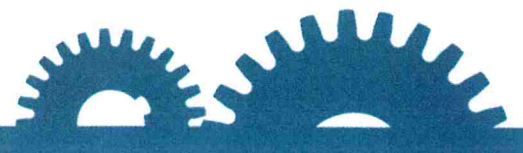


# ***Sub-contracting Policy***

## ***September 2022***

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## **1. Policy Statement**

- 1.1 The JCB Academy (the academy) is committed to providing high quality education and training to meet both local and national skills priorities.
- 1.2 The academy recognises that in order to provide such services, sub-contracting and partnership working may be essential in some areas.
- 1.3 The main reasons for sub-contracting are to:
  - 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.
  - Offer an entry point for disadvantaged groups.

## **2. Principles**

- 2.1 The academy is committed to working with high quality sub-contracted partner organisations who provide training which will support national, regional and local economic development. Partner organisations must be able to demonstrate the ability to deliver high quality training and education and that they have a strong financial standing.
- 2.2 The academy will take all reasonable steps to ensure that when selecting partner organisations to sub-contract with a rigorous due diligence process is carried out prior to entering any formal agreement.

## **3. Scope**

- 3.1 This policy applies to all the academy's sub-contracted partner arrangements.

## **4. Responsibilities**

- 4.1 The Vice Principal (Post-16) has responsibility for ensuring that the Sub-contracting Policy is reviewed annually. He will ensure that sub-contracting procedures and other such documents comply with, and are implemented in line with, Education & Skills Funding (ESFA) requirements and best practice. All potential sub-contractors will be made aware of the policy as part of the tendering process.



## 5. Awarding of Contracts

- 5.1 The academy will ensure that the sub-contractor is subject to a rigorous due diligence process and:
- delivers a high-quality service;
  - will not further sub-contract provision to other colleges or training organisations;
  - employs high calibre staff to deliver to learners and informs the academy if these staff change;
  - complies with the academy's policies and procedures;
  - complies with the law relating to, for example, health and safety, data protection, equality and diversity;
  - has been risk assessed;
  - is registered with the UK Register of Learning Providers;
  - is aware of the clear lines of responsibility and understands the consequences of any breach of contract.
- 5.2 All potential and current sub-contractors will supply the academy with all relevant information requested within the academy's due diligence documentation to protect learners and to ensure the sub-contractor is a legally, financially and educationally sound organisation, prior to a contract being signed.
- 5.2 Following due diligence, sub-contractors must immediately notify the academy of any changes in circumstances or personnel related to the contract. This process will be repeated on an annual basis with a specific focus upon financial and quality related performance updates.
- 5.3 In addition to the due diligence documentation, sub-contractors will also provide a business case which will include:
- organisation overview;
  - structure - legal and operational;
  - rationale for contract request;
  - demand-led evidence;
  - added value to prime contractor and sector;
  - current offer and track record of successful delivery;
  - QA/QI systems;
  - financial health check;
  - references from previous clients (if applicable).





- 5.4 The application processes and base documentation will form the main decision-making process to select a sub-contractor. At this point the business case submitted must declare any relevant interests and or partnerships that might affect the impartiality of appointment as a sub-contractor.
- 5.5 Decisions will also be determined by the responses to the key questions requested in potential partners' delivery plans against local and regional priorities. The academy will be looking for flexibilities that develop and deliver an offer that meets the needs of local people, employers and the wider community.
- 5.6 Based on approval and through discussion or negotiation the academy and the sub-contractor will agree the contract content and value. The following core contract components will be agreed:
- sub-contractor profile;
  - sub-contractor duty (and KPIs);
  - academy's duty;
  - academy's service offer;
  - academy's management and service charges based on due diligence results;
  - contract volume and value.
- 5.7 The contract will reflect the in-year Education and Skills Funding Agency Guidelines and updates. All contracts are legally binding and will need to be signed by all parties prior to the commencement of delivery. The academy will declare to the Education and Skills Funding Agency the sub-contractor arrangement as and when changes occur, but as a minimum annually.
- 5.8 During the contracting year, if there is any evidence of a sub-contractor's irregular financial or delivery activity The academy will carry out an investigation and will report the outcome of the investigation, in writing, to the Education and Skills Funding Agency Relationship Manager within ten days of the investigation being completed.
- 5.9 The academy will undertake all reasonable steps to ensure the viability and continuation of any contractual arrangements with sub-contractors' provision. Due diligence undertaken is robust enough to ensure the risk of failure of a sub-contractor's ability to deliver under its original contract terms is low and mitigated as far as possible through regular quality audits, annual financial review and regular contact with the account manager. In the unlikely event of a sub-contractor failing to deliver, the academy will either pick up delivery through its own means or facilitate transfer to another provider.



