



THE  
**TRAFFORD**  
**COLLEGE**  
GROUP

**Subcontracting  
Procedure  
2022/23**

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## **1. Purpose**

The purpose of the Subcontracting Procedure is to outline all the activities carried out by the Trafford College Group (TCG) prior to the commencement of a subcontracting contract, and who the responsible persons are. It describes all steps including selection and procurement, the due diligence process, financial checks, quality assurance and on-going monitoring. A table capturing these points is provided at Appendix 1.

## **2. Scope**

This Procedure is limited to 'provision subcontracting' which means the delivery of full or part programmes or apprenticeships, that is to say a separate legal entity that has an agreement with the TCG to deliver any element of the education and training the ESFA funds; it does not include subcontracting the delivery of a service as part of the delivery of a programme (for example, buying the delivery of a service as part of an apprenticeship or outreach support).

## **3. Rationale for Subcontracting**

TCG subcontracts provision to meet the strategic priorities outlined in the Strategic Plan. In particular, TCG aims to ensure high quality teaching and learning as a result of the subcontractors' extensive and focused experience in specialist areas. Subcontracting ensures cost effectiveness of programme delivery on occasions when it may be desirable for TCG to run certain programmes, but it is not viable for the College to build in-house resources and expertise.

Subcontracting contributes towards the sustainability of the Group's provision overall, and it helps TCG to respond flexibly to changing market demands and emergent opportunities. Subcontracting helps to further penetrate the geographical area in which the TCG operates, offering an entry point for disadvantaged groups and those who share protected characteristics, as well as widening the range or progression opportunities for students, by providing expert provision. It also provides good development opportunities for both TCG and its subcontractors to share good practice and new ways of working.

The decision to subcontract with a partner will be made reflecting on assessment of capacity, capability and quality, both of the partner and Trafford College Group and can be either proactive or reactive.

The specific reasons why each subcontract arrangement is planned for 2022/23 is set out in Appendix 2.

## **4. Selection and Procurement**

In line with ESFA requirements TCG shall ensure that subcontractors are selected fairly and have sufficient capacity, capability, quality and financial standing to deliver the provision. The procurement process will ensure that the contract will deliver value for money and adheres to the Public Contracts Regulations 2015. The decision to select a subcontractor is based on assessment of their capacity, capability and quality. In the event that there is only one provider of the provision, the decision to subcontract without the requirement for a tender will be made by the Board of the Corporation.

Where a subcontractor holds more than £100,000 of contracted arrangements, as set out on the List of Declared Subcontractors, the TCG will conduct additional due diligence checks prior

to contracting with a subcontractor following the close of the Register of Training Organisations. This includes but is not limited to additional checks to confirm the Financial Health of the subcontractor in line with the ESFA guidance and checks to ensure that the subcontractor is not a High-Risk Provider, as defined by the ESFA funding rules.

## **5. Conflict of Interest**

As required by ESFA funding rules, our due diligence process includes consideration of potential subcontractors for any conflicts of interest and how to manage such potential conflicts should they arise.

Potential subcontractors are asked to share a list of related parties with TCG and declare any conflict of interest or that they have no foreseen conflicts during the application as part of due diligence procedures carried out by the Trafford College Group. Searches will be undertaken by TCG to identify involvement in companies or with individuals that pose a conflict.

The Group's Financial Regulations sets out the guiding principle that the conduct of individuals should not create suspicion of any conflict between their official duty and their private interest and confirms that employees are prohibited from being a signatory to a College contract where they also has an interest in the activities of the other party.

Should a potential conflict of interest arise the Trafford College Group will:

- Write to ESFA through our provider-management lead about any circumstances (for example, where TCG and our proposed subcontractor have common directors or ownership) which might lead to an actual or perceived conflict of interest
- Not issue the contract without ESFA written permission, and
- Will keep as evidence both our request to and reply from ESFA.

## **6. Tendering**

So that Trafford College Group can demonstrate fairness in subcontractor selection, where there is more than one bidder for a contract, the College will use a formal tendering process which will include the following elements:

- A shortlist of potential providers drawn up based on pre-defined criteria
- The requirement to complete scoring and assessment outcomes at tender assessment and interview/ presentation stages.

## **7. Due Diligence**

Before undertaking a subcontract arrangement, the TCG undertakes a due diligence exercise to ensure that the potential subcontractor will be able to provide high quality provision to students and continue to meet the needs of these learners throughout the term of their programme. At each subsequent year of the engagement the due diligence information will be refreshed to confirm that the arrangement remains satisfactory and accords with the latest funding rules. Subcontracting checks are performed across finance and human resources with a focus on safeguarding and quality. Following the due diligence process the arrangement is approved by the Deputy Principal prior to issuance of any contracts.

The due diligence process will be reviewed on an annual basis with recurring subcontractors and will be undertaken prior to commencing delivery on any new contract.

## **8. Financial Checks**

Checks are carried out to ensure credit risk is not an above average warning, the subcontractor is not in risk of liquidation or administration and statutory accounts have been published on time, before a contract is awarded.

