

Subcontracting Policy

This policy forms part of the Higher and Degree Apprenticeship Quality Management Framework.

This policy and the rest of the Framework should be used to support delivery of Higher and Degree Apprenticeships at the University of Chester and any questions regarding the Framework should be forwarded to the [External and Professional Programmes Team](#) in the first instance.

A glossary of terms is available to support this policy.

Introduction

This policy sets out the University of Chester's (the University) approach to managing subcontractors in relation to its apprenticeship provision.

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Example Policy

Introduction and Purpose

The University of Chester (the University) only uses subcontractors to complement its own delivery where a subcontracting arrangement will enhance the teaching and learning for apprentices, e.g. by partnering with either the employer or a specialist provider to deliver a component or components of the apprenticeship programme.

In accordance with ESFA funding rules, as the lead training provider, the University will undertake a substantive proportion of the delivery of any apprenticeship where a subcontract is in place.

The University will only use delivery subcontractors who satisfy one of the following two criteria:

- They are on the published Register of Apprenticeship Training Providers and have applied by the main provider route.
- They are either the apprentice's employer, a connected company or charity as defined by HMRC and are on the published Register of Training Providers, having applied through the employer provider or supporting provider application route.

Roles and Responsibilities

Nominated members of staff with strategic lead responsibility for subcontracting:

- Senior Pro Vice-Chancellor and Chief Operating Officer

Nominated members of staff with responsibility for procurement of subcontractors:

- Procurement Manager
- Head of Apprenticeships

Nominated member of staff with responsibility for performance management of subcontractors:

- Head of Apprenticeships

Scope and Context

This Subcontracting Policy is a mandatory requirement that must be in place prior to participating in any subcontracting activity and applies to all subcontracted provision funded by the ESFA. The content of this policy has been developed in line with Education and Skills Funding Agency (ESFA) apprenticeship funding rules and associated guidance for subcontracting with delivery partners. This includes the criteria set out in the ESFA's Funding Higher-Risk Organisations and Subcontractor's Policy as well as terms stated within our funding agreement with the ESFA and is in line with the ESFA's published subcontracting standard", including the web address of the standard guidance. ESFA subcontracting standard - GOV.UK (www.gov.uk).

Version Control

Version	7
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Example Policy

Rationale for Subcontracting

The University of Chester (the University) only uses subcontractors to complement its own delivery where a subcontracting arrangement will enhance the teaching and learning for apprentices, e.g. by partnering with either the employer or a specialist provider to deliver a component or components of the apprenticeship programme.

In accordance with ESFA funding rules, as the lead training provider, the University will undertake a substantive proportion of the delivery of any apprenticeship where a subcontract is in place.

The University will only use delivery subcontractors who satisfy one of the following two criteria:

- They are on the published Register of Apprenticeship Training Providers and have applied by the main provider route.
- They are either the apprentice's employer, a connected company or charity as defined by HMRC and are on the published Register of Training Providers, having applied through the employer provider or supporting provider application route.

Subcontracting is agreed with employers prior to the commencement of the apprenticeship delivery and is clearly articulated in the Apprenticeship Training Services Agreement. The Training Plan sets out what is expected from, and offered by, the apprentice, employer, main provider and subcontractor (i.e. the roles and responsibilities), details of how all parties will work together, and contact details.

Fairness in procurement

The University will undertake fair and transparent procurement activities at all times. The University's Legal Services team will advise on whether a subcontracting arrangement will fall within the scope of Public Contracts Regulations 2015.

The University will inform the employer, about any circumstances which might lead to an actual or perceived conflict of interest. This will be documented in the Apprenticeship Training Service Agreement.

Selection, approval and monitoring of subcontractors

A robust due diligence process will take place when selecting, approving and monitoring subcontractors.

Version Control

Version	7
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Example Policy

The University will only use delivery subcontractors who satisfy one of the following two criteria:

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Where subcontracting arrangements falls within the scope of the Public Contracts regulations, selection of an apprenticeship subcontractor will be via a procurement process as follows:

- Putting out to tender in accordance with the Public Contracts Regulations 2015 and University legal and governance processes
- Tender scoring and shortlisting of contractors
- Delivery site assessment
- Final selection

If subcontracting arrangements do not fall within the scope of the Public Contracts Regulations 2015, procurement will be via the University's Procurement practices and with reference to ESFA requirements, including with consideration of whether the subcontractor have sufficient capacity, quality and business standing to deliver the provision that is being subcontracted.