- 5.10 For any potential sub-contractors that have not previously sub-contracted provision, the academy must seek approval in writing from the Education and Skills Funding Agency before awarding a contract.
- 5.11 If, when appointing sub-contractors, there is a risk of conflicts of interest, the academy will notify the Chief Executive of Education and Skills Funding Agency, in writing, about identifying the circumstances (e.g. common directorships) which might give rise to an actual or perceived conflict of interest.
- 5.12 All sub-contractors must be listed on the RoATP before the academy will enter into a sub-contract with them.
- 5.13 The academy will only sub-contract for delivering funded provision to legal entities. If the legal entity is a registered company, it must be recorded as 'Active' on the Companies House database.

## **6. Fees and Charging**

### **6.1 Management Fees**

- 6.1.1 The academy will incur costs to manage the sub-contracting process. These costs will be in proportion to the level of pre-contract assessment, performance management and risk management associated with the sub-contracted activity.
- 6.1.2 Also included in the costs are the quality assurance requirements outlined in the previous section. The quality assurance costs for sub-contractors delivering out of area will be greater than those delivering locally owing to quality visits. Any other costs accrued by the academy that can be directly attributed against carrying out any function related to sub-contractor and/or quality management will be levied against additional services. These costs will be reviewed and agreed each year when the sub-contractor's contract is renewed.
- 6.1.3 Based on a risk banded scale, the standard management fee retained by the academy will range from between 15% and 20%. The management fee will be agreed before the contract is confirmed with the sub-contractor and will be subject to review and negotiation dependant on performance, risk and delivery model.





6.1.4 In order to provide continuous improvement of standards in the sub-contracted provision, the fee structure will allow the academy to provide any additional, non-specific services deemed necessary, over and above the agreed minimum level of service.

6.1.5 Any sub-contractor will be able to purchase additional services deemed necessary and above and beyond the agreed minimum level of service. The fee structure will be established with individual sub-contractors with the following guidelines in mind:

Provision of services	Standard fee as proportion of funding earned	Possible range of fee as proportion of funding earned	Direct charge for specific services
Agreed minimum standard	15%	15-20%	N/A
Additional non-specific services	N/A	To be charged in accordance with cost	N/A
Additional specific services	N/A	N/A	To be charged in accordance with cost of specific

## 6.2 Payment terms and conditions

6.2.1 Payments will be made in proportion to the income generated, per learner, monthly in arrears. Full details of payment arrangements for each individual contract will be included in each sub-contractor's contract. These include the detailed schedule for evidence submission and monthly financials deadlines, with specific dates for each month.

## 7. Contract Monitoring and Review

7.1 Sub-contractor performance will be monitored on an ongoing basis and will also include attendance at Principal Performance Review meetings that will be scheduled at appropriately regular intervals throughout the year.

7.2 Feedback on performance will be provided in writing, by phone or email and will require actions to address any identified issues. The methods used will depend upon the circumstances at any point in time. Feedback will also be provided at periodic contract performance review meetings. The frequency of these meetings will depend upon the performance of the sub-contractor.



