

Subcontracting Guide 2024-25

Overall responsibility:

Deputy Principal Finance & Corporate Affairs

Implementation:

Deputy Principal Finance & Corporate Affairs; Assistant Principal
Teaching, Learning & Quality

Approved by Corporation

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1. INTRODUCTION

- 1.1. This guide gives an overview of each section of our Subcontract Management Framework. Northampton College is committed to effective partnership working with stakeholders in pursuit of our strategic objectives. Appropriate sub-contracting can help support the delivery of the College's objectives, within the parameters set by the College's funding bodies.
- 1.2. The College may seek sub-contracting partners where there is a specific need or strategic objective that can be advanced through a sub-contracting arrangement. All partners of Northampton College must contribute to, and act in accordance with, our objectives and values.

2. RESPONSIBILITY

Deputy Principal Finance & Corporate Affairs

3. SCOPE

- 3.1 This Guide relates to subcontracting arrangements within Northampton College supported by funding from the Education and Skills Funding Agency (ESFA) or any successor organisations.
- 3.2 We define a subcontractor as a separate legal entity that has an agreement with Northampton College to deliver any element of the education and training for which funding is received. A separate legal entity would include any companies in our group, other associated companies, and sole traders. It also includes individuals who are self-employed or supplied by an employment agency, unless those individuals are working under our direction and control, in the same way as our own employees.
- 3.3 Northampton College remains responsible for all sub-contracted provision and will ensure learners supported through subcontracting arrangements understand that they are students of the College and about the subcontractor's roles and responsibilities.

4. POLICY STATEMENT

- 4.1 The College recognises the potential value of subcontracting and the importance of ensuring subcontracting arrangements adhere to funding body requirements. The College may utilise sub-contracts where the rationale meets these requirements, is clearly aligned to the College's strategy, and where it can optimise the quality, impact and effectiveness of service delivery. The College will ensure that:
 - a) All sub-contracted delivery complies with the ESFA published sub-contractor rules, performance management and quality assurance standards.
 - b) The College undertakes fair and transparent selection of subcontractors and conducts robust due diligence to ensure that provision is high quality, value for money is safeguarded and demonstrated, and subcontracts are not awarded to entities considered high-risk under government guidance.
 - c) The College will have appropriate and robust contract management, quality assurance and payment mechanisms to ensure high quality provision and funding compliance.
 - d) Subcontracting arrangements are embedded in College governance and risk management.

5. RATIONALE FOR SUB-CONTRACTING

- 5.1 The College's Strategic Plan sets out our priorities and ambitions for the coming years. Our curriculum offer supports the achievement of our Strategic Plan. The College will only sub-contract

where such an arrangement meets a specific need or advances strategic objective and is in line with funding guidance i.e., to meet one or more of the following aims:

- Enhance the opportunities available to young people and adults.
- Fill gaps in niche or expert provision or provide better access to training facilities.
- Support better geographical access for learners.
- Support an entry point for disadvantaged groups.
- Support individuals who share protected characteristics, where there might otherwise be gaps.

5.2 The College will not sub-contract provision purely to meet funding obligations and recognises that funding body direction is to reduce the volume of sub-contracting activity year-on-year, with a maximum level of sub-contracting equivalent to 25 per cent of distinct learners enrolled under any funding stream. If more than 25% of the learners (based on ILR data) for Adult Skills Fund (ASF) or 16 to 19 is forecast for subcontracting, and it is not considered that this can be reduced to less than this, an exemption case must be submitted to the ESFA by March 31st each funding year to obtain ESFA's agreement and a subcontracting reduction strategy will be required. Compliance with this requirement will be reviewed on an annual basis. For 2025-26, the College does not envisage exceeding the 25% learner threshold, noting that changes to adult skills funding add to uncertainty in estimating overall recruitment.

5.3 The College recognises that subcontracted provision carries an inherently higher risk compared to provision delivered on our premises. The approach set out in this policy mitigates this higher risk profile and the College's risk appetite for sub-contracting differs across available funding streams.

