

TITLE: Subcontractor Delivery Policy	REF: CP017	VERSION:4
APPROVAL BODY: Group CEO and FE&GP	DATE: 21.01.19	REVIEW DATE: 21.01.20
LEAD PERSON: CEO Activate Apprenticeships		
EQUALITY IMPACT ASSESSMENT: Completed		
VERSION	REVIEWER/APPROVAL	REVIEW NOTES
1. 01.10.14	Group CEO and FE&GP	Full review
2. 22.07.15	AE CEO and FE&GP	Additional responsibilities in response to SFA guidance changes
3. 04.07.16	AE CEO	Full Review
4. 23.07.17	AE CEO	Full Review

## **SUBCONTRACTOR DELIVERY POLICY**

### **Policy Purpose**

This Policy outlines the Activate Learning group's position in relation to its subcontracting provision and funding to partner organisations.

This Policy is designed to ensure:

- The provision offered by the subcontractor organisations supports the strategic objectives of the group
- That Activate Learning's mission, commitments and values are upheld by subcontractor organisations
- That our subcontracted arrangements are delivered within a robust framework which is transparent, legal and in the best interests of the parties involved
- That subcontracted provision is fit for purpose and of high quality
- That our learners receive the best service possible
- That subcontracted arrangements adhere to relevant Skills Funding Agency/Education Funding Agency guidelines and to Activate Learning's relevant policies, including Equality and Diversity, Safeguarding and Preventing Extremism and Radicalisation.

### **Scope**

This policy applies to all subcontractors and informs all relevant parties (potential partners, Governors, Activate Learning staff, Activate Apprenticeships staff, funding bodies) of our intentions with regards to subcontracted provision.

The policy includes the fees and charges arrangements with subcontractors and only includes provision subcontracting.

This Policy is published in line with requirements set out in the Skills Funding Agency Funding Rules 2017 to 2018.

## **Definitions**

*Accounting officer* - senior responsible person is the chief executive of Activate Learning group

*Agency* - the Education Funding Agency (or, where appropriate the Skills Funding Agency), or successor body/bodies

*Funding* - the funding provided to Activate Learning by the Agency in accordance with the Funding Rules in relation to the relevant Programme and the provisions of this Agreement

*Funding Rules* - the procedures, rules and requirements from time to time as laid down by the Agency

*Learner* - a person who is enrolled and who receives the education and training comprised in a Programme from the Partner

*Provision subcontracting* - when subcontracted delivery is for full programmes or frameworks.

*Subcontractor* - is a legal entity that has an agreement with Activate Learning group to deliver education and training funded by the Agency.

## **Responsibilities**

Activate Learning and all subcontractors comply with the Agency Funding Rules and any other relevant guidance and future updates in all matters regarding the delivery of the provision.

Activate Learning holds full accountability for education and training provided to all learners under a subcontract. This includes learners funded by the Agency or through a 24+ Advanced Learning Loan. If any subcontractor fails to deliver, we will be responsible for making alternative arrangements for the delivery of education and training (and/or repaying Skills Funding Agency or Loan funding).

Activate Learning will create and maintain contingency plan in place for learners in the event that:

- we need to withdraw from a subcontract arrangement
- a subcontractor withdraws from the arrangement, or
- a subcontractor goes into liquidation or administration.

Activate Learning commits to ensuring that appropriate resources are put in place in order to manage and support subcontracted provision. We will ensure that the staff working on subcontracted provision have the appropriate knowledge, skills and experience to successfully procure, contract with and manage subcontractors.

The management of subcontractor performance is based on level of approval and risk status. Activate Learning will monitor, review and evaluate in order to inform corrective, preventative and improvement actions and manage risk through contingency planning. If underperformance is

identified, it will be addressed through measured and targeted action plans backed by support and development from Activate Learning.

In partnership with subcontractors, Activate Learning operates in the spirit of support, co working and transparency. Activate Learning endeavour to learn from subcontractors, recognise and share their good practice where appropriate.