- 7.3 Where performance falls below the standard required, a sub-contractor will be issued with a notice to improve. Support will be provided to help sub-contractors develop and enhance the quality of their delivery. If a sub-contractor fails to meet the necessary improvements within the agreed timescales, it may be necessary to implement contract termination procedures.
- 7.4 Monitoring will include:
- monthly conference calls and/or visits;
  - examining MIS and claims;
  - scheduled support visits.
- 7.5 Review will involve:
- appropriately regular formal meetings;
  - an examination of all aspects of the contract;
  - planning future actions.
- 7.6 Evaluation will include:
- annual assessments/audits;
  - looking at contract performance;
  - the contract renewal decision-making process.
- 7.7 The level of contract management and service provided by the academy to the sub-contractor will be determined at approval stage, but could be increased in year as performance levels are reviewed.
- 7.8 If during in-year monitoring there is any evidence of a sub-contractor's irregular financial or delivery activity, the academy will carry out an investigation and will report the outcome of the investigation, in writing, to the Education and Skills Funding Agency Relationship Manager within ten days of the investigation being completed.
- 7.9 If a sub-contractor is found to be sub-contracting to a second level, the contract will be stopped and a decision will be made to determine actions or whether the academy should seek approval in writing, as this should only be sought in advance of contracting each year.
- 7.10 Sub-contractors will participate in:
- Safeguarding learners (including Prevent responsibilities).
  - Equality and diversity.
  - Regular quality assurance checks (which may be unannounced).
  - Short notice audit visits.
  - Observation of teaching and learning.
  - Performance meetings.
  - Learner satisfaction surveys.





- 7.11 The academy will conduct audits of sub-contractors as specified in the quality assurance arrangements in any contract agreed at contract negotiation. Reasonable advance notice will be provided in writing of proposed visits to the sub-contractor of the scope and date of each audit.
- 7.12 Post-audit action plans will be produced where necessary and sub-contractors will be supported through training and mentoring to achieve the aims set out in the action plans.
- 7.13 Sub-contractors who consistently fail to attend training or engage in the mentoring scheme will be financially penalised and/or their contract terminated.
- 7.14 Sub-contractors will be required to demonstrate that they have robust quality audit arrangements, consistent with the requirements related to the audit activities undertaken by academy as specified above.

## **8. Service Standards**

- 8.1 All sub-contractors will be required to demonstrate how they will meet academy service standards in relation to providing a high quality service at all points of a learner's journey and how they will communicate these standards to learners.
- 8.2 Sub-contractors will be required to meet the performance targets set out in the contract and defined during contract negotiation.
- 8.3 Should a sub-contractor fail to meet the performance targets, the academy will work with the sub-contractor on an improvement plan and will monitor performance.
- 8.4 Further continued poor performance may result in financial penalties or termination of the contract.
- 8.5 Academy staff will support those sub-contractors who require further development to reach the required standard in the expectation that sub-contractor staff will subsequently maintain this standard.





## **9. Policies and Procedures**

9.1 Sub-contractors will be required to maintain, review and update policies and procedures in line with national legislation and as appropriate to the nature of their contract in the following areas:

- Health and safety.
- Equality and diversity.
- Safeguarding and Prevent.
- Safer Recruitment
- Sustainability.
- Quality assurance, including performance monitoring and development of:
  - teaching practice;
  - initial assessment;
  - additional learning support;
  - information, advice and guidance;
  - self-assessment;
  - service standards.
- Performance management information.
- Data protection.
- Staff recruitment and development.
- Financial management.

## **10. Performance Data**

10.1 Sub-contractors will provide a range of data, at the frequencies specified in the contract as agreed at contract negotiation. Should a sub-contractor fail to deliver the data consistently, the academy reserves the right to impose financial penalties.

## **11. Self-Assessment**

11.1 All sub-contractors will be required to undertake a self-assessment process in relation to the Education Inspection Framework and produce a self assessment report (SAR) which clearly and specifically identifies and evaluates the courses and programmes which they are contracted to deliver. The SAR and resulting action plan must be submitted as specified in the contract.



