the start of the contract.
- Has appropriate policies and procedures including sustainability, where relevant
- Has appropriate learner support arrangements in place.
- Has an appropriate safeguarding policy and has designated safeguarding and equality and diversity person to liaise with the LCG safeguarding team?
- Has appropriate information, advice and guidance arrangements in place for learners.
- Has appropriate quality assurance arrangements in place which includes tracking progress and achievements.
- Direct contract holders do not have an inadequate Ofsted inspection outcome relating to any aspect of its overall performance or to the sector-subject area(s) of the proposed subcontracted provision.
- Has declared any allegations of fraud by learners.
- Has declared any conflicts of interest.
- Has provided references to support the process.

- Has an appropriate credit check and company house review by the Head of Procurement.

Due Diligence and Selection Process for Potential Subcontractors

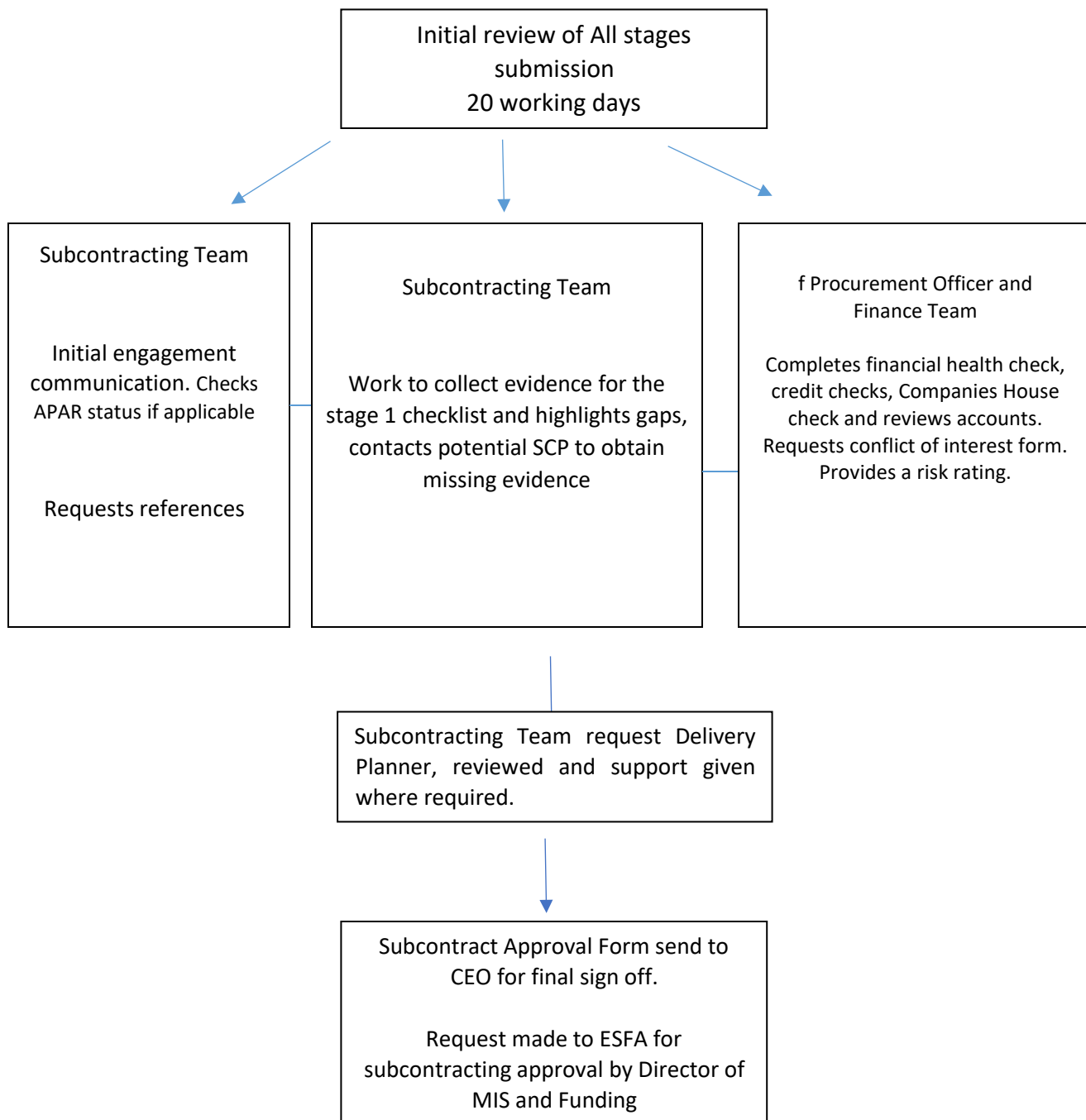
- Potential new SCP expresses an interest through the website or direct enquiry.
- Potential new SCP sent an Expression of Interest form and SCP return to subcontracting team.
- Subcontracting Team review and communicate outcome
- Successful SCP are invited to complete stage 1 DD questionnaire via the link, to submit all requested documentation and complete the financial assessment
- The Subcontracting Team will review all aspects of submitted DD, SCP will be informed of outcome of stage 1.
- Successful SCP will be invited to complete the Stage 2 questionnaire via the link.
- The subcontracting Team will review submitted information and inform SCP of outcome.
- Subcontracting Team will present information to the Accounting Officer and internal stakeholders for engage, hold or decline, SCP can expect to receive a decision.
- Successful SCP will be requested to complete a Delivery Planner to the Head of Subcontracting.
- On successful applications the subcontracting team will notify the SCP in writing and trigger the 'On boarding process'.