The University will not agree with an employer the use of a delivery subcontractor that it assesses as being unsuitable, or whose quality of delivery is demonstrably inadequate, even where the employer decides not to work with the University as a consequence.

The University has robust procedures in place to ensure it does not inadvertently fund extremist organisations through the subcontracting of apprenticeship training and / or on-programme assessment.

The University will not agree the use of any delivery subcontractor where this would require it to subcontract apprenticeship training and / or on-programme assessment to a second level. All of delivery subcontractors must be contracted directly by the University, and it may have more than one subcontractor. The restriction on the level of subcontracting is in place to ensure:

That main providers retain clear and transparent accountability for the quality of training provision;

That proper and appropriate controls are in place to manage the apprentice experience;

That value for money is achieved by mitigating funding being utilised for multiple tiers of subcontractor management.

The University will maintain the relationship with each employer at all times. It will not allow a delivery subcontractor to lead that relationship.

Annual due diligence check of subcontractors will take place, as a minimum.

The Prevent duty applies to subcontracted provision. It requires training providers to have due regard to the need to prevent people from being drawn into terrorism. As such, all further education providers must comply with relevant legislation and any statutory responsibilities associated with the delivery of education and safeguarding of students and this includes students receiving provision

Version Control

Version	7
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Example Policy

under a subcontracting arrangement. Any subcontractor of the University is required to adhere to the University's Prevent Policy, and this is included in the subcontracting agreement.

Employers will have the opportunity to decline the use of any subcontractor as a part of negotiating the training plan for given apprentices.

The University will not enter into any agreement for brokerage with brokerage defined as the provision by a third party of services, for a fee, to source delivery subcontractors to deliver on behalf of the University.

The University is responsible for ensuring its subcontractors comply with the requirements set out in the funding rules.

Following successful award, the subcontractor will be contractually required:

- to give the ESFA and any other person nominated in writing by the ESFA, access to its premises and to all documents related to their subcontracted delivery.
- be under an obligation to provide UoC with ILR data so that our organisation's data returns to the ESFA accurately reflect our subcontractor's delivery information. P192.4
The subcontractor must provide UoC with sufficient evidence to allow UoC to:
 - Assess performance against Ofsted's education inspection framework;
 - Incorporate the evidence it provides UoC with into UoC self-assessment report; and guide the judgements and grades within the University's self-assessment report.
- to always have suitably qualified staff available to provide the education and training funded by the ESFA.
- to co-operate with the University if the subcontract ends for any reason to make sure that there is continuity of learning
- to not use apprenticeship funding to make bids for, or claims from, any European funding on its own behalf or on behalf of the ESFA.
- to not use apprenticeship funding as match funding for ESF projects.

The subcontracting agreement will include provisions that enable the University to terminate the subcontract should the subcontractor be removed from RoATP.

Quality Assurance of Delivery

The delivery of apprenticeship training and on-programme assessment by subcontractors remains integral to the University's awards and successful outcomes for learners. Therefore, the University retains responsibility for the actions of its subcontractors and requires them to adhere to its policies for the maintenance of academic quality and standards. In practice this means that subcontractors are obliged to work with the University in a form of academic partnership.

To ensure a holistic training experience for learners, each subcontractor will partner with the relevant programme team in an arrangement overseen by the Programme Leader (or their nominee). The Programme Leader will facilitate the inclusion of the subcontractor in the maintenance of academic quality and standards through the policies and procedures set out in the

Version Control

Version	7
Approval Date	Jul/2023
Review Date	Jul/2024
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Example Policy

University's Principles and Regulations and the Quality and Standards Manual (jointly referred to as the Regulatory Information). Consequently, the University requires ongoing dialogue and interaction between the relevant programme team and the subcontractor to ensure that quality and standards are aligned and maintained.

Whilst there is a requirement for delivery subcontractors to be integrated into the relevant programme team, in common with the University's quality management framework, a risk-based approach is adopted in respect of subcontractor management.