## 12. Delivery

- 12.1 Sub-contractors may be required to ensure that programmes are delivered in specific localities, depending upon the nature of the contract. They may be required to recruit learners from a specific profile, e.g. age, ethnicity, gender, disability, NEET.
- 12.2 Sub-contractors will ensure that all learners are given inductions to their courses or programme. The induction given must be consistent with the standards specified by the academy for the management and delivery of learner inductions.
- 12.3 All courses should include an initial assessment process that enables learners and staff to identify what they want to achieve from the course. This process should ensure that:
- Learners have the necessary aptitudes, attributes and abilities to help them successfully complete the courses for which they are applying.
  - Any learning support needs are accurately identified.
  - Any prior learning and experience requiring an adjustment to be made to the content, duration or funding to be claimed.
  - Learners have the information they need to help them make well informed judgements about the relevance of their courses to their short and longer term employment and learning goals.
  - Robustly meet all eligibility requirements
- 12.4 Any identified support needs will be fed back to the academy who will approve the additional support and any extra cost involved. Sub-contractors must have access to appropriate learner support arrangements. Where appropriate the assessment should also gather necessary information about health and medical records, previous relevant experience, depending on the nature of the course itself and specifically where the nature of the course presents significant health and safety issues. The academy's Health and Safety Policy and risk assessments must be adhered to.
- 12.5 Tutors must maintain learner progress records at an appropriate level of detail, in relation to the context and length of the course or programme.
- 12.5 All courses will have their content defined within a scheme of work and their sessions will be planned using an appropriate lesson/session plan. Both these should be consistent with the requirements defined in the academy's quality documents.
- 12.6 Requirements in relation to observation of teaching and learning are set out in section 13.



- 12.7 Sub-contractors will register their learners with the appropriate examination boards within agreed timescales and abide by awarding body regulations. The Academy will be responsible for contracting with the EPAO and for administering End Point Assessment arrangements.
- 12.8 Sub-contractors will maintain assessment and verification, and/or moderation arrangements that are consistent with the requirements of the awarding bodies, examination boards and the Sector Skills Councils, where the latter make recommendations regarding assessment and verification arrangements.
- 12.9 Sub-contractors must ensure that appropriate staff<sup>1</sup> attend academy best practice events and any training organised by the academy which has been put in place to address issues identified in quality or compliance post-audit action plans. Failure to attend such events will result in the sub-contractor's risk assessment rating being increased. This action is likely to increase the frequency of quality and/or compliance audits undertaken. Other penalties may also be applied.
- 12.9 Sub-contractors will ensure that they maintain effective employer engagement. Employer engagement processes must be consistent with the standards specified by the academy for the management and delivery of learner inductions.

### 13. Teaching and Learning

- 13.1 The academy will implement an account management process that maintains regular contact with its sub-contractors. This forms part of the quality cycle that is in place to ensure that the range of services provided for the fee charged adequately contribute towards the improvement of teaching and learning.
- 13.2 Lesson observations will be undertaken on all sub-contractors to monitor the quality of delivery and ensure minimum levels are maintained. Robust feedback will be provided to the practitioner and discussed during account management meetings. Any practitioners who are issued with an action plan for improvement will be subject to a re-observation within a six-week period to ensure the level of quality improves.

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<sup>1</sup> Appropriate staff are normally defined as individuals who have relevant managerial authority and responsibility for the subject being addressed through the training. The exception to this definition will be where training is designed for practitioners.





- 13.3 The sub-contractor must ensure that all employees linked to the agreement have appropriate qualifications and experience to carry out their role. Notification of Continued Professional Development (CPD) needs to be provided at the start of the agreement and then on a regular basis thereafter.
- 13.4 The academy will invite all sub-contractors and their staff to attend CPD opportunities and events to contribute to the improvement of teaching and learning. The academy will also inform sub-contractors of any mandatory training that may be required.
- 13.5 Surveys will be undertaken with both employers and learners to ascertain quality of delivery and training, the induction process, knowledge and skills of teaching staff and overall satisfaction. Feedback will be disseminated via account management meetings.
- 13.6 All sub-contractors will be continually informed, via regular account management meetings, of success and retention rates and their performance against academy and national benchmarks.
- 13.7 All sub-contractors will have access to learning resources and marketing materials to assist and contribute with improving teaching and learning.

#### **14. Safeguarding**

- 14.1 Sub-contractors will be required to have in place safeguarding arrangements which are consistent with the standards specified in the guidance documentation provided by the. This includes duties under Prevent and in line with Ofsted policy and where appropriate, promote fundamental British Values.

#### **15. Health and Safety**

- 15.1 All facilities and resources used must be fit for purpose and comply with all current health and safety legislation. Any new premises or change of premises used for the delivery of programmes funded by the academy need to be risk assessed and details supplied to the academy prior to commencement of any delivery.
- 15.2 Sub-contractors must provide details on request to the academy of how they ensure that facilities used to deliver learning meet all health and safety regulatory and legislative requirements, including where required specific health and safety reports, audits and risk assessments.
- 15.3 Sub-contractor tutors must be capable of and must undertake activity and facility risk assessments at a frequency consistent with the type of activity and the nature of the facility being used.

