



Degree Apprenticeship Sub-Contracting Policy

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Degree Apprenticeship Sub-Contracting Policy

1 Introduction

Degree Apprenticeship teaching delivery and coaching is normally provided by staff employed by Northumbria University. Where there is benefit to the programme i.e. by enhancing employer collaboration, workplace expertise or expanding the geographical location of delivery, the University may sub-contract teaching and coaching to suitable organisations. A sub-contractor may be the employer or another training provider.

This policy and the signed agreement between sub-contractor and the University are intended to comply with the [Rules for Training Providers - Contracting and Sub-Contracting](#). In operating subcontracting agreements in line with this policy, the University can demonstrate its knowledge, skills and experience of contracting with, and managing, delivery subcontractors, as required by the ESFA.

A diagrammatical summary of the approval and governance process is shown in Annex A.

2 General Principles

- i) This policy is owned by Educational Partnerships, Academic Registry, and will be reviewed and updated annually to ensure its ongoing relevance and accuracy in relation to published ESFA rules.
- ii) A statement of the University's approach to sub-contracting (including reasons for sub-contracting, services to be provided by the University and the process for determining associated costs) will be maintained on its website.
- iii) Link to strategy.
- iv) Sub-contracting arrangements will be scrutinised by APG and approved by Education Committee.
- v) Services will be sub-contracted only on request of, or with the agreement of, the Employer/s. A written contract detailing the respective rights and obligations of the University, as Training Provider, and Sub-contractor will be signed by both parties. That agreement will incorporate the EFSA Rules for Training Providers and the sub-contractor will agree to abide by the EFSA Rules.
- vi) A named University colleague with appropriate seniority and experience will be appointed to act as Contract Manager, responsible for the overall effective operation of the subcontract
- vii) Prior to contracting, due diligence checks are carried out on potential sub-contractors including facilities for apprentices, reputation of the organisation and any recent audit results.
- viii) Quality and Teaching Excellence will ensure that an annual review of due diligence (financial and otherwise) takes place to ensure the ongoing suitability of the sub-contracting party.
- ix) Responsibility for the continuity of provision and the quality of provision resides with the University.
- x) The sub-contractor must provide sub-contracted services and not sub-contract to a second level.

- xi) Teaching material is developed and owned by Northumbria University except where specified in a separate agreement between the University and an employer/provider acting as sub-contractor.
- xii) The University must maintain the relationship with the employer (as lead partner) – this must not be a role provided by the subcontractor.

3 Decision to Sub-Contract

The decision to sub-contract will typically be made for the following key reasons:

- i) The degree apprenticeship contains an element of restricted or specialist provision which can only be delivered by a particular body (for example, elements of the PCDA curriculum).
- ii) The University does not offer part of the core activity aligned to the curriculum for a particular contract (for example, provision of maths and English).
- iii) Issues such as geographical reach, where the use of a sub-contractor enables provision to multiple sites in a more effective manner.
- iv) Other reasonable purposes as identified particular to the circumstances of an employer request.
- v) All decisions to sub-contract will be made in line with current ESFA guidance and regulations.
- vi) The approval process is as follows:
 - DA Steering Board will initially consider all new requests to enter into a sub-contracting relationship for a DA opportunity, regardless of value. This scrutiny takes place prior to tender.
 - Following DA Steering sign-off, details of any proposed subcontracting arrangement including educational rationale, due diligence report and costings for wider University scrutiny is submitted to APG as an addendum to the programme approval documentation. APG Operations Group is therefore able to halt development of the programme if the appropriate scrutiny of potential sub-contracting has not taken place according to University policy.
 - APG recommendations regarding proposals to sub-contract will be submitted to Education Committee for approval and reported to Employment and Finance Committee to endorse.

4 Sub-Contractor Selection

4.1 Procurement of sub-contractors

The University will only procure the service of sub-contractors who are:

- i) registered on the Register of Apprenticeship Training Providers to deliver services to employers, or
- ii) they are either the apprentice's employer, a connected company or charity as defined by HMRC and are on the published Register of Apprenticeship Training Providers, having applied through the employer-provider application route. Note:

- such sub-contractors are only eligible to deliver apprenticeship training and/or on-programme assessment to apprentices employed either by them or a connected company or charity as defined by HMRC, and
- iii) have been fully approved via the process outlined above.

The procurement process will be instigated and managed by Educational Partnerships prior to contracting.

Procurement of sub-contracted services are carried out in accordance with the University's Financial Regulations depending on the value of services being sub-contracted and the nature of the degree apprenticeship (see section 15, Financial Regulations)

In subcontracting part of the service delivery, consideration as to whether the University would need to apply Public Contracts Regulations 2015 will be undertaken, in consultation with Procurement. Procurement must also be consulted if the total value of the sub-contract exceeds £50,000 (or other limit as set out in the Financial Regulations from time to time).