5.4 For 2024/25, the College currently plans to undertake sub-contracting through the Adult Skills Fund only.

5.5 The College's priority for sub-contracting is to address local, regional and national skills needs, particularly supporting unemployed and / or underemployed adult students to access work in priority sectors. Subcontracted provision will focus on equipping students with skills that provide a stepping stone to further education at Northampton College or elsewhere, to entering sustainable employment, progressing in their current roles, securing career development, and / or improving their earning potential. Our programmes will aim to enhance employability and empower individuals to pursue career progression.

5.6 The College's approach will ensure that any sub-contracted curriculum aligns with local, regional and national labour market priorities, within the funding frameworks for adult skills education. Whether students are seeking to enter sectors such as health and social care, business, or digital technologies, subcontracted qualifications will support students to bridge skills gaps, contributing to the growth of local economies and to the national priority for the development of a skilled workforce. Based on our assessment of these priorities, subcontracted qualifications may be offered in the following sectors:

Curriculum Alignment with Local and National Priority Sectors			
	Priority Sectors		Subcontracted Provision
Sector	Local	National	Adult Skills
Business & administration	✓		✓
Care services	✓	✓	✓
Catering & hospitality	✓		✓
Digital	✓	✓	✓
Education & childcare	✓		✓
Engineering & manufacturing	✓	✓	✓
Health & science	✓	✓	✓
Service (cleaning)	✓		✓
Sustainability	✓	✓	✓
Transport & logistics	✓	✓	✓

- 5.7 The College intends to approach this priority through a subcontracting arrangement to enhance opportunities and access for learners with diverse needs, many of whom work non-conventional hours and are not able to access ‘traditional’ further education through offering flexible delivery methods. Our subcontracted curriculum offer will be capable of completion online, supported by tutor-led masterclasses and allowing students to study at a time and place that suits them. This flexibility ensures that individuals with work, family, or other commitments who may not otherwise be able to access provision at Northampton College or elsewhere, can still access high-quality education and progress at their own pace.
- 5.8 Through subcontracting delivery mechanisms providing flexibility in learning which complements the College’s core delivery approach, we aim to increase participation in learning, in line with relevant Department for Education guidance, enhancing training opportunities available to adult students in priority sectors which can be accessed and completed by students whenever and wherever is most convenient to them. Subcontractors will be expected to prioritise recruitment of learners in Northampton and Northamptonshire, then in the broader South East Midlands region, and then nationally, in line with extant funding rules.
- 5.9 Within the local and national priorities above, we expect curriculum priorities will continue to be Health and Care, which are national and regional priorities already served by the College’s existing on-site provision, the development online of Digital and ICT skills, and opportunities to enhance training in green technologies. We recognise that local and national employer priorities include core business administration and management skills and expect this to remain part of our subcontracted portfolio.
- 5.10 The College’s subcontracted curriculum offer will reflect the need to demonstrate compliance with the maximum learner thresholds set out above.
- 5.11 The College will only subcontract with providers whose staff can provide expert-led instruction through appropriate qualifications and / or industry specialism and experience. Subcontracted partners will be required to demonstrate sufficient combination of flexibility and expert-led instruction to meet our rigorous quality standards and ensure students are fully prepared for progression. In common with all College students, we will expect subcontractors to provide robust Careers Education, Information, Advice, and Guidance (CEIAG) from the outset. Students will be supported to identify their career goals and understand how their qualifications align with local, regional and national labour market needs. Subcontractors will have effective mechanisms to track progression, outcomes and destinations to help inform and refine the College’s offer and approach over time.