- The subcontracting team will trigger the contract preparation, and the successful applicants will expect to receive a contract to deliver learning on behalf of LCG from the bids and contracting team prior to delivery. Where traineeships are being delivered, appropriate checks will be undertaken on placement providers and/or policy and procedures relating to placements and/or work experience.
- Approved stage 1 applicants will be invited to proceed to stage 2 by the subcontracting, which includes the submission of all the required due diligence evidence, a site visit and collection of references. Those not approved will receive feedback within 5 working days of the decision.
- All of the stage 1 and stage 2 evidence are reviewed by internal stakeholders, risk assessed, and a recommendation made to the Accounting Officer to engage, hold or decline. Applicants can expect to receive a decision within 10 working days.
- On successful applications the Contract Manager will notify the SCP in writing and trigger the 'On boarding process'. The appropriate Director will trigger the contract preparation and the successful applicants will expect to receive a contract to deliver learning on behalf of LCG from the bids and contracting team prior to delivery. On receipt of agreed and signed contracts the Subcontractor Declaration will be sent to the ESFA.
- The risk assessment process will determine the management fee charged were applicable and will be in line with the quality assurance and visit structure that will be in place for each SCP, agreed before continuing.
- Information held in SCP partner files is updated and refreshed over the year with a full refresh carried out at the start of the next academic year. This includes the submission of a new due diligence questionnaire, the profile for the year ahead, if applicable, new credit check carried out, accounts update as well as risk rating and management fee analysis. Policy updates and staffing will also be included in the refresh, as well as items required throughout the partner file for both non-levy or levy SCP.

