

# SUBCONTRACTING POLICY

**Version:** V5

**Approved by:** Emma Nusl, Head of Business Improvement & Compliance

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**Confidentiality level:** Confidential

A handwritten signature in black ink, appearing to be 'Emma Nusl', written in a cursive style.

## Change History

Version	Date	Author	Description of change
V2	16/04/2020	Janet Miles	Update and review for Davies
V3	07/06/2021	Janet Miles	Update and review
V4	22/10/2022	Wendy Lees	Review and Update
<b>V5</b>	16/11/2023	Wendy Lees	Review and Update

## Contents

<b>1. Policy Statement.....</b>	<b>3</b>
<b>2. Methodology Purpose.....</b>	<b>3</b>
<b>3. Methodology Scope .....</b>	<b>3</b>
<b>Validity and Document Management .....</b>	<b>4</b>

## 1. Policy Statement

1.1 This policy applies to all supply chain activity supported with funds supplied by the Education and Skills Funding Agency (ESFA), or any successor organisations.

## 2. Methodology Purpose

2.1 A subcontracting policy is a mandatory requirement that must be in place prior to participating in any sub- contracting activity from 1 August 2017. The content of this policy has been developed in line with AoC/AELP Common Accord and the ESFA Performance and Management Funding Rules for Training Providers.

2.2 In compliance with Education and Skills Funding Agency and other agency funding rules that apply, Davies Learning Solutions will publish its provision sub-contracting fees and charges policy on its website before the start of each academic year and will publish actual end-of-year sub-contracting fees and charges on its website as required by ESFA.

## 3. Methodology Scope

3.1 The policy aims to:

- Set high expectations to promote the consistent achievement of outcomes for learners and employers
- Promote equality actively, support diversity and cohesion and tackle discrimination through innovative strategies
- Set out the requirements of subcontracting to compliment the delivery of programmes
- Ensure robust subcontracting systems and controls that provide accountability, financial stability and the effective use of resources

3.2 Indicative reasons for Davies Learning Solutions to subcontract out to partners include:

- Widening participation e.g. the offer of provision in a geographical area in which demand exceeds supply
- To provide niche or specialist delivery where the cost of developing direct delivery would be inappropriate
- To deliver technical components of programme by specialist external organisations
- To deliver provision which is not currently part of the Davies Learning Solutions existing areas of delivery, or falls outside of Davies Learning Solutions current areas of expertise
- Retention and progression opportunities
- Increases mutual referral opportunities between the Davies Learning Solutions and its Subcontractor
- Strategic, collaborative partnership working and sharing good practice

- Capacity building both organisations provision to respond to identified needs by the employer
- To support another provider to develop capacity/quality
- To provide access to, or engagement with, a new range of customers
- To ensure delivery intention is met where there is a recognised risk in direct provision

To recognise internal employer learning and development activities that map directly to the Apprenticeship Standard and where the employer is best positioned to deliver these activities

## Validity and Document Management

### Definition of a Subcontractor<sup>1.1</sup> heading

As defined by the ESFA a lead provider is a college, training organisation or employer that has direct contractual relationship with the ESFA.

A Subcontractor is an organisation that is engaged in a contractual and legally binding arrangement with one or more lead providers, to deliver education and training provision that the ESFA funds.

### DAVIES LEARNING SOLUTIONS’s definitions of partners

Davies Learning Solutions have identified five types of external delivery support, these are:

Freelance Coaches	Freelance individuals under DAVIES LEARNING SOLUTIONS control
Tutors	Technical subject experts under Davies Learning Solutions control but whom are independent contractors
Full Subcontractor	Organisations, such as training providers, delivering all of the Apprenticeship
Part Subcontractor	Organisations, such as training providers, delivering part of the Apprenticeship
Employer Subcontractor	An employer delivering any off the job training and development such as workshops *

## Quality

Subcontractors are supported by Davies Learning Solutions to maintain high quality standards to provide an outstanding experience for employer and learners. Davies Learning Solutions ensures that Subcontractors are supported in the quality process in accordance with current ESFA funding guidance and the Ofsted Common Inspection Framework (EIF).