4.2 Pre contract due diligence

Where a programme proposal includes sub-contracted provision, the academic proposer will submit an initial due diligence report to APG. The report is completed in liaison with Educational Partnerships and the sub-contracting organisation and will contain the relevant information in order for the University to discharge its due diligence responsibilities around key areas including (but not limited to):

- i) rationale and strategic fit
- ii) financial strength
- iii) standards of quality in the provision of services being subcontracted and
- iv) its obligation to ensure that it is not funding extremist organisations through the subcontracting of apprenticeship training and/or on-programme assessment.

Information is likely to include the following (non-exhaustive list of) sources:

- Internal policies governing employment, GDPR and data protection, health and safety, equal opportunities, safeguarding and procedures to assure quality of provision.
- Facilities available to apprentices
- Teaching/coaching staff qualifications and experience
- Recent/latest ESFA audit results
- Latest OFSTED reports and associated findings and recommendations
- Any other information as deemed necessary and proportionate

The University may visit the premises of a potential sub-contractor if deemed necessary to assess their suitability to deliver services at the standard required over the length of the contract.

Where the University decides that the subcontractor does not meet our required standards then regardless of the employer's position, the University will not employ that subcontractor, even where this may risk the relationship with the employer.

The University will confirm that total ESFA related funds to be received by any employer-provider to be used as a sub-contractor will not breach ESFA financial limits in any given year, (1 April to 31 March).¹

The results of any due diligence will be made available to the ESFA upon request hence must be documented in a sustainable manner. A standard due diligence report form will be used for this purpose.

5 Contracting and Appointment

5.1 Roles, Responsibilities and Charges for Services Provided

Prior to each subcontracting relationship, the University will clearly describe to each employer and potential subcontractor the reason for subcontracting and all services to be provided and the associated costs when doing so.

This must include a list of specific costs for managing the subcontractor; specific costs for quality monitoring activities and specific costs for any other support activities offered by the University to the subcontractor.

All of these costs must be individually itemised and describe how each cost contributes to delivering high quality training. The University must also explain how such costs are reasonable and proportionate to delivery of the subcontracted apprenticeship training.

The University retains overall responsibility for performance and quality assurance processes of the sub-contractor, and a proportion of the fee may be retained for this purpose. Specific responsibilities for each sub-contract will be formalised in the contract between the parties.

5.2 Price and payment

The price agreed for subcontracted services should be clearly set out, along with any provisions for how it may be adjusted over time, to cover change in scope of services, inflation or other similar issues. The University's payment terms should be applied to the subcontract, as set out in the Financial Regulations.

The contract must set out specific pricing for those elements to be delivered directly by the University, those to be delivered by the sub-contractor, and the specific price for management and monitoring of the sub-contractor over the contract.

Amounts paid to an employer as delivery sub-contractor must reflect only the cost of delivery and must not contain any element of profit.

¹ See 'Special conditions for sub-contracting to employer-providers

5.3 Performance Standards

The parties will establish key service levels and performance indicators, along with minimum levels of acceptable performance as part of the contract. Performance should consider all aspects of the service being sub-contracted, including but not limited to quality standards, operational performance and financial issues.

The contract will also set out what action will be taken in the event of performance below agreed levels, number of days permitted for issues to be resolved, and the University's rights in the event that performance falls below acceptable standards on repeated occasions, including the right to terminate.

5.4 Term and termination

Subcontracting contracts should align terms with the 'parent' contract to which the subcontracted services are being provided. Particularly, contract length, any break clauses, notice periods and termination rights should be aligned wherever possible. This will ensure that if the parent contract is terminated, the subcontracting contract can similarly be terminated on a similar basis to avoid unnecessary costs being incurred by the University and not recovered.

The University would normally expect to receive at least 12 months' notice of withdrawal of sub-contracted services, or at minimum, sufficient notice to ensure that all enrolled students can complete their studies.

5.5 Data Protection

Sub-contractors will need to agree data processing clauses within the contract (or a supplementary data processing agreement) in compliance with data protection legislation. The sub-contractors must have adequate processes and systems in place to protect the personal information of apprentices, to be assessed as part of pre-contract due diligence.

Personal information which is necessary for the delivery and administration of the programme will be shared between sub-contractor and University. Detail will be specified in the contract signed by both parties.

5.6 Costings and Contract Approval

The recommendation to award a sub-contract will follow existing University governance decision processes. To facilitate the decision, a full costing will be prepared in line with requirements set out by Finance, along with a summary of due diligence outputs, academic overview and operational delivery plans.