On Boarding

The 'on boarding process' includes an introduction of the key stakeholders within LCG and the distribution of the Subcontracting Partner Handbook – ESFA and/or DACA (All Provisions). This allows all parties to be aware of their counterpart and communication processes.

The on boarding process will involve the trigger of observation planning with the quality team and an MIS support session.

Subcontractor Due Diligence Process



Alterations within the Contract Period

- An initial risk rating will be allocated during the selection period and at times this may change during the contracting period.
- The Quality and Contract monitoring activities cover all aspects of the learning journey and funding rules requirement. Should it be deemed that a subcontractor has fallen short of these rules and expectations, it may be deemed appropriate to raise the risk rating and implement closer scrutiny measures.

- Contract variations may be triggered by either the Head of Subcontracting or the Contract Manager for a number of reasons including but not limited to changes in profiled spend, over or under performance, addition or removal of services.
- When contract variations exist for profiled spend then an updated Subcontractor Declaration will be submitted to the ESFA by the Reporting and Systems Manager or the MIS Manager.
- On occasions where improvements are not made and the provision is a risk, the appropriate Director will make a decision to implement the contingency plan and terminate the contract.

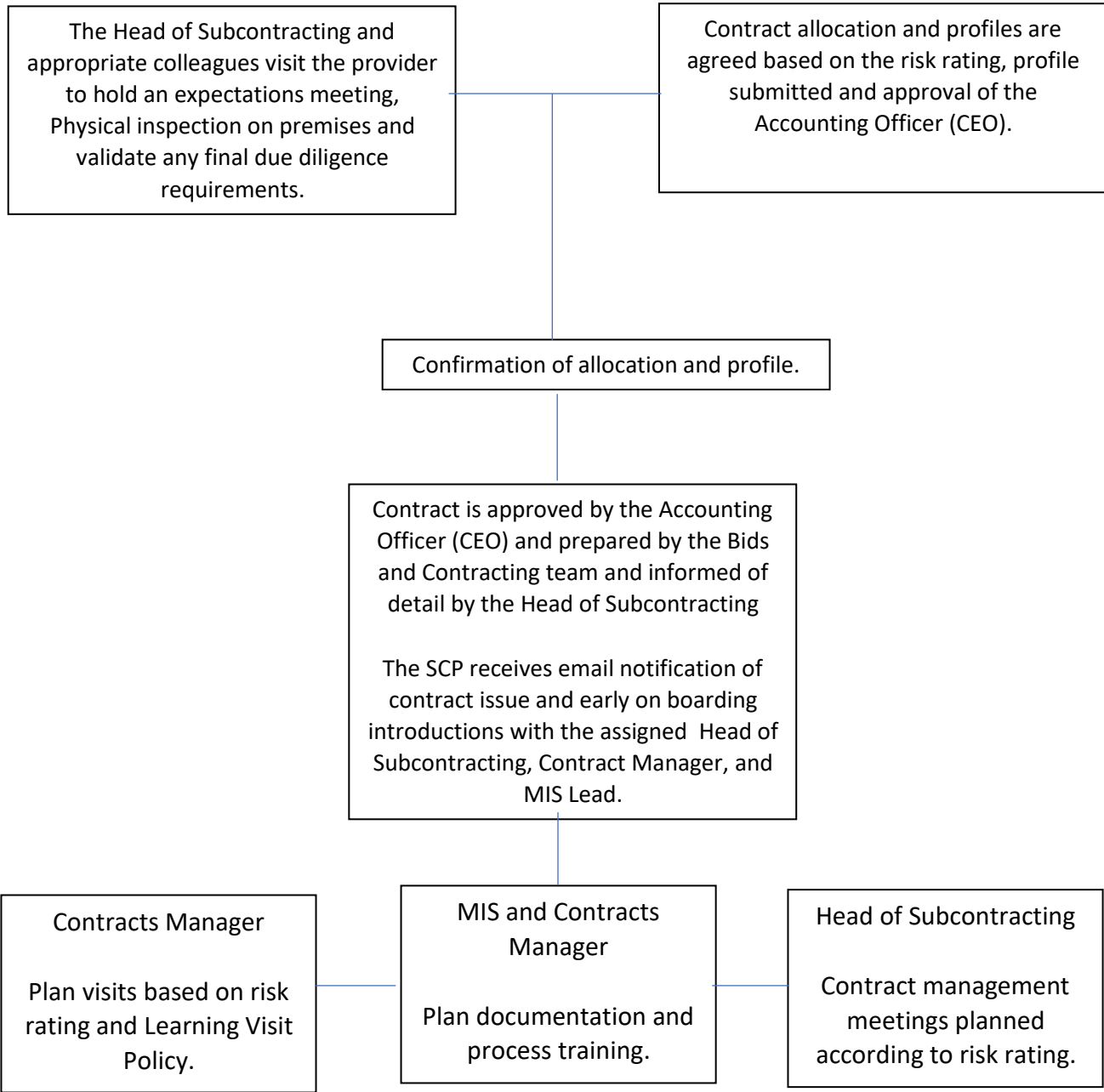
Occasions that will impact on the risk rating may include but is not limited to:

- Poor performance against the contract KPI's for enrolments, retention and success
- Consistently poor performance on profiles – actuals versus target
- A drop in the quality of teaching, learning and assessment.
- Data submissions that fail to meet compliance expectation.
- Unsatisfactory learner and employer feedback.
- Unsatisfactory achievement of agreed actions
- Breach of any contract conditions

This will result in a greater frequency of visits and internal audit sampling. Partners will be informed of any risk rating changes. It may also be deemed necessary to increase the management fee to support implementation of the increased intervention and such occasions will be reported to the Executive Team. The SCP will then be issued/work towards an intervention plan, reviewed regularly.

Where improvements are made following intervention the risk rating may be reduced in year and partners will be informed of this.

Contracting Negotiations and On Boarding



Contract Governance

Contract changes, which include reviewing of contracts to ensure they continue to meet evolving business and education needs, contract renewals and variations are governed by a designated responsible person depending on the nature of the contract change and is supported by the Approval of Contracts procedure.