Subcontractors are involved in regular meetings with Davies Learning Solutions to manage quality and mitigate any risks or issues related to the delivery of the Subcontract as well as ensuring high quality provision is delivered and high levels of achievement are achieved and maintained.

Subcontractors will be subject to a regular programme of quality-assurance checks including audits, visits at short notice and face-to-face interviews with staff and learners, whether the learners exist and are eligible, direct observation of initial information, advice and guidance, assessment, and delivery of learning programmes to ensure continued high-quality delivery of the contracted provision.

New Subcontractors are subject to a Due Diligence process ahead of any contracting. All Subcontractors receive a contract prior to delivery of any provision on behalf of Davies Learning Solutions.

Subcontractors are given a key contact at Davies Learning Solutions for any issues relating to the subcontract delivery and will be provided with a Subcontractor handbook to support their delivery; updates to the manual are provided as required.

Subcontractors receive on-going support in relation to (where appropriate):

- Performance Management and Review
- Paperwork checks and compliance
- Confirmation of learner eligibility
- Input of data
- Observation of delivery to ensure high standards of teaching and learning. Where this is not the case an action plan is put in place to support and improve teaching and learning
- Data submission, where appropriate
- Learner tracking documents with learner status updates
- Workshop attendance and subsequent workshop feedback
- Survey feedback
- Tracking documents with transparent calculations to detail both the funding claimed by Davies Learning Solutions and the payment passed to the Subcontractor
- Regular on programme support meetings
- Audit compliance advice
- Query resolutions
- Shared good practice
- A Subcontractor handbook and regular updates with regards to TLA and ESFA obligations
- Where necessary, Internal Quality Assurance (IQA) and coach/trainer support

- Where necessary, Health & Safety and risk assessments

Davies Learning Solutions require all coaches/trainers to have an enhanced DBS as per our obligation for safer recruitment to prevent unsuitable people from working with vulnerable groups, including children.

The DBS must be in place prior to any face to face contact with learners or a risk assessment carried out and placed on file.

### **Management Fees - where applicable, determined by individual contracts**

For Full Subcontractors, the fee retained by Davies Learning Solutions is calculated as a percentage of the total contract value agreed with the Subcontractor.

The standard percentage for Full Subcontractors is 15%, however this may be higher dependent on the level of additional support required by the Full Subcontractor over and above the management, administration and quality obligations.

The management fee is calculated following a risk assessment of the Full Subcontractor and will include considerations such as:

- Historical records of the Full Subcontractor to meet recruitment, retention, achievement, success and funding targets
- Records of the Full Subcontractor meeting or exceeding benchmark achievement and success targets
- Quality of provision delivered by the Full Subcontractor
- Existing length of relationship with the Full Subcontractor
- Financial health of the Full Subcontractor and its continued capacity to deliver provision on behalf of Davies Learning Solutions
- Adequate resourcing of subcontracted provision
- Size of the contract in terms of finance and volumes of outcomes

For Part Subcontractors, fixed price based on delivery undertaking and this will be clearly outlined in the contract.

For Employer Subcontractors a fixed price will be agreed that is based on the delivery costs, this will need to be evidenced by the Employer Subcontractor.

### **Payments**

Payments to Full Subcontractors are subject to the management fee or fixed price, dependent on the type of contract Davies Learning Solutions has with the Full Subcontractor and as indicated in the contract.

The ESFA transmit the main monthly provider payments on the 15th working day, remittances is sent on the 17th working day and payment should be received on the 18th working day of each month. Based on this the Full Subcontractor will be sent a PFR/Funding Report within 5 days of Davies Learning Solutions receiving payment. Payment will then be made within 10 working days of payment.

For any payments to be made to any Subcontractor, the Subcontractor must conform to the terms and references within the contract and provide the required paperwork, data and information as requested by Davies Learning Solutions.