Reasons for Activate Learning to maintain the subcontracted provision are:

- Delivery of niche provision
- To widen the range and scope of provision offered by Activate Learning in terms of engagement, retention and progression opportunities
- To contract expert teaching and resources in a cost effective manner
- To support delivery of Agency contract
- To increase learner and employer engagement between the organisations
- To deliver provision which engages hard-to-reach learners (e.g. Not in Employment , Education or Training - NEETs) with the ultimate aim of progression into mainstream provision
- To respond to meet customer demands (Learners, Employers and Community)
- To capacity build both organisations in order to respond to new projects and priorities
- To develop and support small local training providers

Activate Learning will only use subcontractors who we determine are of a high quality and low risk. Procurement of new subcontracted provision will be carried in a way that meets Activate Learning's strategic aims and enhances the quality of offer to learners. As per Activate Learning Subcontracting Procurement and Contracting and Monitoring and Reporting procedures, Activate Learning's Governing Body and Activate Learning's Accounting Officer will be regularly informed of all subcontracting activity, including new subcontracts proposed.

Activate Learning do not subcontract to meet short-term funding objectives.

### **Activate Learning contribution to improving own and subcontractor's quality of teaching and learning**

Subcontractors are supported by Activate Learning to maintain the same high quality standards expected across all aspects of delivery.

Activate Learning approach to ensuring the quality of subcontracted provision is set out in the following key steps:

1. Requesting the complete quality assurance policies, processes and procedures that the subcontractor implements to ensure the quality of their provision.
2. Collecting and examining the output from the above measures – this may include internal and external quality assurance reports, lesson observations, learner and employer feedback, programme reviews and improvement plans, staff CPD records, etc.
3. Validating the quality data received by implementing quality checks and procedures across the subcontracted provision, including our own lesson observations and quality check visits carried out by subject specialist staff, employer and learner feedback surveys, interviews with subcontractor staff etc.

Activate Learning will further contribute to quality assurance by:

- Ensuring that subcontractors are included in the Activate Learning quality process
- Providing subcontractors with a key contact at Activate Learning for any issues relating to the contract delivery
- Holding regular contract review meetings with subcontractors to performance manage quality and to mitigate any risks related to the provision. The contract reviews will be followed by developmental action plans that build the capacity of the provider to offer the best services to learners
- Working with subcontractors to respond to the employer and student feedback to improve experience
- Identifying and sharing the best practise to improve learners' experience
- Sharing resources and providing learner access to Activate Learning facilities, including online learning resources
- Providing staff development opportunities for subcontractor staff.

### **Fees and charges**

This management fee is deducted from the Skills Funding Agency rate based on the funding income received. The typical management fee is a fixed fee plus a percentage between 15% and 25% and is dependent on:

- The level of additional support required by the subcontractor over and above the management, administration and quality obligations of Activate Learning
- Risk Rating on a particular subcontractor (Medium or High rating as a result of Risk Assessment will incur higher management fee)

If exceptional services are provided to the subcontractor, there will be a separate fee charged above core management fee based on usage (such as Internal Verification, access to externally provided resources (Guroo, Smart Assessor etc.).

The core fee is calculated to cover management of subcontracted delivery such as:

- Designated contact for subcontracted delivery
- Dealing with partner queries
- Advice and support related to national agencies and funding bodies
- Preparation of the contract agreement
- Collecting and updating due diligence
- Performance management and contract review meetings
- Paperwork templates for student enrolments
- Paperwork checks and audit compliance
- Monitoring of learner progress
- Quality and compliance monitoring
- Coordinating self-assessment processes
- Administration support to process the data
- Data submission via the Activate Learning Individual Learner Record (ILR)
- Managing additional schemes related to provision (e.g., Incentive payments)
- Management of funding, finances and reconciliation
- Managing audits and inspections (from funding and quality assurance bodies, etc)
- Preparation and processing of payments

- Monthly payment information with transparent calculations to detail both the funding claimed by Activate Learning and the payment passed to the subcontractor.

The management fee will be reviewed and is open to negotiation with each subcontractor. The agreed value will be confirmed within the signed contract between both parties.

### **Adult Education Budget and Subcontractors**

Activate Learning may allow approved partners to deliver some training which falls under the Adult Education Budget entitlement that Activate Learning has been allocated for the academic year.