6 PROCUREMENT & SELECTION

- 6.1 The College considers itself a contracting authority under the 2015 Public Contract Regulations, and has determined, including through legal advice, that its sub-contracting activity constitutes 'educational services' under those Regulations.
- 6.2 Based on its experience and risk appetite, the College's procurement strategy for sub-contracting is to concentrate activity with a single, well-established and financially sound provider. This provider should have the capacity and reach to meet the curriculum offer, volume and quality expectations of the College in line with this policy and funding body guidance. The procurement process for each subcontract will ensure that appropriate financial, quality and corporate due diligence is obtained prior to contract award, in line with extant ESFA guidance. We will also apply the criteria in the ESFA "Funding higher risk organisations and subcontractors" guidance, and will not subcontract with providers considered "higher risk" under this guidance.
- 6.3 The College will not award a contract to a legal entity if:
- it has an above average credit risk rating ;
 - it has passed a resolution (or the court has made an order) to wind up or liquidate the company, or administrators have been appointed;
 - it has not filed first statutory accounts or its statutory accounts are overdue, unless sufficient alternative assurance is available; or
 - the College does not have assurance that extremist organisations are not funded in connection with the sub-contractor.
- 6.4 Where the College's envisaged contract value is anticipated to exceed the relevant procurement threshold and no relevant pre-qualified frameworks have been identified, a full procurement exercise will be undertaken to ensure compliance. The College will ensure that subcontractor(s) are selected fairly, transparently and without discrimination and potential subcontractors have sufficient capacity, quality and business standing to deliver the provision that is being subcontracted. The College's intent is to enable active enrolment from January 2025.
- 6.5 The College is not intending to undertake distance or whole programme subcontracting for 16-19 year olds and therefore ESFA approval for such programmes will not be required.
- 6.6 The ESFA will be notified about any circumstances which might lead to an actual or perceived conflict of interest. For example, where the College and proposed subcontractors have directors or beneficial owners in common. If this is the case:
- Contracts will not be awarded without written ESFA permission
 - Evidence will be kept of both the request and ESFA reply
- Contracts will not be agreed, without written ESFA permission, to any institution or organisation which is not permitted to recruit 16- to 18-year-old students and/or 19 to 25 year old high needs students (HNS), for example an 11 to 16 school. In accordance with the College's agreement with the ESFA no agreement will be entered into for brokerage. No artificial distinctions or distortions will be made when describing delivery arrangements to avoid the application of any ESFA rules.
- 6.7 Subcontracts for the delivery of ESFA funded provision will only be awarded to legal entities. If the legal entity is a registered company, it must be recorded as 'active' on the Companies House database. Subcontractors for contracts valued over £100,000 must be registered on the UK Register of Learning Providers (UKRLP) and hold a valid UK Provider Reference Number (UKPRN) to be eligible to receive ESFA funding, either directly or through a subcontracting arrangement. We will obtain this information from each proposed subcontractor and refer to the latest published List of Declared Subcontractors and the Register.
- 6.8 No subcontracts will be agreed where this would require the College to subcontract ESFA funding to a second level of subcontractor.

7 CONTRACT MANAGEMENT AND ADMINISTRATION

7.1 Key roles and responsibilities for the management of sub-contractors are set out in the table below:

Job Title	Roles and Responsibilities
Principal	Chief Executive
Deputy Principal	Overall responsibility for all College educational provision
Deputy Principal Finance & Corporate Affairs	Budget Holder and SRO/Contract Manager
Director of Management Information Services	Funding, Documentation, Compliance and Data Protection Assurance
Assistant Principal Teaching, Learning & Quality	Curriculum Intent & Offer, Quality Monitoring and Assurance

Other College staff work under direction in support of the senior staff above. The SRO acts as Contract Manager.

7.2 Prior to learning commencing, the College will have in place a legally binding contract with each subcontractor and will make sure that the terms of the subcontracts include details of the management costs we charge and reference to this Subcontracting policy, and allow us to effectively:

- monitor the subcontractor's activity;
- have control over our subcontractors, and
- monitor the quality of education and training provided by our subcontractors.