## **Contract**

All Subcontractors are required to agree and sign a contract between both parties prior to delivery of any provision.

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 outputs and funding
- Changes to the range and scope of provision delivered by the Subcontractor

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, Davies Learning Solutions will either pass the learners to another sub-contractor or deliver the learning directly to ensure they finish their learning programmes or components of the programme. Our due diligence procedure should however ensure we do not contract with an organization at risk of liquidation.

## **Data Compliance and General Data Protection Regulation Policy**

Davies Learning Solutions is fully committed to protecting the personal data of learners, employees, suppliers, Subcontractors and other stakeholders in accordance with the requirements of the Data Protection Regulations 2016.

A Data Breach, as defined by the Information Commissioners Office (ICO), is a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data. Any Data Breach should be reported immediately and without undue delay to Davies Learning Solutions Data Controller, upon discovery. Steps will then be taken in accordance with Davies Learning Solutions Group GDPR policy.

## **Dissemination**

This policy is available via Davies Learning Solutions website and referred to and referenced by weblink within each contract.

Potential Subcontractors can access this policy via Davies Learning Solutions website or be referred to it as part of the Due Diligence process.

## **Disclaimer**

Davies Learning Solutions reserves the right to amend its subcontracting arrangements at any time in accordance with the terms and conditions contained in its subcontract agreements.

## **Stakeholder Consultation**

Existing Subcontracting organisations of Davies Learning Solutions will be consulted prior to review of the policy and we invite and encourage feedback from our partners in respect of the policy.

## **Monitoring and Reviewing**

The policy will be reviewed at least annually by the Compliance Manager and amendments to the policy will be subject to approval by the Davies Learning Solutions Board.

### **Subcontracting Statement Contract year 23/4**

Davies Learning Solutions is committed to providing relevant technical training opportunities for apprentices by the most appropriate sector specific expertise to widen participation, deliver to niche markets, engage in new and emerging markets and meet the regional and local economic development agenda. In order to achieve this, Davies Learning Solutions will subcontract part of its provision to partner organisations that can demonstrate high quality delivery, where such an arrangement is in the best interests of the learner and employers.

This principle applies to all supply chain activity supported by funds supplied by the Department for Education

### **Subcontracting Rationale**

Upon commencement of the subcontracting process, Davies Learning Solutions will consider a Business Case Proposal to ensure that the subcontracting will be in the best interests of all parties. Davies Learning Solutions will ensure that:

1. The proposed delivery is in the best interests of learners and employers
2. The proposed delivery has a clear strategic fit with our mission, objectives and values
3. There is sufficient expertise within Davies Learning Solutions to quality assure the provision
4. There is sufficient staff resource in support areas to administer the processes
5. The Subcontractor is approved by our due-diligence process
6. The Subcontractor agrees to work within the terms of our contract.
7. Each subcontract has its own individual subcontracting agreement relevant to the delivery they are providing

### **Quality Assuring Teaching, Learning and Assessment**

Subcontracted partners will be expected to meet Davies Learning Solutions quality assurance standards. Davies Learning Solutions is committed to supporting, developing and sharing good practice and professional development of staff through quality reviews, operational meetings, observations of teaching and learning and learner and employer feedback.

The quality of the provision will be monitored and managed through our existing quality improvement process with Davies Learning Solutions Self-Assessment Report / Quality Improvement Plan process ensuring continuous improvement in all parts of the learner journey.

### **Management Fees**

Davies Learning Solutions do not currently charge any management fee to our subcontractor for the provision of technical training delivery.

The management fee arrangement is subject to annual review or where we envisage contracting with associate partners who can delivery technical elements of our apprenticeship standards. If Davies Learning Solutions decide to introduce a management fee this will be discussed with any Subcontractors during contract negotiation meetings and reviewed at least annually in July of each year. Any changes will be notified to Subcontractors as part of a regular performance review or via separate correspondence.