Subcontractor financial accounts and credit reports (Experian Reports) are reviewed by the Director of Finance to check thoroughly and undertake further company and Director checks.

Should a credit check supply an above average warning, the matter is escalated to the Chief Finance Officer to review the subcontract and mitigating risks, and the final decision to award the subcontract will be referred to the Board of the Corporation.

Checks to confirm that employees of the subcontractor will not fall within IR35 are undertaken by the Director of HR to ensure that all employment and associated tax liabilities are not incumbent on the Trafford College Group.

Where a subcontractor holds more than £100,000 of contracted arrangements, as set out on the List of Declared Subcontractors, the TCG will conduct additional financial checks to assess the Financial Health of the contracting organisation. The TCG will be required to submit this information to the ESFA in a form of their choosing to verify and review this information.

## **9. Subcontracting Contract**

Once due diligence and pre-contract financial checks are completed to the satisfaction of the Deputy Principal and Chief Finance Officer, the Director of Finance ensures legally binding signed contracts (signed by both parties) are in place prior to start of delivery. This is to minimise risk: that the subcontractor would not act in accordance of the terms of the contract; that the Trafford College Group would not be able to exercise control over the subcontractor; funding agency requirements are not met.

The Director of Finance follows up contracts that are not signed in a timely manner to reinforce that delivery cannot commence until signed by both partner and TCG.

Our subcontracting contract is reviewed at least annually to ensure it continues to include all required ESFA terms in accordance with published Funding Rules. Since 2019/20 the College uses Eversheds Sutherland's model contract as our subcontracting contract, and we have signed up to their 'FE Subcontracting Toolkit' scheme which includes annual updates to their model subcontracting contract.

## **10. Funding Retained by The Trafford College Group**

The funding retained by the Trafford College Group, along with the reasons for this is set out within the Supply Chain Fees and Charging Policy available from the Trafford College Group website.

## **11. Paperwork and Processes Training**

All student enrolment forms, and associated paperwork will be those of the Trafford College Group, but will clearly articulate that the provision will be subcontracted, and so training on the correct completion of these form will be provided to relevant subcontractor employees by the MIS Registry Officer. The College's MIS department will thoroughly check all enrolment and associated paperwork promptly on receipt from subcontractor and feedback to the partner on any issues and confirm re-training requirements.

## **12. ESF Match**

Subcontractors contracted to deliver provision that ESFA define as in scope for ESF Match (for 2020/21 academic year confirmed as Adult Education Budget; Apprenticeships commenced prior to 1 May 2017) will be required to comply with ESFA match funding rules including use of ESF logo and ensure that all students are aware of the support of the European Social Funding in respect of the provision being delivered.

## **13. Quality Assurance**

The Trafford College Group ensures that subcontractors are included in the College's quality cycle and are guided and supported by the College to follow this process. TCG provides support as necessary to subcontractors in completing the Self-Assessment Review (SAR) and the Quality Improvement Plan (QiP). Subcontractors then discuss the completed SAR and QiP with the College's Deputy Principal. Any actions arising are addressed in co-operation between the College and the subcontractor.

Subcontractors will be actively managed and monitored by the College to ensure that high-quality delivery is taking place that meets ESFA funding rules. Similarly, when TCG acts as a subcontractor, we ourselves adhere to this policy and to the policies of those we subcontract for.

A regular and substantial programme of quality-assurance checks on the education and training provided by delivery subcontractors will be undertaken. This will include visits at short notice and face-to-face interviews with employees and students. This will:

- Include whether the students exist and are eligible for funding
- Involve direct observation of initial guidance, assessment, and delivery of learning programmes

The aim of the monitoring activities is to obtain assurance that delivery is consistent with TCG expectations, is high-quality, is supported by the subcontractors' records and meeting agency funding rules.

The list below is not exhaustive as subcontractor needs may vary. Variations between subcontractors may take into account previous experience, delivery history, timely and overall achievement rates, risk assessments and additional support requirements.

- Regular meetings are held to discuss a range of issues which would include contract planning, audit feedback, performance monitoring reports etc.
- Regular monitoring visits with detailed feedback identify good practice and areas for improvement.
- Site visits to subcontracting partners delivering relevant provision will include a check to identity ESF poster is correctly in place

- Monitoring of equality and diversity, health and safety, safeguarding and prevent ensure these are embedded into delivery.
- On-going administration support including in-depth checks of evidence submitted and regular feedback on issues identified
- On-going data checks and support to resolve data queries
- On-going support to address any areas for improvement
- Standard process in place for the ongoing quality checks with each subcontracting partner throughout the academic year.
- Standard minimum core assurance checks and monitoring activated to be undertaken for each subcontractor. Programme of performance monitoring and quality assurance; action plans in place to monitor progress of areas of improvement identified.

#### **14. Governance**

It is important that Governors are aware of the reasons for subcontracting provision including how it contributes to meeting our strategic aims and enhances the quality of our learning offer, and ensure this provision is monitored and controlled appropriately as it presents a greater risk than college-based provision both reputational and financial. Regular position papers are prepared for Governors and discussed during relevant Committee and Board meetings.