Identification and selection of new subcontractors

Where the University has determined a need to subcontract the delivery of apprenticeship training and/or on-programme assessment, it will conduct a process of due diligence to determine the suitability of a proposed subcontractor. Supplemented by any ESFA rules applicable at the time, the University will, as a minimum, follow the process outlined in Handbook C of the Quality and Standards manual for the approval of a new academic delivery partner. This will include analysis of the proposed subcontractor's:

- Corporate and legal standing
- Current and ongoing financial viability
- Resource availability and capacity in the following domains (in respect of its ability to deliver the required training and/or on-programme assessment):
 - Physical resources
 - Online resources
 - Staffing (training and administrative) resources
 - Learning resources
- Track record in the delivery of the same or similar provision
- Compliance history with quality requirements evidenced (where available) through reports and audits of a competent body (e.g. Office for Students, Quality Assurance Agency, Ofsted etc.)

The purpose of these analyses will be to ensure that the rationale for the proposed subcontract fits with relevant University policies and strategies and that the proposed subcontractor is fit and proper to deliver learning, teaching and assessment that meets the University's thresholds for quality.

Once the University has agreed to the appointment of a subcontractor, the Programme Leader will undertake an initial visit to confirm appointment and to agree the approach to ongoing partnership working. As a minimum, the University expects there to be operational meetings between the subcontractor and the Programme Leader at intervals of not less than one per month.

Quality assurance of delivery

The academic quality and standards of each of the University's programmes, including those delivered as higher and degree apprenticeships, are maintained through engagement with the Continuous Monitoring of Enhancement (CME) process. This is outlined in Handbook D of the Quality and Standards Manual. Subcontractors must agree to engaging with the programme team and contributing to the CME process for those elements of a programme that they are responsible for delivering.

Version Control

Version	7
Approval Date	Jul/2023
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Example Policy

As a minimum, in addition to documenting quality matters discussed at the monthly operational meetings, programme teams working in partnership with a subcontractor must make clear on the CME quality improvement plan, which items relate specifically to the subcontractor. The Programme Leader may, if they wish, maintain a separate quality improvement plan isolating those actions that are specific to a subcontractor.

Programme teams are responsible for maintaining, overseeing and evaluating the CME quality improvement plan in the period between formal reviews. These formal reviews are undertaken by the relevant Faculty. A main review occurs in the autumn term and an interim review occurs in the spring term. The programme team is responsible for drawing to the attention of the relevant Faculty meeting those items in the quality improvement plan that relate to a subcontractor.

Institutionally, the academic quality and standards of each programme is reviewed annually according to a profile of risk. If, during this review, the University identifies an elevated level of risk in relation to a programme delivered as a higher or degree apprenticeship, the Internal Quality Assessment (IQA) process described in Handbook D of the Quality and Standards Manual will apply (see 'Quality concerns' below).

Additional quality assurance processes

In addition to requiring subcontractors to adhere to the University's quality management framework in partnership with the relevant programme team, additional quality assurance measures are undertaken periodically. These include:

- A series of announced and unannounced visits to the subcontractor by the Programme Leader or nominee. The purpose of these visits will be to ensure the continued delivery of high-quality teaching, learning and assessment (where applicable). Such visits will be documented and observations/discussions arising from them may inform the CME quality improvement plan.
- Conduct of teaching observations for apprenticeship training, in accordance with the process set out in Handbook J of the Quality and Standards Manual.
- Periodic conduct of an Internal Quality Assessment in relation to a programme delivered as a higher or degree apprenticeship. Subcontractors will be obliged to take part in the IQA process as an integral part of the delivery of such a programme.

Risks to quality

Through engaging the subcontractor in the University's quality management framework and the monthly operational meetings, the programme leader will be responsible for continuously assessing risks to quality. In addition, the relevant Faculty and the University through the CME review mechanism will consider any existing or emerging risks. Where any member of staff involved in the operation of the quality management framework believes that an uncontrolled risk has been identified in the delivery of teaching, learning and assessment, they must report this to Academic Services. In each case, Academic Services will determine whether to invoke a process outlined below ('Quality concerns').