7.3 The College will ensure subcontractors:

- adhere to or exceed the minimum provisions with ESFA' subcontracting rules;
- provide us with ILR data so our data returns accurately reflect our subcontractor's delivery information;
- give the ESFA and any other person nominated by them, access to their premises and all documents relating to ESFA/CPCA-funded provision;
- give us sufficient evidence to allow us to:
 - assess their performance against Ofsted's Education Inspection Framework
 - incorporate the evidence they provide into our self-assessment report, and
 - guide the judgements and grades within our self-assessment report
- always have suitably qualified staff available to provide the education and training funded;
- co-operate with the College to make sure that there is continuity of learning if the subcontract ends for any reason;
- tell us if evidence of any irregular financial or delivery activity arises. Irregular activity could include, but is not limited to:
 - non-delivery of training when funds have been paid
 - sanctions imposed on the subcontractor by an awarding organisation
 - an inadequate Ofsted grade
 - complaints or allegations by learners, people working for the subcontractor or other relevant parties, and
 - allegations of fraud
- are bound by European Social Fund (ESF) clauses from our funding agreement being then included in the subcontract, even if the provision being subcontracted is not funded by the ESF;
- do not use funding to make bids for, or claims from, any European funding on their own behalf or on our behalf; and
- do not use payments made as match funding for ESF co-financing projects.

7.4 In agreement with both parties, variations to the contract may be issued during the contract period. The variation may relate to, for example:

- Changes in the management fee dependent on the level of support required.
- Changes to the volumes of learners and funding.
- Changes to the range and scope of provision delivered by the Subcontractor

7.5 Overarching responsibility for the management of administration resides with the Deputy Principal Finance & Corporate Affairs.

7.6 A Subcontracting group consisting of the SRO, the Assistant Principal TLQ and the Director of MIS, together with other Quality and Finance representatives will meet at least termly, aligned to Sub-contractor Monitoring meetings. The agenda includes standing agenda items for example:

- a review of each subcontractor's current performance;
- quality/contract management;
- health and safety visits and confirmation of funding payments.

Any outstanding requirements in relation to safeguarding training or submission of documentation are also discussed. Actions will be recorded and shared with the sub-contractor(s) where relevant.

7.7 Subcontractor data including enrolments, retention, pass and achievement rates are reported within College management information systems and reviewed by MIS and quality teams and the Contract Manager.

8 RELATIONSHIP AND PERFORMANCE MANAGEMENT

8.1 The SRO will provide continuity of relationship management and subcontractors will also be expected to prioritise continuity of contract management, where relevant, to ensure detailed knowledge of the contract is built and retained and relationships are built between College and subcontractor staff.

8.2 Regular structured and informal communication routes between the SRO/Contract Manager, key college staff and subcontractors are important to ensure effective relationship management. Contract monitoring meetings take place at least termly to monitor the performance of the contract. Key College staff are introduced to subcontractors to enable timely, appropriate responses to enquiries, queries, and minor problems.

8.3 Subcontracted partners will be expected to meet the College's quality assurance standards. The Assistant Principal Teaching, Learning & Quality will oversee the quality of subcontracted provision, including ensuring safeguarding and PREVENT activity are rigorously policed. 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. The subcontract will provide for quality and data assurance including:

- verification of learners and their eligibility for funding;
- visiting all or any site(s) and view operations relating to the provision;
- the examination, audit or copying of documentation and records relating to the contract;
- co-operation with all audit monitoring or inspection requirements required by the Funding Body or the College; and
- access to training and assessment sessions for the purpose of observing teaching and learning, both announced and unannounced and / or short notice visits.

The College will maintain a Subcontract Quality Strategy for each subcontract detailing the Quality Assurance approach. The strategy will include regular Monitoring meetings between College and subcontractor staff which shall be minuted and recorded.

8.4 An appropriate basket of performance measures will be defined in the contract and will generally cover the following areas:

- Profile of learner starts
- Qualification Achievement Rate
- Quality Compliance, for example observed Teaching, Learning & Assessment
- Learner Progress
- Audit Compliance
- Customer Satisfaction

Specific measures will be determined for each subcontract. A proportion (generally 5 per cent) of contract value will be retained until the end of the contract and will be released once performance against targets and any audit activities have been confirmed.

8.5 Where underperformance is identified, proportionate interventions will be introduced, with the subcontractor developing an action plan for improvement in dialogue with the College. Failure to provide an acceptable standard of training or compliance with contractual requirements, for example data security, will lead to more formal procedures, and may result in a subcontract being suspended or terminated.