- 15.4 Sub-contractors must ensure that appropriate staff<sup>2</sup> attend academy best practice events and any training organised by the academy which has been put in place to address issues identified in quality or compliance post-audit action plans relating to health and safety. Failure to attend such events will result in the organisation's risk assessment rating being increased. This action is likely to increase the frequency of quality and/or compliance audits undertaken. Other penalties may also be applied.

## **16. Careers Education, Information, Advice and Guidance (CEIAG)**

- 16.1 Sub-contractors will be required to demonstrate that they provide CEIAG at an appropriate range of venues and through a range of media, including the internet, to a standard consistent with that offered by the academy. CEIAG should include:
- Initial advice and guidance to inform the learner's choice of programme or course.
  - On-programme advice and guidance/tutorial support to help learners:
    - develop ideas for future learning or employment;
    - who have personal issues such as substance misuse, housing problems, pregnancy, identify and make contact with relevant organisations;
    - make specific choices about future learning or employment.
- 16.2 Partners should hold Matrix or be working towards it.

## **17. Contract Termination**

- 17.1 The academy will work with its sub-contractors to ensure that all learners receive high quality, safe and inspiring training, with all the necessary support for individuals to achieve their aims and progress on to employment.
- 17.2 Should a sub-contractor consistently fail to improve any element of its performance which is deemed to be unsatisfactory or inadequate, or consistently fail to engage in training or with the quality support systems which are in place, the academy reserves the right to terminate the contract to protect its learners.

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<sup>2</sup> Appropriate staff in this instance are normally defined as individuals who have relevant managerial authority and responsibility for health and safety



17.3 If contract termination procedures are implemented, sub-contractors are contractually required to co-operate fully with this process. Failure to comply with the requirements will result in withheld payments until a satisfactory resolution is achieved.

## 18. Disclaimer

18.1 The academy reserves the right to amend its sub-contracting arrangements at any time in accordance with the terms and conditions contained in its standard contract for sub-contracted provision.

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### Signatures:

Principal:

Vice

Chair of the Board of Trustees:

Date:

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.....  
15 September 2022



## APPENDIX

### Definitions

- Sub-contractor: In this policy, sub-contractor (also known as the Provider) means anyone selected, appointed or engaged by the academy to work with the academy to provide education and training to learners not on academy premises.
- Competence: In this policy, competence means the acquisition of sufficient skills, knowledge and experience of current best practice to fulfil the role as detailed in the Sub-Contractor Agreement
- Education Skills Funding Agency (ESFA): The ESFA is a partner organisation of the Department for Education and it exists to fund and promote adult further education and skills training in England.
- Contract: A contract or agreement is where a Lead Provider has entered into a contract with a third party to carry out all or part of the services that are funded by the ESFA.
- Register of Apprenticeship Training Providers (RoATP): The RoATP is a register of providers that have passed the standards expected by the ESFA and are eligible to be invited for future invitations to tender for the delivery of education and training services. It is a funding requirement that all sub-contractors in the ESFA supply chain enter the RoATP, in accordance with the Funding Rules.
- Due diligence: The academy will undertake a full due diligence check on potential sub-contractors prior to awarding them a contract to deliver education and training services. This check meets ESFA standards and will request information such as:
  - Copies of annual financial accounts.
  - Details of the teaching/delivery staff.
  - Details of awarding body qualifications accreditation.
  - Details of policies and procedures.
  - Details of insurance policies.
  - Employer Liability insurance.
  - Public Liability insurance.
  - Professional Indemnity insurance.
  - Details of the directors and the ownership of the organisation.
  - Details of the organisations UK Provider Reference Number (UKPRN).
  - Trade references.



- DBS approval for delivery/contact staff (Exc. HE provision)
- Details of Ofsted inspections, either direct or indirectly.
- Details of other quality standards held, e.g. ISO/IIP.
- Details of registration with the Information Commissioners Office.
- Details of safeguarding policies and procedures.
- Details of CPD policies, procedures and processes.