6 In-Contract Governance and Oversight

6.1 Performance Management and Monitoring

The contract between the parties shall establish the key principles of governance and performance management to ensure the quality of provision to students. This will include but is not limited to:

- Named parties responsible for the management of the contract from both parties
- Nature and frequency of meetings to review performance of the service(s) and its continued development
- Detail of required service levels to be achieved by the subcontractor, along with the relevant key performance indicators to demonstrate achievement of such
- Associated content, format and frequency of management information required to assess overall subcontractor performance
- Actions to be taken in the event of continued poor performance, and escalation in the event of dispute
- Timeline of key dates to be adhered to (including but not limited to mandatory regulatory returns, such as annual audits for the ESFA).

All sub-contracting proposals are approved by Employment and Finance Committee in order to demonstrate Board oversight and approval of the rationale. As such, a summary performance scorecard will be produced with the support of the Commercial Director, which will be reported to the Committee on an annual basis.

6.2 Ongoing Due Diligence and Quality Assurance

The performance of sub-contracted delivery will be reviewed as part of the new quarterly Annual Programme Review (CPPR) reports. CPPR reports of programmes including sub contracted provision will be reported to DA Steering Board for oversight.

In addition, an annual due diligence and quality assurance review will be conducted in accordance with ESFA guidelines. This process is managed by Quality Teaching Enhancement and will ensure the ongoing suitability of the sub-contracting party. QTE will schedule and manage the process and ensure the required quality checks are completed, actions identified appropriately and the standard report is submitted to deadline. Annual quality assurance and due diligence review will include:

- An update of key due diligence checks
- Teaching observation visits
- Monitoring of teaching material (if relevant)

The University shall carry out additional ad-hoc due diligence checks if there is a material change in the sub-contracting organisation which may affect its ability to delivery services, ideally on an annual or other reasonable basis depending on the nature of the partner.

6.3 Reporting and Management of Material Changes

The sub-contractor will be liable to inform the University of any such changes as part of the contractual arrangements between the parties formalised at the outset of the agreement, to include (but not limited to):

- Breach of ESFA or similar (including RoATP) rules
- Receipt of a qualified audit opinion (financial statements or ESFA)
- Breach of bank covenants or refusal of credit/ bank loans
- Risk to the sub-contractors ability to continue to trade
- Change of ownership of the subcontractor
- Departure (or internal movement) of key personnel involved in the delivery of subcontracted activities (to be named at the outset)
- Any other significant changes that might affect the sub-contractor's ability to meet its contractual responsibilities.

The above situations must be reported to the University as soon as is practicable, but no later than 5 working days after they become known to senior management of the subcontractor, unless prevented by law for any reason.

On learning about such changes, either from the subcontractor or via another source, the University will review the arrangement and, where there is a perceived risk, reserves the right to seek alternative provision of services to ensure continuity for learners.

7 Renewal or Termination

At least 3 months prior to any period whereby the University would be required to provide notice to terminate the subcontract, Educational Partnerships will call a meeting of relevant colleagues to review the sub-contractor's performance.

The review of performance should consider the service standards and key performance indicators as established at the outset of the contract. It may also consider feedback from both the employer and students.

Any renewal decision must also take into account the likely intention to renew or terminate the 'parent' contract with the employer, as well as any changes in terms of ESFA rules which might affect the ongoing delivery of the sub-contracted arrangement. Educational Partnerships will then make a recommendation to the Degree Apprenticeships Steering Board as to whether to terminate the contract, or to renew on same or different terms.

8 Reporting and Auditing Requirements

8.1 External Reporting and Audit

Where the University finds issues as set out in the rules as part of its quality assurance and monitoring regime of any sub-contractor, it will report such instances to the ESFA.

The value of sub-contracted provision will be monitored by Planning and where the total apprenticeship contracts with the University's sub-contractors exceeds £100,000 in any one financial year, the University will arrange for an annual report to be produced by an external auditor, to provide assurance as to arrangements for the management and control of such contracts. A signed certificate from the auditor denoting satisfactory audit results must be issued to the ESFA each year, and a full copy of the report may be provided at the ESFA's request.

The University will provide a fully completed delivery sub-contractor declaration at least twice between 1 April and 31 March each year. A nil return will still be made in years where no sub-contracting arrangements have been in place.

The University will further update its declaration if sub-contracting arrangements change in the year.

8.2 Internal Reporting

Employment and Finance Committee will receive an annual report to ensure Governor oversight of sub-contracted activity, the rationale behind the decision to sub-contract for each programme and the overall value of sub-contracted provision.

Annex A

**Degree Apprentices Sub-Contracting
Approval and Governance Process**

