

Subcontracting Policy and Procedure



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Change History

Version number	Date of Release	Policy Owner	Authorised by
1.0	01/12/2016	Operations Director	Audit & Risk Committee
2.0	27/09/2017	Commercial Director	Board of Trustees
3.0	27/09/2018	Commercial Director	Board of Trustees
4.0	25/09/2019	Operations Director	Board of Trustees
5.0	30/09/2020	Chief Operating Officer	Board of Trustees
6.0	21/10/2021	Chief Operating Officer	Board of Trustees
7.0	01/09/2022	Chief Revenue Officer	Education & Training Committee

Policy Statement

To ensure that subcontractors are selected fairly and have sufficient capacity, capability, quality and financial standing to deliver the subcontracted education and training services.

Scope

This policy is applicable to all provision which is subcontracted to another organisation to deliver on behalf of Central YMCA

Related Legislation and Contractual Obligations

- To ensure Central YMCA complies with the Funding Rules and Guidance issued by the ESFA as amended and updated from time to time, in relation to subcontracting provision.

[Advice: funding regulations for post-16 provision – GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/funding-regulations-for-post-16-provision)

[Subcontracting funding rules for ESFA funded post-16 funding \(excluding apprenticeships\) 2022 to 2023 – GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/subcontracting-funding-rules-for-esfa-funded-post-16-funding-excluding-apprenticeships-2022-to-2023)

- Subcontracting does not relieve Central YMCA of any of its obligations or duties under its lead contract with the funding body.
- Central YMCA remains responsible for the actions of its subcontractors in connection with the delivery of the subcontracted provision

Related Policies, Procedures, and Templates

- Subcontractor Due Diligence Procedure
- Template study programme subcontractor contract
- Due diligence proforma (to be completed to capture the information and evidence required for the due diligence process).
- Proforma for completion by the person nominated by the Chief Revenue Officer to assess the information and evidence provided by the potential subcontractor
- Risk Management Policy and Corporate Risk Register

Responsibilities

Board of Trustees	Overall responsibility for the policies and procedures that govern the work at Central YMCA.
Chief Executive	Overall responsibility for ensuring Central YMCA's resources are used effectively and appropriately.
Policy Owner	The Chief Operating Officer is responsible for ensuring guidelines are in place and that policies and procedures reflect our charitable ethos and commitment to equality and diversity.
All Line Managers	Responsible for ensuring all employees are aware of and follow this policy.
All Employees and Volunteers	To follow policies and procedures, promoting best practice throughout the organisation.

Policy Review

Review of impact against the aims of policy:

This policy has been drafted for approval by the Chief Revenue Officer and has been approved by the Education and Training Committee on an interim basis, ahead of the Board of Trustees. All related procedures have been designed to match the contents of this policy.

The policy has been communicated successfully to the staff and Board of Trustees and has been made available on the Charity's intranet and website.

This policy will be reviewed on an annual basis by the Policy Owner and signed off by the Board of Trustees if any changes are made.

Next review date: 01 September 2023

Policy

1. Why subcontract & strategic statement

Central YMCA actively operates subcontract arrangements where it is possible to develop open partnerships with the subcontractor and these relationships enable our provision to support broader communities, allow participants to access opportunities and realise their potential.

Why subcontract?

- To serve a specific demographic need that would not otherwise be met by central YMCA alone
- To provide access for a new range of learners
- To improve the experience for learners, by using the proven Central YMCA offer
- To offer a wider range of entry points for disadvantaged groups
- To develop partnerships that promote and amplify the Central YMCA "offer"

Central YMCA will engage with subcontractors to support the following objectives:

Community:

- To ensure an ongoing collaboration, drawing on and sharing best practice, quality, and curriculum
- To create partnerships that are considered open, transparent, and supportive
- To build links with communities and groups that Central YMCA has not been able to reach directly

Opportunity:

- To enable partners to gain access to funding who demonstrate innovation in teaching and learning, deliver high learner success rates along with progression into higher learning and/or employment, thereby increasing learner choice and opportunity whilst maintaining Central YMCA standards and quality

- To ensure the development of the learning experience is crafted in collaboration with learners and tutors from both organisations
- To build on a subcontractor's extensive and focused experience in a specialist area delivering niche provision and widening participation of 'hard to reach' and other individuals who face barriers to participation in learning and work

Potential:

- To work with partners who have high expectations for learners and seek to ensure that they maximise their potential
- To enhance opportunities for learners providing robust programmes in multiple locations that feed demand at a standardised national provision to enhance employment or feather study opportunities
- To increase the breadth of offer to learners who are under-represented in further education
- To work with other providers to build capacity
- To provide niche delivery where the cost of developing direct delivery would be prohibitively costly

2. Selection and procurement

- Once the need to subcontract part of a contract has been established, a subcontract specification, which will detail the nature of provision to be subcontracted, will be drawn up by the Chief Revenue Officer for approval by the Chief Executive

Potential subcontractors may then be identified through:

- A direct approach to or from a potential subcontractor, or by the funding body
 - A successful bid submission involving a group of identified potential providers
 - A competitive tendering round (see section 3 below on competitive tendering)
- N.B. A subcontractor must be a legal entity and hold "active" status at Companies House

3. Competitive Tendering

- Approval to procure a subcontractor through a competitive tendering round must be sought from the Chief Executive. The following steps should then be taken:
 - Decide how providers will be advised that you are launching the tender round. This may be via an advert in the press or via local providers' networks etc
 - The subcontractor specification should be provided to all interested parties
 - In order to reduce the workload of scoring tenders, the initial notification should be for "Expressions of Interest". Providers should submit an Expression of Interest by the defined deadline. Expressions submitted after this deadline should not be considered
 - All Expressions of Interest must be scored using the same criteria and evidence of this retained
 - Organisations shortlisted at this stage should be taken through the due diligence process defined in section 4
 - Providers failing to progress to the next stage should be notified in writing
 - No procurement agent will be used in the tendering process

4. Assessment of subcontractors

- It is essential that Central YMCA assesses any potential subcontractor for their capacity, capability, quality, Equality, Diversity and Inclusion practice, potential conflict of interests and financial standing to deliver the subcontracted education and training services.

- Subcontractors must have a valid UK Provider Registration Number (UKPRN)
- A due diligence assessment must be completed before a subcontract agreement (contract) can be issued. This is a requirement under the terms of our ESFA contracts
- Any potential subcontractor must be able to evidence that they meet the “essential requirements” of the due diligence process. Where a potential subcontractor meets the “essential requirements” but falls short of the “desirable requirements”, conditions and/or improvement actions may be included in the subcontract agreement
- All subcontractors will be requested to resubmit due diligence evidence annually prior to an annual review taking place
- An external assurance through an independent auditor to review sub-contracted delivery controls over all ESFA funded provision maybe required depending on the level of subcontracting and in line with guidelines for the current academic year
- Attention to detail regarding risk assessment, compliance with equalities legislation, health and safety, safeguarding and prevent duty in relation to learner’s safety will be paramount whilst ensuring the highest quality of learning delivery
- A recommendation will then be made to the Chief Revenue Officer which may include conditions and or required action/improvements (as indicated above)
- The potential subcontractor should be notified in writing of the outcome of the assessment