- An additional contract would be issued to the partner to specifically cover the Adult Education Budget, and include details around contract length, terms, amount of learners, fees and charges, and anything else required that is covered throughout the Activate Learning subcontracting policy.
- Due Diligence will be performed to make sure partner can deliver on behalf of activate learning and any documents requires as part of the ESFA subcontract guidelines and AEB management rules 2017-18 will be followed
- All learners will be subject to enrolment and any check necessary to confirm eligibility, added to ILR and at least one observation from Activate Learning will be performed on the partner delivery of courses that fall under the Adult Education Budget

### **Levy Paying Employers and Subcontracting**

Activate Learning may subcontract part of the levy paying apprenticeship programme to partners in accordance with ESFA guidelines:

- Main providers deliver the apprenticeship but partners can deliver elements towards the apprenticeship and specialist training that main provider cannot provide.
- Funding will be set up between employer and main provider on Digital Apprenticeship Service and the partner will be paid appropriate funds each month in line with current subcontractor payment structures.

### **Contract**

All subcontractors are required to agree and sign a contract prior to delivery of any provision. The contract clearly defines the roles and responsibilities for Activate Learning and the subcontractors from the outset of the partnership.

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.
- Changes to ESFA funding rules and apprenticeship rules and guidelines

## **Payment terms between Activate Learning and subcontractors**

For any payments to be made to the subcontractor, the subcontractor must conform to the terms of the contract and provide the required paperwork, data and information for Activate Learning to make a successful claim via its Individual Learner Record (ILR) to the relevant funding agency.

Subcontractors are paid by the end of the calendar month for the learning activity delivered the previous month subject to meeting contractual requirements. The subcontractors are required to produce an invoice following the confirmation of amount to be paid by Activate Learning. Alternative payment conditions may operate, following discussions with the subcontractor, depending on the contract delivery model and contract delivery time.

Subcontractors receive detailed monthly payment information, showing the management fee withheld and the funds that are being paid to subcontractor to ensure transparency.

All subcontractors are set up as suppliers on Activate Learning's finance system. The payment is made to the Subcontractor via BACS.

Funds due to the subcontractor may be held back with terms highlighted in the contract if training provider fails to adhere to terms of contract, and escalation processes will be followed.

## **Transparency**

Activate Learning will publish data on the actual level of funding paid and retained for each of the subcontractors in each contractual year. This data will be published within 30 days of the ILR closing.

As a minimum, the following will be included in the published supply-chain fees and charges:

- Name of the subcontractor.
- UKPRN number of the subcontractor.
- Contract start and end date.
- Type of provision (for example, 16-18 Apprenticeships, 19+ Apprenticeships, classroom learning, workplace learning).
- Funding received from the funding agencies to Activate Learning for provision delivered by the subcontractor in that academic year.
- Funding Activate Learning has paid to the subcontractor for provision delivered in that academic year.
- Funding Activate Learning have retained in relation to each subcontractor for that academic year.
- If appropriate, funding subcontractors have paid to Activate Learning for services or support Activate Learning have provided in connection with the subcontracted provision.
- Activate Learning will publish this information on fees and charges alongside the Subcontracting Policy to allow all supply-chain fees and charges information to be viewed in context.

## **Timing for policy review**

This Policy is to be reviewed annually. It will be reviewed and signed by Activate Learning governing body and Activate Learning's Accounting Officer.

## **Dissemination**

The Policy is available for current and potential subcontractors to view on Activate Learning website [www.activatelearning.ac.uk](http://www.activatelearning.ac.uk) .

Potential subcontractors are requested to read the Policy as part of due diligence for subcontracting arrangements with Activate Learning.

### **Disclaimer**

Activate Learning reserve the right to amend the subcontracting arrangements at any time in accordance with the terms and conditions contained in the subcontract agreements.