For the avoidance of doubt, the following types of contract governance and associated responsibilities are listed below.

Governance Type	Responsible Officer
Review and updating of Legal and legislative contract requirements	Head of Bids and Contracts
Review and updating of contracts in relation to the funded contracts rules and regulations	Subcontracting Team and Legal Manager
Regular review of the subcontract to ensure it meets evolving and business and educational needs	Head of Subcontracting and Contract Manager
Performance management variations which include increases/decreases to contract and KPI's	Head of Subcontracting and Contract Manager

All proposed changes will be approved and issued under the Approval of Contracts procedure.

Responsibilities Contract Compliance and Quality Monitoring

The activities for monitoring will include appropriate quality visits, contract reviews, financial checks and MIS meetings as standard, unannounced visits/observations, themed reviews may also take place at greater frequency. Through these activities, Head of Subcontracting and the Contract Manager, supported by the MIS, audit and quality team will: Evaluate, monitor and where necessary set target improvements and/or information plans for the following applicable measures:

- Qualification achievement rates (QAR)
- Quality of placements for traineeships/Study Programme.
- Progression and destination results for all types of delivery
- EDIMS
- Learner progress and target achievements for all programmes
- Learner satisfaction
- Quality of teaching, learning and assessment
- All KPIs from within the contract
- Approach to learner's development in staying safe, Equality and Diversity, British Values, Prevent Duty and wider employability skills.
- Performance against delivery profile and employer requirements
- Satisfactory leadership and management
- Audit compliance meets requirements of ESFA and/or DACA.

The Head of Procurement will complete during the contract year.

- Company Director checks as part of due diligence at 6-month intervals
- At 6-month point, accounts update requested.

LCG will ensure that their SCP submit the data required by the ESFA and/or DACA on a timely basis and this is detailed in the Subcontracting Partner Handbook.

The contract will detail the targets and compliance expectations and we will retain 5% of funding and this will be reconciled at period 14 and paid on achievement of these.

MIS

LCG MIS department will work with the relevant Head of Subcontracting and Contract Manager to feedback information to use at performance review meetings with each SCP that includes the following:

- Past planned end date learners (PPED)
- Contact evidence submitted in a timely manner.
- Health and Safety vetting and insurances for the delivery partners' employers
- Enrolment queries (extended to all paperwork submitted I need be)
- Employer financial contributions
- Audit and compliance findings
- Data reports
- Progression and destination for specifically for ESF, study programmes and Traineeships
- Payment data and rationale

The MIS team will do regularly FRM checks for duplicate funded learners. LCG will notify the ESFA immediately where we might become aware of instances of suspected fraud or financial irregularities.

The Subcontracting Declaration guidance will be followed, and updates provided to the ESFA and/or DACA as requested, at times of change and at set points published by the ESFA

[Declaring subcontracting arrangements to ESFA - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/674442/Declaring_subcontracting_arrangements_to_ESFA_-_GOV.UK.pdf)

West Midlands Combined Authority

[2024-25 WMCA Skills Programmes Funding Rules - V2](#)

[Skills Programmes - 24-25 Payment Performance Management Framework](#)

[2024-25-Subcontracting-Policy-Part-7-1.pdf](#) (teesvalley ca.gov.uk)

[Schedule 1 - North East CA ASF Funding Rules - issued June 2024.pdf](#)

Contracting

The performance of the contract is managed by both the Head of Subcontracting and the Contract Manager, as part of the Contract Management Framework. This includes, but is not limited to, the contract spend and the obligations noted within the signed contract. Ongoing profile updates are carried out and variations issued where necessary if profile cannot be met or there is underperformance. This is determined through the quality and performance reviews that take place with each delivery partner.

The Head of Subcontracting and Contract Manager and appropriate colleagues will support SCP to continue to develop their provision, this will include but not limited to:

- Matrix accredited advice and guidance -where applicable

- Compliance against ESFA and/or DACA regulations
- Funding, MIS, audit and submission of data return guidance and training
- Adhere to delivery schedules and timetables, with any changes/amendments communicated before delivery commences.
- Learner voice strategies and improvement planning
- Preparation for External Inspection and review
- APAR reminders and application guidance if required.
- Generic and themed quality support
- Safeguarding, British Values, Equality and Diversity and Prevent training and support, Environmental Sustainability and Local Skills Improvement plans as outlined in the Skills and Post-16 Education Act 2022.
- Access to LCG's staff development activities.
- Self-Assessment and Quality Improvement Support
- Teaching and Learning Observations (Inc. paired observations)
- Group sharing practice and development sessions.