Version Control

Version	7
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Document Author	K Watson

Example Policy

Where the subcontractor reports, or the relevant Programme Leader identifies that any of following conditions exist or are very likely to occur, a report to Academic Services must be made immediately:

- The subcontractor has insufficient staff and/or expertise to deliver the learning, teaching and assessment required.
- There is evidence of an irregular financial or delivery issue including, inter alia,
- Non-delivery of teaching, learning or assessment (excluding postponement of sessions for unavoidable reasons and that has been appropriately replaced);
- Sanctions or adverse quality outcomes reported by another awarding, registering or accrediting body;
- Allegations of fraud;
- An inadequate Ofsted grade; or
- Allegations or complaints by learners, staff members or other relevant stakeholders.

Quality concerns

Concerns about the quality of provision delivered by a subcontractor might be made at any point through the operation of the University's quality management framework, in the context of the regular operational meetings between the subcontractor and the Programme Leader, through complaints by relevant stakeholders or through whistleblowing. Academic Services must be informed where any quality concerns arise.

Low-level concerns that which can be attributed to one-off situations or are matters which can be remedied through the normal course of quality improvement required by the CME process can be dealt with by the Programme Leader. These should be documented in the operational meetings and/or identified in the CME quality improvement plan.

If the Programme Leader believes that there are quality concerns that are more serious (including those specific circumstances identified above), a report must be made to Academic Services. A decision will be taken about how best to control the risk identified. This may include more detailed monitoring by the Programme team, the conduct of an Internal Quality Assessment (usually across the whole programme and including elements delivered by a subcontractor) or, if a concern is isolated to the subcontractor, by following the Concerns Process outlined in Handbook C of the Quality and Standards Manual.

In each case, irrespective of the process applied, the aim will be to understand the nature of the concern, the level of the risk it poses and to take action to ensure that the risk is controlled to an acceptable level. In the event that an Internal Quality Assessment Panel or Panel convened through the Concerns Process determines that risk attributed to a subcontractor cannot be controlled to an acceptable level, the contingency measures outlined in section 12 will apply.

Internal Policies

Version Control

Version	7
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Review Date	Jul/2024
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Example Policy

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

- Staff Recruitment and Development
- Data Protection Policy (GDPR compliant)
- Health & Safety Policy
- Equality & Diversity Policy
- Safeguarding & Prevent Policy
- Modern Slavery Policy
- Insurance providing an adequate level of cover

These are to be reviewed in management activity with the subcontractor with regularity for example; as part of annual due diligence.

Fees and Charges

The subcontract agreement entitles the University to exercise management controls over the subcontractor's activity including access by auditors appointed by either the University or the ESFA.

The University may retain a nominal fee from the total funding for each apprentice for the management of subcontracted activity. These fees are reviewed annually and are adjusted as appropriate. Alternatively, the University may choose to not charge a management fee.

The management fees are individually negotiated with each subcontractor and detailed in Schedule 1 of the Subcontracting Agreement.

The costs cover the provision of:

Quality Monitoring	Quality Assurance and Oversight Contract review meetings Due diligence activity Observation of teaching Apprentice and employer feedback Other performance management activity, as required
Subcontractor Management	Operational oversight of apprentices Subcontractor declarations to ESFA Subcontractor audit activity (internal & external)
Support costs & administrative functions	Liaison about individual learners Contract management with employers and apprentices

Version Control

Version	7
Approval Date	Jul/2023
Review Date	Jul/2024
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Example Policy

	MIS function relating to the submission of funding claims to the ESFA Processing of payments to subcontractor
Other	Other administrative tasks, as required

Non-standard charges may be applied to other subcontracting agreements in the future where cost savings can be mutually identified and agreed between the subcontractor and the University.

Employers are provided with an itemised breakdown of costs within the Apprenticeship Training Services Agreement including:

- The apprenticeship training and / or on-programme assessment that the University will directly deliver;
- The amount of funding the University will retain for its direct delivery;
- The apprenticeship training and / or on-programme assessment that each delivery subcontractor will contribute to the employer’s apprenticeship programme;
- The amount of funding the University will pay each delivery subcontractor for their contribution;
- The specific amount of funding the University will retain to manage and monitor each delivery subcontractor;
- The specific amount of funding the University will retain for each other support activity it will provide to each delivery subcontractor;
- The specific amount of funding the University will retain for the monitoring it will undertake to ensure the quality of the apprentice training and / or on programme assessment it has contracted each delivery subcontractor to carry out;

A detailed description of how the funding retained for each activity contributes to delivering high quality training and how the funding retained is reasonable and proportionate to delivery of the apprenticeship training will also be included.