9 PROVIDER DEVELOPMENT

9.1 Improving provider performance and capability is important to developing the relationship between the College and subcontractors. The College's procurement strategy is expected to lead to relationships with mature partner organisations in which mutual learning can help enrich both organisations. Mutual development opportunities are expected, and the College's contribution to provider development will reflect the organisational maturity of chosen partners. As part of the subcontract arrangement, the College will consider a range of support opportunities including:

- providing annual contextualised Safeguarding Training for subcontractor staff;
- providing access to data reports to support understanding of retention, achievement and pass data;
- providing feedback on quality assurance activities to enable improvements to the quality of education;
- providing access to relevant CPD activities;
- providing advice and guidance on teaching, learning and assessment, learning support and welfare strategies and interventions as required;
- access to expertise, advice and support in relation to Safeguarding and Health and Safety; and
- joint working on process improvement and mutually beneficial future activities, as appropriate.

10 PAYMENTS, FEES AND CHARGES

10.1 The Deputy Principal Finance & Corporate Affairs determines Management Fees and charges for sub-contracting and, following approval by the Principal, these fees are published on the College's website annually. Fees and payment arrangements will be documented in the subcontract and will generally include retention of funding to provide an incentive for completion of the expected contract performance.

10.2 The College standard Management Fee is 20% which is applied to the actual funding earned by students on the programme being delivered as part of the sub-contract contract. Management fees can be increased if additional support is required. Any increase in fees will be discussed in advance and agreed in writing with subcontractors. The SRO must approve any contractual changes, and significant increases in contract values require Corporation approval.

10.3 The standard Management Fee reflects the cost to the College of support and other contract management activities in line with this policy and wider guidance and requirements, as follows:

Activity	Estimated % Funding Value
Enrolments and maintenance of the ILR	5%
Contract management & Monitoring	6%
Quality Assurance & Improvement	5%
Due Diligence and Finance	3%
Provider Development & access to expertise	1%

10.4 Payments are calculated and reconciled monthly once the College has received the Funding Report from the ESFA. The College will provide the Funding Report to subcontractors who are required to review for accuracy and completeness. Once validation is complete, subcontractors may then provide an invoice to the College for the value of the month detailed on the Funding Report minus the Management Fee.

10.5 On receipt of an undisputed invoice the College will make payment by BACS within 30 days.

11 RISK MANAGEMENT

11.1 The SRO is responsible for ensuring that risks associated with subcontracting are reflected in the College's overall Risk Management approach, including the dynamic Risk Register.

11.2 Specific risks relating to each subcontract will be identified and discussed through regular Monitoring Meetings and the College Subcontracting Group. Where serious risk is identified this will be escalated and reported to the Executive Management Team and Principal and, where appropriate, Corporation.

11.3 Contractual terms will reflect data security and confidentiality, insurance and health and safety issues and, where relevant, subcontractors will be required to share documents to support due diligence and wider risk management.

11.4 Where a subcontractor is failing to provide appropriate information or deliver expected performance, intervention may be required. Intervention will follow the hierarchy set out below:

- *Formal Risk Assessment:* the College will seek evidence providing assurance of performance and/or contractual commitments. During this period, payments to the subcontractor may be suspended. Where assurance is provided, intervention will cease and payments resume. If assurance is insufficient, further action may be taken.
- *Formal Intervention:* The College will undertake further work with the subcontractor on appropriate support measures. Such measures will be agreed with the subcontractor and may incorporate increased monitoring, support and audit activity in addition to agreed improvement measures. Under formal intervention, the College will retain an additional proportion of funding, reflecting additional costs to the College of the intervention activity.
- *Contract Termination:* If formal intervention does not provide sufficient evidence of progress and compliance with funding body requirements, the College may make arrangements to terminate, in line with the relevant contractual provision.

11.5 Where a subcontract is terminated, the College will enable completion of enrolled learners' activity. To facilitate completion, the College will consider options including college delivery of the remaining programme using college employees or consultants, and / or seeking a suitable alternative provider through a separate subcontracting arrangement.