Payment Process

MIS checks

- The Subcontractor will receive remittance once ILR is submitted by MIS within 48 hours.
- The Subcontractor will review the initial remittance for accuracy and MIS will request the in-learning evidence for all learners
- Once evidence is sent, MIS check on in learning attendance, anything below 50% would be removed from the remittance for that month.
- An amended remittance (if needed) is sent to the Subcontractor.
- Payment spreadsheet is completed and sent to the finance department for payment.
- The finance team then makes the payments to the subcontractor usually by the 1st working day of every month.

Approval of Subcontractor payments

- Invoices from Subcontractors follow our Delegated Levels of Authority process and may require multiple approvals within our Purchase-to-Pay (P2P) system Proactis.
- Where possible and appropriate, a Purchase Order (PO) is raised and sent to the Subcontractor. The PO requires approval from the appropriate persons within the approval chain, determined by value and cost centre.
- Once the services have been received, the PO is 'receipted' by the appropriate Manager. If an invoice is submitted by the Subcontractor and matches the Purchase Order and receipt, it will be scheduled for payment automatically on the invoice due date.
- Invoices are logged by the accounts payable team onto Proactis and are coded to a cost centre and nominal code. If there is no Purchase Order on the invoice this may be rejected, and the subcontractor will be required to add the relevant Purchase Order number to the invoice and resubmit.
- If there is no matching Purchase Order number, the invoice may then be sent for standalone approval, which follows the same approval process as the Purchase Order. In some cases, a retrospective Purchase Order may be raised.

RELATED POLICIES AND DOCUMENTS

Group 8

- Subcontract Management Fee Policy
- Subcontracting Partner Handbook

APPENDIX 1

Subcontract Contingency Plan

We have a contingency plan in place for learners should the need for either parties withdraw from a subcontracting arrangement, or the subcontractor ceases to trade. The following outlines a series of actions that will be taken should this situation arise.

Activities	Advance Preparations to Prepare for the Risk	Actions on Notification	Expected Results	Responsibilities
Terminate Contract		Write to Partner to terminate the contract. Cease all payments to Partner until a payment reconciliation can be agreed	Contract is terminated immediately	Directorship
Funding Bodies		Communicate with the funding body and inform of them of the contract ceasing. Communicate as requested on an ongoing basis. Return funding to the ESFA and/or DACA as requested and when identified as necessary. Inform funding body to any suspected malpractice	Compliance in relation to expectations of the ESFA and/or DACA	Directorship
Learner and Employer Communications	Prepare template notification letters. Templates informing of transfer to lead or other. All contacts details are up to date with a process in place to ensure this is the case	Letters distributed within 24 hours. Trigger telephone calls where practical	100% of learners and employers receive accurate and timely notification	Quality Department

Activities	Advance Preparations to Prepare for the Risk	Actions on Notification	Expected Results	Responsibilities
Continued Training and Progression	Map the sectors and subjects delivered by subcontractors to our own capabilities. Identify alternative providers where necessary	Trigger the transfer to either: a) LCG b) Alternative Provider Communicate transfer with employers/learners of new assessor/provider	Smooth transfer of learners without effecting progress	Head of Subcontracting Contract Manager Quality Department Operational Department
Management Information System and Documentation		Transfer provider on all MIS systems to reflect change. Retrieve all LCG documentation from the subcontractor. Retrieve all learners work portfolios and certificates	Timely transfers on the MIS system and ILR	MIS Department
Awarding Organisation		Inform awarding organisation of learner registration transfers to: a) LCG b) Another provider Monitor and track these changes	Smooth transfer of all learners	Quality Department
Status of Each Learner		Establish planned end dates of all learners. Examine learner tracking reports. Examine last progress reviews. Prepare current status for each learner regarding being behind, on track or ahead of target. Communicate with new delivery team, learners and employers of status and action plan to completion	Timely information to inform planning to completion	Operational Department
Transfer Effectiveness		On successful transfer of learners:	Successful transfer with no negative impact	Operational Department

Activities	Advance Preparations to Prepare for the Risk	Actions on Notification	Expected Results	Responsibilities
		<ul style="list-style-type: none"> a) Monitor progress every 4 weeks by completing progress reviews to the point of completion. b) Obtain and action learner and employer feedback 	on the learners' journey, experience or success	