Payment

The University is required to have sufficient processes and procedures in place to effectively monitor the financial payments in relation to their subcontracted provision. These responsibilities include that:

- Payment mechanisms are documented and are clear and well understood by all parties (including incentives, penalties, and non-standard charges).
- Payment processes are well defined and efficient; appropriate checks and authorisation processes are in place for paying invoices.
- The costs of the services delivered, and contract management costs are mapped against budgets and allocated appropriately.

Version Control

Version	7
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Example Policy

- Payment changes after the contract is let, for example from contract variations or benchmarking/ market testing, are made using contractual provisions and demonstrated to provide value for money.
- Payments are not made in advance of evidence to demonstrate learning activity has been undertaken.

Payment to subcontractors will be made within 30 days of the invoice being received, subject to all necessary paperwork and records having been submitted within the required timescale: this includes evidence to demonstrate that learning activity has taken place.

A checklist of key dates and deadlines for the paperwork to be received for inclusion in the return to the Education Skills Funding Agency will be provided. Payment details are also included in the contract Schedules which are issued to subcontractors at the start of the new contract year.

Declaration of use of subcontractors

In line with ESFA funding rules, the University will submit a “Subcontractor Declaration” to the ESFA at least twice each year. The declaration summarises the value of any subcontracted provision paid for in the previous period.

The University will also submit a declaration to the ESFA if its subcontracting arrangement should change during the year.

Risk Management and Contingency Planning

The Subcontracting Standard sets out the expectations of the ESFA to ensure that a Training Provider as has effective risk management procedures in place to effectively manage the public money which is paid to subcontractors. These requirements include:

- Contractual/subcontractor risk management is in place with clear responsibilities and processes, identification of who is best placed to manage risk, and subcontractor involvement where appropriate.
- Risks are formally identified and monitored regularly, with mitigating actions developed and implemented where possible, and ‘obsolete’ risks removed from consideration where appropriate.
- Escalation and reporting routes are in place for risk governance.
- Contingency plans are developed to handle subcontractor failure (temporary or long-term failure/default); exit strategies are developed and updated through the life of the contract.

Version Control

Version	7
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Example Policy

- Contractual terms around termination are understood and monitored by the contract manager.
- Contractual terms around warranties, indemnities and insurance are understood and monitored by the contract manager.
- Contractual terms around security and confidentiality are understood and monitored by the contract manager, particularly issues relating to the security/confidentiality of personal data.
- Dispute resolution processes are in place, including agreed adjudication procedures, mediation, and arbitration.
- The contract manager monitors the subcontractor's financial health and business performance (including using credit rating agencies).
- The contract manager monitors the subcontractor's compliance with contractual 'non-performance' issues (for example, on tax and sustainability targets).

The University is subject to external audit to ensure these measures are in place and the report is shared with ESFA, as well as University management.

Contingency Planning

The subcontracted provider is required to notify the University immediately if there are any changes that may cause a risk to the contracted delivery. These include, but are not limited to:

- The possibility of the provider ceasing to trade
- Poor Ofsted inspection
- Poor ESFA audit
- Other significant changes that affect the ability of the subcontractor to deliver the required subcontracted provision

In these circumstances, the University will conduct an immediate contract review and reserves the right to seek alternative provision of services to ensure continuity for learners. Any such change will be recorded in the Apprenticeship Training Service Agreement with the employer.

Policy Review and Communication

The University will review this policy annually. Any changes to the policy will be communicated to existing subcontractors at the contract management meetings. The policy will be discussed with new subcontractors prior to their engagement. An up-to-date copy of this policy will be posted on the University's website and paper copies will be made available upon request.

Version Control

Version	7
Approval Date	Jul/2023
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Example Policy

Policy Sign Off

Signed on behalf of the University of Chester's Senior Executive Team on 5 July 2023 by the Apprenticeship Scrutiny Committee

Version Control

Version	7
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