### **References**

SFA Funding Rules 2017 to 2018

Supply Chain Management: A good practice guide for the post-16 skills sector

## Equality Impact Assessment

<p>We believe that people from a range of backgrounds and experiences can enhance the life and development of the institution and that all individuals should be treated on the basis of individual merit and without prejudice. Activate Learning will, therefore aim to provide an education service which actively promotes equality of opportunity and freedom from discrimination on grounds of protected characteristics, namely age, disability, sex, gender reassignment, marriage and civil partnerships, pregnancy and maternity, race, religion and beliefs, sexual orientation and socio economic status in both education and employment. Activate Learning expects all employees, students, and associated partner organisations to adopt this policy.</p> <p>Activate learning is committed to carrying out Equality Impact Assessments (EIA) on its policies and procedures in order that some measurement is made of the contribution that the policy/procedure makes towards equality and diversity objectives.</p>	
Name and role of person(s) carrying out EIA	Jamie Parmenter, Professional Training Contracts Manager
Name of policy, procedure, practice, plan or process	SUBCONTRACTOR DELIVERY POLICY
What is the main aim or purpose of the policy, procedure, practice, plan or process?	This Policy outlines Activate Learning group's position in relation to its subcontracting provision and funding to partner organisations.
Is this a new (N) or existing (E) policy, practice, plan or process? (Please tick relevant box)	<input type="checkbox"/> N <input checked="" type="checkbox"/> E
Person responsible for policy, practice, plan or process	Jamie Parmenter, Professional Training Contracts Manager
Date of equality impact assessment	17/06/2015

### Evidence

What information has been gathered to inform the EIA? Consider, for example, people's views from focus groups and surveys, and statistical information or other relevant evidence. Consider both quantitative and qualitative information	Equal Opportunities Polices from current partners, Partner Equality Plans where available (those unavailable are currently in development). Safeguarding Policies for all current partners are also available and has been considered for this impact assessment. Relevant Activate Learning group policies have also been taken into consideration (Equality and Diversity, Safeguarding).
What has this information revealed?	All partners at the moment have up to date E&D Polices in Operation which ensure that equal opportunities are available for those in protected characteristics.
Is further information required? If so, how will this information be gathered and used?	Please see Actions required below.



## Impact

<p>Has the equality impact assessment identified potential or actual areas of concern, negative impact, or areas of inequality? If so, please tick the relevant boxes.</p>	<input type="checkbox"/> Race <input type="checkbox"/> Disability <input type="checkbox"/> Gender (including Gender reassignment) <input type="checkbox"/> Pregnancy / maternity <input type="checkbox"/> Sexual orientation	<input type="checkbox"/> Age <input type="checkbox"/> Religion and belief <input type="checkbox"/> Marriage / civil partnership <input type="checkbox"/> Socio-economic <input type="checkbox"/> Other area of equality (please state)
<p>Has the equality impact assessment identified areas that would further advance equality if changes were made, for example fostering good relations between different groups, meeting needs or encouraging participation?</p> <p>If so, please tick the relevant boxes.</p>	<input type="checkbox"/> Race <input type="checkbox"/> Disability <input type="checkbox"/> Gender (including Gender reassignment) <input type="checkbox"/> Pregnancy / maternity <input type="checkbox"/> Sexual orientation	<input type="checkbox"/> Age <input type="checkbox"/> Religion and belief <input type="checkbox"/> Marriage / civil partnership <input type="checkbox"/> Socio-economic <input type="checkbox"/> Other area of equality (please state)
<p>Please provide a brief summary of the outcomes of the EIA including</p> <ul style="list-style-type: none"> <li>• Issues identified in the EIA</li> <li>• Areas of potential inequality</li> <li>• Opportunities to further advance equality</li> <li>• Opportunities to foster good relations</li> </ul>	<p>The policies currently held by partners show the commitment to provide diversity and equality to all in training and employment, treating everyone with equal dignity and worth regardless of particular characteristics. Activate Learning need to continue monitoring the provision to satisfy ourselves that the policies are fully adhered to by our partners. We also need to ensure that all current partners keep the policies up to date at all times. Documents currently held are diverse and provide an opportunity to share best practice and further foster equality. Activate Learning Equality objectives 2012 2016 to be shared with the partners to support them in gathering and analysing data, equality integration in curriculum, and other actions and improvement as required.</p>	

## Action - Equality Action Plan

Issue	Planned Actions for Improvement	Expected Outcomes and Targets with Milestones & Target Dates	Person Responsible for Completion
3 of the current partners need to produce	Partners have been asked to produce Equality Plans.	Fully complete equality plans to be submitted to Activate Learning by 20/12/2017 at the	Vitalija Skarbaliute da Silva

Equality Action plans		latest.	
<p>If the action proposed will not fully eliminate potential or actual negative impact, Please state:</p> <ul style="list-style-type: none"> <li>• Why is this and how can it be justified?</li> </ul> <p>Please discuss this issue with your senior manager</p>			