5. Management Fees and Payment Terms

- Central YMCA does not operate a ‘one size fits all’ management fee approach. The Chief Revenue Officer will recommend a management fee to the Chief Executive for approval taking into account any restrictions within the main funding body contract
- Fees charged will be determined by the potential risk and level of management support required. The Chief Revenue Officer will agree the appropriate level of management fees to be charged and included within the subcontract agreement
- This management fee could be between 10% to 20% depending on the level of resources required to support from Central YMCA and the partner’s track record of delivery
- Management fees are transparent, variable and commercially appropriate for both organisations and include the following:
 - Advice and guidance at pre-contract stage and due diligence assessment
 - Enrolment support (e.g., provision of paperwork, advice, and guidance on student eligibility and compliance with appropriate funding regs) and processing of enrolment documentation
 - Data and financial management – timely and accurate processing and submission of data to ensure compliance with appropriate funding regs and enable drawdown of funds from the funding bodies and analysis to ascertain funding earned by sub-contractor and calculation of success rates
 - Regular review meetings and performance reports
 - Compliance and quality assurance visits and ongoing support to address any areas for improvement including announced and unannounced site visits, lesson observations, tutor support and quality assurance and administration support and robust learner evidence for funding compliance
- Partners will be assigned a Quality representative and a Contract Manager to support and manage the contract and relationship and will contribute to continuous developments and improvements of both performance, funding compliance, and quality assurance
- Payments will be made to the subcontractor after ESFA monthly reconciliation and within a period not exceeding 30 days from receipt of a valid claim/invoice in line with the statement produced from the Central YMCA finance team.
- Learners are on programme a minimum of six weeks before payments can be made

- 50% on programme payments will be paid monthly for the expected duration of the programme where stipulated
- When the learner has completed the programme, achieved all aims and any conditions of funding have been met on all funding elements, a 50% achievement payment can be made where stipulated
- The evidence requirements are set out in the relevant Department for Education and/or ESFA Funding Guidance and the subcontractor must retain and submit such evidence for inspection on demand

6. Contracting

- All subcontracts are drawn up by the Chief Revenue Officer, reviewed by the Chief Resources Officer and can only be signed on behalf of Central YMCA by the Chief Revenue Officer or, in his absence, the Chief Executive.
- In line with the Charity's Financial Authorisations policy, any subcontracts exceeding a value of £100,000 require approval by the full Board of Trustees
- Central YMCA uses an approved template for subcontracting. The body of the contract template should not be amended other than to include the details of the specific contract. The contract template will be reviewed annually in line with changes to lead contracts with funders
- Schedules relating to the specific contract will be appended to the contract and referenced within the main body of the contract. The contract appendices will include:
 - Expectations of the provider
 - Quality and Compliance expectations
 - Delivery profiles detailing the volumes and outcomes required
 - Details of how Central YMCA will manage the subcontractor. Lower risk providers will receive a lighter touch approach
 - A financial annex will detail how Central YMCA will fund the provider, including details of sanctions for poor delivery or non-compliance
 - Central YMCA service standards should be included. These link directly to the management fee which has been applied (see section 5 on this above)
- Once the contract has been drawn up, two copies will be signed by the Chief Revenue Officer or the Chief Executive. Both copies will then be sent to the subcontractor for signing. Each party will retain an original copy of this contract.

7. Contract Variations

- Any variations to the contract must be agreed with the subcontractor and confirmed in writing following the above sign off procedures.

8. Management of Subcontractors

- Central YMCA will appoint the Head of Education as the Contract Manager for day-to-day matters. The subcontractor will be managed in line with the contract terms and as a centre of Central YMCA
- Quarterly contract reviews will be scheduled with all subcontractors to consider performance against the key measures detailed in the subcontract agreement
- In the event of serious irregularities or concerns, subcontractors will be managed through Central YMCA fraud procedures and in line with the breach clause of the subcontract agreement. On termination of a contract, an exit meeting with the provider will be organised to effectively transition learners to limit the impact this may cause on learning and outcomes
- All learners who are provided with education and training under an agreement between Central YMCA and a subcontracting organisation remain the responsibility of Central YMCA.

- Central YMCA will follow robust pre-contracting processes and procedures to ensure the quality and viability of potential subcontracting organisations
- Subcontractors will routinely receive contract updates. Where these are significant, they will be issued as a contract variation