Prior to the commencement of each academic year the proposed subcontract arrangements are presented to the Board of Governors for approval. Proposed arrangements for continuing whole programme 16-19 subcontracts are submitted to the ESFA for approval 12 weeks prior to the commencement of the delivery of the provision. Where new 16-19 whole programme subcontracting is proposed, approval must be gained from the ESFA in advance of delivery being undertaken.

In addition, each year an annual report from an external auditor is obtained to provide assurance on the arrangements to manage and control relationships with subcontractors and compliance with guidance issued by the ESFA and this is also submitted to the ESFA..

## Appendix 1 Main tasks and responsibilities

<b>Subcontracting Annual Cycle</b>			
<b>Task</b>	<b>To whom</b>	<b>Owner</b>	<b>Due Date</b>
Annual review of subcontracting (look forward), including strategy and rationale	Board of the Corporation	Deputy Principal	18/05/2022
Business case to ESFA (we only require approval for new or materially changed provision)	<a href="mailto:subcontracting.requirements@education.gov.uk">subcontracting.requirements@education.gov.uk</a>	Deputy Principal and AP: Planning, Funding and Performance	31/05/2022 or 12 weeks
Financial Due Diligence of each subcontractor	CFO - reported to Board of the Corporation	Director of Finance	30/06/2022
Subcontractor Contracts issued and signed	CFO	Director of Finance	31/07/2022
Subcontractor staffing checks (inc IR35)	Subcontractors individually	Director of HR	31/07/2022
Subcontractor mandatory training (inc Safeguarding)	Subcontractors individually	Director of HR	31/08/2022
Subcontractor Training on enrolment	Subcontractors individually	AP: Planning, Funding and Performance	31/08/2022
Subcontractor activities update	Resources Committee	AP: Planning, Funding and Performance	Each meeting
Publish rationale together with a detailed management fee structure and complete list of subcontracting partners	Website	Deputy Principal and Director of Marketing	31/10/2022
Fully completed Subcontractor declarations via the ILR	via the ILR	AP: Planning, Funding and Performance	As set out by the ESFA
In year Financial Due Diligence of each subcontractor (as directed by ESFA)	CFO - reported to Board of the Corporation	Director of Finance	As requested
Engage External Auditor to undertake review and certification	BDO / Armstrong Watson	Director of Finance	01/06/2022
External Audit report	<a href="mailto:subcontracting.requirements@education.gov.uk">subcontracting.requirements@education.gov.uk</a>	Director of Finance	31/07/2022
External Audit certificate	<a href="https://skillsfunding.service.gov.uk/document-exchange">https://skillsfunding.service.gov.uk/document-exchange</a>	Director of Finance	31/07/2022
Annual review of subcontracting (look back) including quality, CPD etc	Board of the Corporation	Deputy Principal	31/07/2022
<b>COMPLETED IN LINE WITH THE TCG QUALITY IMPROVEMENT CYCLE - REPORTED VIA PROGRESS BOARDS</b>			
Subcontractors SAR	Deputy Principal	Director of Quality	
Subcontractors QIP	Deputy Principal	Director of Quality	
Monitoring Visits	Subcontractors individually	relevant AP	

## Appendix 2 Reasons for Subcontracting

Subcontractor Name	Key rationale for subcontracting with this provider
<b>Fully subcontracted (no elements delivered by The Trafford College Group)</b>	
Code Nation Limited (AEB provision)	Code Nation provide IT and Cyber Skills qualifications to students. As a local provider the subcontract reaches local communities delivering provision in line with local need.
Flixton Girls School (The Healthy Learning Trust Limited) (16-19 provision)	A longstanding local offer, supporting girls who would like to continue within a single sex education environment and enjoy the continuity and familiarity of their teachers from Key Stage 4.
<b>Subcontracted with elements delivered by The Trafford College Group e.g. Maths &amp; English</b>	
Carrington Riding Centre Limited (16-19 provision)	A longstanding, local offer, providing courses in the niche field of horse riding and management, with high entry costs. The TCG would be unable to fund the set up and ongoing costs of running stables, so this relationship provides a unique course offering to local learners, but provides value for money to the TCG and economies of scale for the Riding Centre. In addition, this provision supports a number of learners with significant additional needs, which provides a strong route for progression and development with learners.
Debut Academy of Performing Arts Limited (16-19 provision)	A longstanding, local offer, providing delivery within a studio environment and staff who are experts in their field of performing arts. Strong standing in the community and meets the need of some complex learner needs through the small environment it provides.
Interactive Business Limited (16-19 and AEB provision)	Providing access to Football clubs of Altrincham F.C, and Sale F.C. learners experience a working club environment during their studies in a local environment, therefore meeting the needs of local students and employer need. This is a longstanding and local offer.
Stockport County Football Club (16-19 provision)	Providing access to football clubs of Stockport County F.C and Box Football, Academy learners experience a working club environment during their studies. Stockport County previously held a subcontracting arrangement with Macclesfield College, but have opted to provide a local community offer, by aligning with TCG, where campuses are in the heart of Stockport.